

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

ACLU OF TENNESSEE, Inc.)	
)	
Intervening Plaintiff,)	
v.)	No. 2:17-cv-02120-jpm-DKV
)	
THE CITY OF MEMPHIS,)	
)	
Defendant.)	

**DEFENDANT’S NOTICE REGARDING QUARTERLY SUBMISSION OF SEARCH
TERMS AS HIGHLY SENSITIVE DOCUMENTS**

I. Background

Pursuant to the Court’s October 27, 2018 Opinion and Order the Court imposed certain sanctions on the Defendant, the City of Memphis (“the City”) and ordered compliance by a date certain. (ECF No. 151.)

Under the Order, the Court required, in part, that:

5) The City shall maintain a list of all search terms entered into social media collators or otherwise used by MPD officers collecting information on social media while on duty. This list shall be filed under seal every three months until the Court orders otherwise. The first filing shall be submitted no later than January 14, 2019 and shall reflect all such social media searches conducted from November 1, 2018 through December 31, 2018.

(ECF No. 151, PageID 6275.)

Pursuant to that Sanction, the City has submitted eleven sets of social search terms used by MPD. (See ECF Nos. 183, 199, 214, 239, 275, 308, 353, 383, 395, 401, & 404.)

On January 22, 2021, the Court entered Administrative Order No. 2021-03,¹ which instructed litigants seeking designation of a particular document as “highly sensitive documents”

¹ On February 3, 2021, the Court vacated Administrative Order No. 2021-03 and replaced it with Administrative Order No. 2021-05.

(“HSDs”) to file a motion seeking such designation and to submit a proposed order.

In response to Administrative Order No. 2021-03, on January 28, 2021, the City filed an unopposed Motion to Have Its Quarterly Search Term Submissions Treated as HSDs and Removed from the CM/ECF System. (ECF No. 393.) On April 20, 2021, the Court granted the City’s Motion to Have its Search Term Submissions Treated as HSDs. (ECF No. 400.)

II. This Quarter’s Search Term Submission

Accordingly, the City hereby files this Notice Regarding this Quarter’s Submission of Search Terms as HSDs. Pursuant to Administrative Order No. 2021-05, the City will deliver two paper copies of the search terms to the Clerk’s Office in sealed envelopes marked “HIGHLY SENSITIVE DOCUMENT.” A copy of the HSD’s caption page will be affixed to the outside of each envelope. Each envelope will contain the following: the certificate of service, a copy of the Court’s Order ECF No. 400, and the search terms. The search terms collected from the majority of MPD officers were compiled as Exhibit A.

Due to the heightened sensitivity of investigations conducted by certain investigative units within MPD, those units’ search terms were collected in a non-electronic manner, and are compiled and submitted as Exhibit B. The officers in those units printed their search terms and hand-delivered them to their supervisors. The City redacted any information on the printouts that could identify the officers, including names and avatars.

The City has consulted with the ACLU-TN and the Monitor, who have both agreed to accept service copies of the City’s submission of search terms via encrypted hard drive. Those hard drives will be sent via overnight delivery service. The password to each hard drive will be sent separately.

Respectfully Submitted,

BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.

s/ Bruce McMullen

R. Mark Glover (#6807)

Bruce McMullen (#18126)

Mary Wu Tullis (#31339)

Jennie Vee Silk (#35319)

165 Madison Avenue, Suite 2000

Memphis, Tennessee 38103

Telephone (901) 526-2000

E-mail: bmcmullen@bakerdonelson.com

mglover@bakerdonelson.com

mtullis@bakerdonelson.com

jsilk@bakerdonelson.com

*Attorneys for Defendant, The City of
Memphis*

CERTIFICATE OF SERVICE

I hereby certify that on October 14, 2021, the foregoing document will be served by the Court's ECF system to:

Thomas H. Castelli
Stella Yarbrough
ACLU Tennessee, Inc.
P.O. Box 120160
Nashville, TN 37212
tcastelli@aclu-tn.org
syarbrough@aclu-tn.org

Mandy Strickland Floyd
Bone McAllester Norton PLLC
511 Union Street, Suite 1600
Nashville, Tennessee 37219
mfloyd@bonelaw.com

Attorneys for Intervening Plaintiff

I hereby certify that on October 14, 2021, the documents referenced as Attachments A and B will be filed under seal as HSDs and served on encrypted hard drive via overnight delivery service to:

Thomas H. Castelli
Stella Yarbrough
ACLU Tennessee, Inc.
P.O. Box 120160
Nashville, TN 37212
tcastelli@aclu-tn.org

Attorney for Intervening Plaintiff

Ed Stanton
Butler Snow
6075 Poplar Avenue
Suite 500
Memphis, TN 38119

Independent Monitor

/s Bruce McMullen