

# MONITORING TEAM

MEMPHIS POLICE DEPARTMENT

## QUESTIONS FROM THE NOVEMBER 7, 2019, COMMUNITY FORUM

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1. What is the penalty for a law enforcement officer who violates the Consent Decree?

***First***, it's important to note that the Consent Decree applies only to the City of Memphis and the Memphis Police Department (MPD). Law enforcement officers employed by other entities, such as the Shelby County Sheriff's Department or the Federal Bureau of Investigation (FBI), are not bound by the Consent Decree.

***Second***, a penalty for violating the Consent Decree can come from two different places: (1) the Court and (2) the MPD itself. We don't know what policies the MPD has in place to punish officers who violate the Consent Decree, but we are working with the City to develop and revise its policies regarding the Consent Decree. As for the Court, it may hold the entire MPD "in contempt of court" if an officer violates the Consent Decree under certain circumstances, such as when the officer is acting in course and scope of his or her employment with the MPD.

What does "in contempt of court" mean? Many things. But, in short, courts have the legal authority to punish the parties before them if those parties violate court orders. Because the Consent Decree is a Court Order, the Court may hold the MPD in contempt by, among other things: (1) fining the MPD and (2) putting MPD personnel in jail, depending on whether the contempt is civil or criminal. Legal standards define both categories of contempt.

2. If an MPD officer is part of a Multi-Agency Gang Unit or Organized Crime Unit detail and that detail is given orders or an assignment that violates the Kendrick Decree, does the order or the Kendrick Decree prevail?

**The Consent Decree prevails. The Consent Decree is an Order of a United States Judge. It applies to MPD officers assigned to the Multi-Agency Gang Unit (MGU), the Organized Crime Unit (OCU), and any other unit or detail. In fact, it applies to all MPD personnel, no matter how or where they are assigned. But law enforcement officers employed by other**

**entities, such as the Shelby County Sheriff’s Department or the Federal Bureau of Investigation (FBI), are not bound by the Consent Decree. The MGU is comprised of MPD officers and officers from other law enforcement entities. The Consent Decree applies to the MPD officers in the MGU, but not to the other officers.**

3. Can Sky Cop cameras film “innocent people” walking and driving down the street?

**The short answer is yes, within certain constraints. This question implicates several sections of the Consent Decree, most notably sections D, F, G, and H:**

- **Section D prohibits the City from using “electronic surveillance for the purpose of political intelligence”;**
- **Section F prohibits the City from harassing or intimidating people who exercise their First Amendment rights and from doing things that would discourage people from exercising their First Amendment rights;**
- **Section G requires MPD officers to obtain authorization from the police director before conducting or participating in criminal investigations that may result in the collection of political intelligence. It also requires the police director to find a reasonable basis for all such investigations; and**
- **Section H limits the City’s ability to maintain and share personal information.**

**The Court’s orders have not directly addressed this question. But Judge McCalla stated the following in his October 2018 Order, which is docketed and publicly available as ECF No. 151: “The Consent Decree also has an action requirement. Gathering, for example, requires affirmative acts, but simply receiving or inadvertently finding information does not. A police officer does not have to cover his body camera every time he passes someone with a political t-shirt, because the**

information received by the camera about political activities was not affirmatively sought out by the officer.” (ECF No. 151 at PageID # 6257.)

Thus, to the extent that the Sky Cop cameras are not being operated in a way to gather or achieve “political intelligence” (as defined in the Consent Decree) about people who are merely walking, running, or driving within view of those cameras, it is likely that the cameras may continue to operate.

In October 2019, one of the City’s requests for authorization (RFA) raised a question about the use of certain non-Sky Cop cameras by the City. The Monitoring Team’s response to that RFA mentions several of the constraints under sections D, F, G, and H of the Consent Decree that also likely apply to Sky Cop cameras. That RFA and the Monitoring Team’s response were submitted to the Court as part of the team’s Third Quarterly Report. The Q3 Report itself has been docketed by the Court as ECF No. 256 and is publicly available. (See ECF No. 256 at PageID # 8499-8500.) The Monitoring Team also has made recommendations to the City about how long it should retain video that does not contain evidence of criminal conduct to minimize the possibility of violating the Consent Decree. (See ECF No. 256 at PageID # 8497 (discussing the status of the Monitoring Team’s review of the City’s policies, protocols, and training guidelines).)

4. Does anything change in how the MPD collects data via cameras at the Real Time Crime Center (RTCC)?

**Please see response to #3 above.**

5. Where does the Sky Cop cameras (i.e. license plate reader) get addressed under the sanctions? Does this change the retention time for holding camera information which could possibly prevent additional charges against a perpetrator?

**Please see response to #3 above.**

6. With the Mayor's recent e-mail asking for public support to speak out against the provisions of the Consent Decree that limit the ability of the MPD to fight crime, how is it possible for the Mayor to use public support to overturn the Court's decision?

**Only the Court can modify or overturn the Consent Decree. A trial regarding the City's proposed modifications to the Consent Decree will be held beginning on Wednesday, June 17, 2020. The Court has invited the public to submit comments regarding the proposed modifications before the trial, from Friday, April 3, 2020, to Monday, May 4, 2020. The procedures for submitting comments to the Court are outlined in the Court's Order Adopting Public Comment Procedure (ECF No. 295), which is publicly available and accessible on the Monitoring Team website ([www.memphisdpdmonitor.com](http://www.memphisdpdmonitor.com)). Other documents filed by the City of Memphis and the ACLU of Tennessee concerning the proposed modifications, and the Court's rulings on those documents, also are publicly available and accessible on the Monitoring Team website.**

7. What has been done with the intelligence that was previously collected as the City was violating the consent decree? (Another similar question asked "What process, if any, is in place to destroy any unlawful political intelligence information?")

**The Monitoring Team is investigating this issue and will update this response when it has an answer.**

8. Section F prohibits intimidation of citizens exercising First Amendment rights. Mayor Strickland uses Authorizations of Agency to intimidate people who complain. Are you investigating AoAs?

**The inappropriate use of an Authorization of Agency (AoA) was one reason that the Court held that the City had violated the Consent Decree. The Court stated in its Order of August 10, 2018, that "[t]he City engaged in 'political intelligence' when it created the AoA for Mayor Strickland's house and added the AoA's list of names to the City Hall Escort List." (ECF No. 120 at PageID # 4881.) The City's use of AoAs as well as the City's other investigative tools must comply with the Consent Decree. Review of the City's policies, protocols, and training guidelines concerning the Consent Decree is ongoing. (See Q3 Report, ECF No. 256, at PageID # 8497.) Please be sure to notify us if you suspect that an AoA has been created or used improperly. Please also note that you may**

**submit comments directly to the Court from Friday, April 3, 2020, to Monday, May 4, 2020. The procedures for submitting comments to the Court are outlined in the Court’s Order Adopting Public Comment Procedure (ECF No. 295), which is publicly available and accessible on the Monitoring Team website ([www.memphispdmonitor.com](http://www.memphispdmonitor.com)).**

9. What’s the percentage of crimes where suspects have been arrested as a result of social media?

**The Monitoring Team does not have this data; the City of Memphis and Memphis Police Department would need to provide this information. We also note that an accurate analysis of this question would require sufficient data to distinguish between cases in which an arrest was the direct result of the use of social media and those in which social media may have played some part in an investigation leading to an arrest but was not uniquely valuable.**

10. What does a violation of the Consent Decree look like?

**The Court’s Orders of August 10, 2018 (ECF No. 120 at, e.g., PageID # 4880-82, 4884-86) and October 26, 2018 (ECF No. 151 at, e.g., PageID # 6242-43), identify several specific examples of Consent Decree violations and are publicly available and accessible on the Monitoring Team website ([www.memphispdmonitor.com](http://www.memphispdmonitor.com)).**

11. Since it is known that there was illegal collection of information prior to October of 2018, and we do not know if MPD still has that information, how can we ensure that it is destroyed? Who still has that information?

**Please see response to #7 above.**

12. Samuel Hardiman with the *Commercial Appeal* wrote “before the Memphis Municipal election, Strickland’s administration filed documents under seal in Federal Court asking to modify the 1978 Kendrick Consent Decree – the court order in question.” Are you aware of this request? What is the current status and process to respond to this filing?

**Yes. The Court denied the City’s request in an Order issued on November 13, 2019. The Court also unsealed the City’s request and the ACLU-TN’s response in opposition to that request in an Order issued on November 14, 2019. The Court’s Orders of November 13 and November 14 are**

docketed as ECF Nos. 250 and 252 and are publicly available and accessible on the Monitoring Team website.

A trial regarding the City's proposed modifications to the Consent Decree will be held beginning on Wednesday, June 17, 2020. The Court has invited the public to submit comments regarding the proposed modifications before the trial, from Friday, April 3, 2020, to Monday, May 4, 2020. The procedures for submitting comments to the Court are outlined in the Court's Order Adopting Public Comment Procedure, docketed as ECF No. 295, which is publicly available and accessible on the Monitoring Team website.

13. Has MPD ever been cited or sued for violating the civil rights of the Sons of the Confederate Veterans?

**The Monitoring Team does not have this data; the City of Memphis and Memphis Police Department would need to provide this information.**

14. How, if at all, does enforcing the decree threaten public safety?

**Whether enforcing the Consent Decree threatens public safety and, if so, how it does so, is something that the Court must decide. The City has taken this position in motions filed with the Court, and the ACLU-TN disagrees with the position. On November 13, 2019, the Court denied the City's most recent motion to modify the Consent Decree. That denial is docketed as ECF No. 250 and is publicly available.**

15. How do you protect the public from police doing illegal surveillance off duty, such as searching names at home?

**One job of the Monitoring Team has been to obtain input from the public about conduct by the City and the MPD that may violate the Consent Decree. We review that input and report our findings to the Court.**

**The Monitoring Team also has been reviewing the City's policies, protocols, and training guidelines concerning the Consent Decree. We have reported our recommendations regarding those policies, protocols, and training guidelines to the Court. (See Q3 Report, ECF No. 256, at PageID # 8497).**

**Finally, the Monitoring Team has prepared and submitted a proposed Audit and Compliance Plan to the Court. The team also will have the**

**opportunity to audit the City's compliance with the policies, protocols, and training guidelines that are approved by the Court.**

16. Have any members of the Monitoring Team been previously connected to or affiliated with any members of Memphis law enforcement prior to their appointment?

**Yes:**

- **Independent Monitor Edward L. Stanton III, who previously served as the Presidentially-appointed United States Attorney for the Western District of Tennessee, which includes the City of Memphis; and**
- **Compliance & Auditing Subject-Matter Expert David N. McGriff, Sr., who is the former Deputy Commissioner and Chief of Staff of the Tennessee Department of Safety and Homeland Security; former director of the West Tennessee Drug Task Force; former Chief Criminal Investigator for the Shelby County District Attorney's Office; and a former officer with the Washington, D.C., and Memphis Police Departments.**

**Additionally:**

- **Deputy Monitor Jim Letten previously served as the Presidentially-appointed United States Attorney for the Eastern District of Louisiana, which includes the City of New Orleans, and a U.S. Naval Criminal Investigative Officer; and**
- **Law Enforcement & Police Practices Subject-Matter Expert Dr. Theron L. Bowman is the former Deputy City Manager, Director of Public Safety, and Chief of Police of Arlington, Texas. He is also the Court-appointed Deputy Monitor for a consent decree in Baltimore, Maryland, and the law enforcement expert on the monitoring team for New Orleans, Louisiana.**

17. Are there any groups, within or affiliated with the Memphis Police Department that are exempt from being monitored and if so, why?

**No. The Consent Decree applies to all MPD personnel, no matter how or where they are assigned. Additionally, Sections H & I of the Consent Decree restrict the MPD's ability to share personal information and work with other law enforcement entities. Under Section I, the MPD may not use another law enforcement entity to take actions that the Consent Decree does not allow the MPD to take.**

18. What is the City's interest in keeping the transcript of the in-chambers proceeding conducted on August 27, 2019, sealed and what has the District Judge asked for in the way of transparency or publication?

**The Court unsealed the transcript on November 13, 2019. The Order unsealing the transcript is docketed as ECF No. 251 and is publicly available.**

19. If the City of Memphis / MPD work, collaborate, or otherwise benefit from another organization, such as the Multi-Agency Gang Unit (MAGU), conducting surveillance / harassment, is that a violation of the decree? If so, this needs to be investigated, especially in regard to MAGU.

**Please see responses to #2 and #17 above.**

20. Was arresting and turning over Manuel Duran to ICE when he was performing his job as a Latino journalist on MLK 50 on April 3, 2018, a violation of the decree. Was it reported and investigated?

**The Court issued an Order appointing the Independent Monitor in this matter on December 21, 2018. The Order is docketed as ECF No. 176 and is publicly available. Duran's arrest occurred before that appointment.**

**All violations of the Consent Decree that the Court considered before appointment of the Monitoring Team are addressed in the Court's Orders of August 10, 2018, and October 26, 2018, which are docketed as ECF Nos. 120 and 151 and are publicly available and accessible on the Monitoring Team website. Duran's arrest was not mentioned in either Order.**



21. Given that Memphis police are speaking about private citizens in a secret Facebook group (Memphis Police Association), who is going to monitor them so that nobody else loses their job as a result?

**The Consent Decree does not prevent MPD officers from forming or talking to each other in private Facebook groups, nor does it authorize the Monitoring Team to intercept any such private conversations. The Consent Decree does, however, prohibit the MPD from interfering with the exercise of First Amendment rights or “engag[ing] in any action for the purpose of, or reasonably having the effect of, deterring any person from exercising First Amendment rights.” § F. If you have information that MPD officers are acting contrary to this prohibition, then please contact the Monitoring Team. Please also notify the ACLU-TN of any suspected violations of the Consent Decree. Please also note that you may submit comments directly to the Court from Friday, April 3, 2020, to Monday, May 4, 2020. The procedures for submitting comments to the Court are outlined in the Court’s Order Adopting Public Comment Procedure (ECF No. 295), which is publicly available and accessible on the Monitoring Team website ([www.memphispdmonitor.com](http://www.memphispdmonitor.com)).**

22. Earlier Monitoring Team reports acknowledge that “Bob Smith” was not the only undercover account used in violation of the Consent Decree. What are the names of these other accounts?

**On February 28, 2020, Mr. Stanton submitted a letter to the Court that addressed the City’s use of social media and the requirements of the Consent Decree. The letter requested that the Monitoring Team’s correspondence with the City about the City’s use of social media be made public and requested a hearing before the Court. Two days later, in a motion docketed as ECF No. 289 and publicly available, the City also requested a hearing. The Court has granted a hearing, which is scheduled for Tuesday, March 17, 2020. The Court’s Order is docketed as ECF No. 290 and is publicly available.**

23. Will the MPD’s social media monitoring policy be made public?

**The Court will make that determination. At present, competing proposed versions of the City’s social media policy are pending before the Court. The positions of the City and the ACLU-TN are docketed as ECF Nos. 268, 270, 271, 278, and 282 and are publicly available.**

24. Citizens continue to experience instances of what they feel are intimidation or “stalking” by MPD such as sitting outside someone’s home, or a citizen being detained for something “sketchy” or incidental and the officer makes reference to a prior politically biased arrest of the citizen. How can such real-time violations be addressed?

**If you have information that MPD officers are violating the Consent Decree, then please contact the Monitoring Team. Please also notify the ACLU-TN of any suspected violations of the Consent Decree. Please also note that you may submit comments directly to the Court from Friday, April 3, 2020, to Monday, May 4, 2020. The procedures for submitting comments to the Court are outlined in the Court’s Order Adopting Public Comment Procedure (ECF No. 295), which is publicly available and accessible on the Monitoring Team website ([www.memphispdmonitor.com](http://www.memphispdmonitor.com)).**

25. Can MPD act on a tip from a citizen obtained from an internet chat room?

**This question implicates at least two sections of the Consent Decree, Sections G and I. Section I of the Consent Decree prohibits the MPD from using another law enforcement entity to take actions that the Consent Decree does not allow the MPD to take. But the prohibition is broader than law enforcement. Section I states that the MPD “shall not encourage, cooperate with, delegate, employ or contact with, or act at the behest of, any local, state, federal or private agency or any person, to plan or conduct any investigation, activity or conduct prohibited by th[e] [Consent] [D]ecree.” In its November 13, 2019, Order denying the City’s motion to modify the Consent Decree, the Court said the following about this language:**

**[Section] I of the Decree only prohibits the City from receiving information from outside law enforcement or private entities that would otherwise violate the Consent Decree. Section I only outright prohibits the City’s receipt of political intelligence or information relating to First Amendment-protected activities gathered as a result of investigations lacking any legitimate law enforcement purpose.**

**(ECF No. 250 at PageID # 8425.)**

**Section G of the Consent Decree requires MPD officers to obtain authorization from the police director before conducting or participating in criminal investigations that may result in the collection of political intelligence. It also requires the police director to find that there is a reasonable basis for all such investigations. In the same November 13, 2019, Order discussed above, the Court stated that authorization and justification under Section G “would only be required if [a] tip, which provided information of ongoing or threatened criminal activity or conduct, also included or referenced political intelligence as defined, or otherwise incidentally implicates, or may incidentally implicate, First Amendment-protected activities.” (*Ibid.*)**

**So the answer to this question, based on the Court’s explanations of Sections G and I, appears to be this: *First*, if the subject-matter of the tip is non-criminal and the tip contains political intelligence or information relating to First Amendment-protected activities, then, to act on the tip, the MPD must have a legitimate law enforcement purpose. *Second*, if the subject matter of the tip is criminal and the tip either references or incidentally may implicate First-Amendment-protected activities, then, to act on the tip, the MPD must follow the procedure outlined by Section G.**

26. What are your thoughts on the officer-involved shooting with Amber Guyger? (Reason: her social media was wiped.)

**That situation, while tragic, appears to bear no relationship to the *Kendrick* Consent Decree.**

27. How and who will train the MPD on new policies and procedures?

**The Court will make that determination. The Monitoring Team has reported recommendations regarding the City’s proposed policies, protocols, and training guidelines concerning the Consent Decree to the Court. (*See* Q3 Report, ECF No. 256, at PageID # 8497). The Monitoring Team also has prepared and submitted a proposed Audit and Compliance Plan to the Court and will have the opportunity to audit the City’s compliance with the policies, protocols, and training guidelines that are approved by the Court.**

28. Will the policies agreed upon by the City, the Monitoring Team and Court be available for all of the public to see?

**The Court will make that determination.**

29. What does the need for a consent decree suggest about law enforcement in a city it's needed in?

**This question is difficult to answer because a consent decree is both a settlement agreement and a Court Order. It may, therefore, be enforced by the Court, but the parties to a consent decree all agreed that it should be in place. As the Court has explained, “[a] consent decree is essentially a settlement subject to continued judicial policing.” (Order, November 13, 2019, ECF No. 250, at PageID # 8387.) “It is both a voluntary settlement agreement which could be fully effective without judicial intervention and a final judicial order . . . placing the power and prestige of the court behind the compromise struck by the parties.” (*Id.* at PageID # 8387-88 (alterations and citations omitted).)**

**The *Kendrick* Consent Decree is a settlement agreement between the ACLU-TN and the City of Memphis; both parties agreed to its terms in 1978 after the ACLU-TN sued the City. But the Consent Decree also is a Court Order, whose terms are enforced by the Court as long as the Consent Decree remains in effect.**

30. Are law enforcement representatives and elected officials privy to potential violations before they become public?

**The protocol that the Monitoring Team has followed when we become aware of a potential violation of the Consent Decree is as follows: (1) gather information; (2) recommend, if warranted, to the City that the potential violation be resolved; (3) ask the ACLU-TN for input if the City objects to the Monitoring Team’s recommendation; and (4) report the team’s recommendation and correspondence with the City and the ACLU-TN to the Court. A good example of this process is a matter that presently is pending before the Court, concerning the City’s use of social media. The Court has granted a hearing on that matter, which is scheduled for Tuesday, March 17, 2020. The Court’s Order is docketed as ECF No. 290 and is publicly available.**

31. Would you outline / summarize a timeline for the public dissemination of policies procedures and public records that are not yet public?

**The Court will make that determination.**

32. How are violations of the Consent Decree reported and handled?

**Please see response to #30 above. Please also note that although the Monitoring Team makes recommendations to the Court, the Court has the sole authority to determine whether a violation of the Consent Decree has occurred.**

33. What process, if any, is in place to destroy any unlawful political intelligence information?

**Please see response to #7 above.**

34. At the August hearing, Judge McCalla invited citizens to submit information to the Court or the Monitor. To what extent have citizens responded, and what sort of information has been received?

**Several people accepted Judge McCalla's August 2019 invitation to submit information to the Court. Submissions were both written and via video.**

35. Will community meetings occur to inform the public when MPD's plans to satisfy the sanctions are approved? (Training, compliance, approval process)

**The Court will make that determination. We expect, however, that as long as the Monitoring Team is in place, the Court will continue to approve the community forums and other forms of community engagement in which the Monitoring Team has engaged. The Monitoring Team also will have the opportunity to audit the City's compliance with the policies, protocols, and training guidelines that are approved by the Court.**

36. What are the consequences when the City breaks tenets of the decree? How transparent is this consequence process?

**Please see response to # 1 above. Please also note that the appointment of the Monitoring Team and the sanctions with which the City must comply are both consequences of the City's having violated the Consent Decree. Please see the Court's Order of October 29, 2018, which is docketed as**

**ECF No. 152 and is publicly available and accessible on the Monitoring Team website, for a discussion of the team's appointment and the sanctions.**

37. How does this Consent Decree apply to journalists?

**The Consent Decree applies to the City of Memphis and the Memphis Police Department only.**

38. If the City is barred from deterring the exercise of First Amendment rights, how do we reconcile the City of Memphis' refusal to add *MLK 50: Justice Through Journalism* to its media advisory lists?

**As the Court has explained, the First Amendment generally applies to governmental actors like the City of Memphis. The Consent Decree prohibits the City and the MPD from interfering with the exercise of First Amendment rights or “engag[ing] in any action for the purpose of, or reasonably having the effect of, deterring any person from exercising First Amendment rights.” § F. It would have to be true that the City refused to add *MLK 50: Justice Through Journalism* to its media advisory lists AND that (1) the act of doing so interfered with the exercise of First Amendment rights; OR (2) the City took this action for the purpose of deterring the exercise of First Amendment rights; OR (3) the action reasonably had the effect of deterring the exercise of First Amendment rights for the Consent Decree to be implicated. If you have information that one or more of these conditions has been met, then please contact the Monitoring Team. Please also notify the ACLU-TN of any suspected violations of the Consent Decree. Finally, please note that you may submit comments directly to the Court from Friday, April 3, 2020, to Monday, May 4, 2020. The procedures for submitting comments to the Court are outlined in the Court's Order Adopting Public Comment Procedure (ECF No. 295), which is publicly available and accessible on the Monitoring Team website ([www.memphispdmonitor.com](http://www.memphispdmonitor.com)).**

39. What specifically does the decree prevent MPD from doing that is necessary for law enforcement?

**Please see response to # 14 above.**

40. Can individuals harmed by violations of the Consent Decree be compensated for damages? Are those violations of these people acknowledged in a way that mitigates the damages?

**The remedies that currently have been imposed by the Court are detailed in the Court's Order of October 29, 2018, which is docketed as ECF No. 152 and is publicly available and accessible on the Monitoring Team website. Anyone considering legal action for alleged violations of the Consent Decree may want to consult with a lawyer.**

41. Can we have a timeline until the necessary trainings and policies are in place?

**Please see response to #31 above.**

42. Can MPD coordinate with agencies that are not bound by the Consent Decree?

**Please see responses to #2 and #17 above.**

43. Will there be an opportunity for a community member to be on the Monitoring Committee?

**The Monitoring Team is Court-appointed. In its Second Quarterly Report, which is docketed as ECF No. 219 and is publicly available and accessible on the Monitoring Team website, the Monitoring Team advised the Court that community members have recommended that “[t]he Monitoring Team should be broadened to include one or more ‘lay’ community members.” (Q2 Report at PageID # 7589.) We also reported that “[t]his broadening would help establish trust between the Monitoring Team and the community and facilitate better communication between the two.” (*Ibid.*)**

44. You all say trust your word but why is there no one from the community on your Board?

**Please see response to #43 above. Please also note that the community forums, the focus groups, the Monitoring Team website, and individual meetings with community members and groups all are designed to facilitate transparency with and obtain input from the community. Similarly, the Court's August 2019 invitation to community members to submit comments directly to the Court, and the Court's recently-adopted public comment procedure, which invites the public to submit comments regarding the City's proposed modifications to the Consent Decree from**

**Friday, April 3, 2020, to Monday, May 4, 2020, are designed to do the same.**

**The procedures for submitting comments to the Court are outlined in the Court's Order Adopting Public Comment Procedure (ECF No. 295), which is publicly available and accessible on the Monitoring Team website. Other documents filed by the City of Memphis and the ACLU-TN concerning the proposed modifications, and the Court's rulings on those documents, also are publicly available and accessible on the Monitoring Team website.**

45. How were each of the Monitoring Team members selected?

**On December 12, 2018, after holding in August and October 2018 that the City had violated the Consent Decree, the Court issued an Order Establishing Final Protocol for Monitoring Selection Process. That Order is docketed as ECF No. 165 and publicly available. In that Order, the Court directed Mr. Stanton and Bill Nettles, the other person who was nominated to be the Independent Monitor, to appear for interviews and to submit an application to the Court. Mr. Stanton's application is docketed as ECF No. 180-1 and is publicly available and accessible on the Monitoring Team website. In that application, Mr. Stanton proposed a team of experts in the following areas: (1) social media and public policy, (2) law enforcement and police practices, (3) constitutional law and the First Amendment, and (4) compliance and auditing. (*See Application, ECF No. 180-1 at PageID # 6555-56.*) He then interviewed and reviewed the publications and other work of the current members of the Monitoring Team, along with other candidates for the team, in each of the expert areas. The Court selected Mr. Stanton as the Independent Monitor December 21, 2018, and directed him to "assume his duties immediately." The Court's Order appointing Mr. Stanton is docketed as ECF No. 176 and is publicly available.**



46. Does this Monitoring Team have any plans to publicly address and take a stance on the distribution of disinformation by Mayor Strickland? In particular, the narrative implying that the Consent Decree is outdated and hinders MPD from keeping communities safe? (Similar questions: “Does the Monitor think the City is in violation of Judge McCalla’s rulings by its PR campaign and scare tactics that the Consent Order hinders MPD’s legitimate law enforcement activities?” How, if at all, does enforcing the decree threaten public safety?”)

**Please see response to # 14 above.**

48. As I recall, MPD testified that there were 6 fake Facebook accounts.

**Please see response to # 22 above.**

49. Does the Monitor think the City is in violation of Judge McCalla’s rulings by its PR campaign and scare tactics that the Consent Order hinders MPD’s legitimate law enforcement activities?

**Please see response to # 14 above.**

50. Could you research a product called “Air Watch”?

**The City’s use of Air Watch and any other tool, technology, or application must comply with the Consent Decree.**