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

ACLU OF TENNESSEE, INC.,	)	
	)	
Plaintiff,	)	
	)	2:17-CV-2120-JPM
vs.	)	MEMPHIS, TENNESSEE
	)	
CITY OF MEMPHIS, TENNESSEE,	)	
	)	
Defendant.	)	

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**CORRECTED** TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE JON P. McCALLA,  
UNITED STATES DISTRICT JUDGE  
**HELD IN CHAMBERS**  
AUGUST 27, 2019  
**THIS TRANSCRIPT IS UNDER SEAL**  
**PLEASE HANDLE ACCORDINGLY**

**APPEARANCES :**

For the Plaintiff:	Thomas H. Castelli Mandy Strickland Floyd American Civil Liberties Union P.O. Box 120160 Nashville, TN 37212
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Monitor:	Edward L. Stanton, III Butler Snow 6075 Poplar Avenue, Suite 500 Memphis, TN 38119
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Present:	James B. Letten Gadson William Perry Butler Snow 6075 Poplar Avenue, Suite 500 Memphis, TN 38119
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1 APPEARANCES, CONTINUED:

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6 For the City:

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Zayid Saleem

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1 THE COURT: Okay. This matter will be **under seal**.  
2 We're going to close the door. Thank you.

3 We have a new set of clerks that are working. I'm  
4 assuming that this relates to this?

5 MR. GLOVER: It does. That -- I'm not sure. There  
6 may be one more issue, but it's all intertwined.

7 THE COURT: Okay. That's what I thought. And we're  
8 talking about what is part of Exhibit 4, Exhibit B.

9 MR. GLOVER: Well, since I don't have it in front of  
10 me --

11 THE COURT: Exhibit B.

12 MR. GLOVER: The first -- the first thing I'd like to  
13 address is the issue that, in the second week in September, we  
14 have a symposium for law enforcement planned coming to Memphis.

15 THE COURT: Right.

16 MR. GLOVER: And the Deputy Attorney General of the  
17 United States is one of the attendees. It was going to be  
18 Attorney General William Barr, but now it's going to be his  
19 assistant, his deputy attorney general.

20 THE COURT: Okay.

21 MR. GLOVER: Approximately 86 people who are  
22 considered VIP's by federal law enforcement officials. There  
23 will be 15 police chiefs, and a variety of other people who are  
24 key high-level law enforcement people throughout the United  
25 States.

1           As part of this, as Your Honor can imagine, the Secret  
2 Service and FBI undertake whatever procedures they think are  
3 appropriate to try to maintain security for the federal  
4 officials who will be visiting Memphis. And as of the 21st  
5 of August, a continuing back-and-forth cooperation between the  
6 Monitor and our questioning resulted in a -- an opinion that we  
7 are concerned impacts the ability of the police department to  
8 cooperate with the federal agencies in providing security.

9           And it basically goes to the question of whether we  
10 can receive secure -- if we can receive information from the  
11 federal agencies that relates to security without them assuring  
12 us, in some vetting process, that it would not have been out of  
13 compliance with the consent decree in the way they accepted it  
14 and -- and obtained it. So, for example, we know they will not  
15 have sought any approval of the Memphis police director under  
16 subsection G or whatever they did.

17           We don't know that the Secret Service will actually  
18 share with us information about how they obtain information on  
19 potential security risks. And we do not want to be out of  
20 technical comply -- compliance with the decree, if -- as we  
21 believe will happen in the next few days -- those agencies seek  
22 to pass information to the Memphis Police Department to help  
23 them secure perimeters, routes where people will be in cars,  
24 look at, you know, potential bomb threats or things of that  
25 type in the buildings where these people may be. And so we

1 feel we're in a bit of a quandary, and we didn't want to say in  
2 open court that there are going to be all of these people here,  
3 and we've got a --

4 THE COURT: I've got it.

5 MR. GLOVER: -- you know, we've got a security issue.

6 THE COURT: If we do have a security issue.

7 MR. GLOVER: So that's where we are on that matter.

8 THE COURT: Right. The Monitor did look at this issue  
9 and is -- is correct that we, under the Kendricks decree, did  
10 not receive information that was gathered without, essentially,  
11 a reasonable suspicion or probable cause-type determination.  
12 There are both different standards but some type of  
13 determination. In other words, broad gathering of information  
14 simply to gather information is problematic. So the question  
15 is what do we do? Now, there are a couple of ways to deal with  
16 that, and I'm first going to go to the Monitor and the Special  
17 Master and ask if there's a suggestion because, obviously,  
18 these situations will come up again in the future. And while  
19 this is not completely precedent-setting, we need to see if  
20 there's a way in which we can do this, which will keep us in  
21 compliance.

22 MR. STANTON: Well, you're right, Your Honor. This  
23 was kind of the "we" in the interpretation of the consent  
24 decree and it is very restrictive, and also reading this in  
25 balance with the Court's orders, you've made this very clear

1 that you intend to hold the City to the bargain that it --

2 THE COURT: That it made.

3 MR. STANTON: -- that it made.

4 And that, while this is challenging work or  
5 challenging circumstances, typically, when you're the first at  
6 something, it appears that we are, that that comes with it.

7 I'm open for suggestions. I will say my concern is --  
8 and, again, I get it. Having been in law enforcement, I -- I  
9 certainly understand. And I know that we've had security  
10 details and the A.G., for instance, came for --

11 THE COURT: Sure.

12 MR. STANTON: -- instance, to the investiture.

13 But maybe an exception for exigent circumstances or if  
14 the City can articulate, as they did in this case, so it was  
15 not, certainly, a slap in the face to the City or their  
16 concerns for public safety. It was strictly following what the  
17 Court has instructed us to do from a monitoring team standpoint  
18 and that is to ensure compliance.

19 So as we've been handling kind of the real-time  
20 request for authorizations, Your Honor, if -- I did want to get  
21 in front of the Court, but if the Court suggests or recommends  
22 that I, as a Special Master, make these calls on a limited  
23 case-by-case basis, I'm certainly willing and amenable to do  
24 that, Your Honor.

25 I just didn't want to start a slippery slope of --

1 THE COURT: No.

2 MR. STANTON: -- of --

3 THE COURT: What the City cannot do is the City cannot  
4 itself engage in conduct which would be in violation of a  
5 decree. So if you were to be asked, even by the Secret  
6 Service, to engage in conduct, which would be inconsistent with  
7 the decree, we would need to advise -- I don't think they're  
8 going to ask you to do that anyway, but you would need to  
9 advise them that there is a decree that prohibits that type of  
10 surveillance. And that that is something that you cannot  
11 engage in.

12 The -- the decree, however, cannot preclude a federal  
13 agency from engaging in a particular conduct, and we can't ask  
14 them to engage in inappropriate conduct either. But if they  
15 engage in conduct that would be inconsistent of the decree,  
16 that doesn't violate anything because there is not a decree  
17 governing that.

18 If they offer to provide you with information, the --  
19 that's the tricky issue.

20 MR. STANTON: Mm-hmm.

21 THE COURT: It's -- it's only tricky in this regard:  
22 You can't engage in that conduct and you can make that clear.  
23 You can't ask them to engage in that conduct because that would  
24 be doing indirectly what you cannot do directly.

25 But if you receive information of a secure -- of such

1 a nature, then you can receive it.

2 Now, the interesting question is: Can you act on it?  
3 Can you act on it, not can the Secret Service act on it? They  
4 can. That's not precluded. Can the FBI act on it? They can.  
5 That's not precluded. But can the City of Memphis act on that?  
6 And the answer typically would be no because it's simply  
7 information that you would not receive.

8 Now, if you are uncertain as to how to respond -- I  
9 think I've been pretty clear, frankly, but if you're uncertain  
10 on how to respond, you could bring it to the Special Master,  
11 and the Special Master could rule on it at that time. Or if  
12 the Special Master feels that it's necessary, the Special  
13 Master can always come to the Court and advise me, and I will  
14 either make a determination or indicate that we have  
15 insufficient information with which to make a determination and  
16 that would be a different course of action. We would have to  
17 take some other steps. I think that's the answer. I think  
18 that's workable, and it's very important that we not find  
19 ourselves in a position of engaging in the conduct that's  
20 prohibited. I think that's pretty simple. Is that -- is that  
21 straight-forward enough? Is that clear enough? Does that give  
22 you the assurance that you need?

23 MR. GLOVER: Two points. Yes, Your Honor. That's  
24 very helpful.

25 If I could posit a hypothetical, and I don't --



1 THE COURT: Sure. And there are some --

2 MR. GLOVER: And --

3 THE COURT: -- there are some already set out.

4 MR. GLOVER: If we -- if we get information given to  
5 us by the Secret Service or the FBI --

6 THE COURT: Sure.

7 MR. GLOVER: -- that they have done some digging  
8 around in whatever sources they have to suggest a possible  
9 active shooter intent to come to Memphis.

10 THE COURT: Right, sure.

11 MR. GLOVER: We will oversee that information, and if  
12 we see that person or see the license plate number or whatever,  
13 I think our law enforcement would act on it and stop that  
14 person.

15 THE COURT: They're allowed to do that because that's  
16 a -- that's a bulletin. It won't be a public bulletin, but  
17 that is an alert from a national law enforcement, the Secret  
18 Service or the FBI, whoever it might be, that this person poses  
19 a danger and they need to be apprehended. Now, that -- you can  
20 always do that --

21 MR. GLOVER: Right.

22 THE COURT: -- they would probably, at that stage,  
23 have issued or sought an arrest warrant, maybe even here.

24 MR. STANTON: I understand.

25 THE COURT: Maybe even here.

1 MR. GLOVER: Right. I believe the opinion that the  
2 Monitor has given us, and he's going down the line with what  
3 the order says --

4 THE COURT: Sure.

5 MR. GLOVER: -- so I'm not complaining about it.

6 Is that -- it would be, as it stands now, without some  
7 relief from the Court or nuanced reading of it that you're  
8 giving us here that we would be in technical violation for  
9 receiving the information from the FBI or the Secret Service if  
10 we couldn't assure ourselves, through vetting, that it had not  
11 been obtained in a manner that would be consistent for us --

12 THE COURT: And the problem is --

13 MR. GLOVER: -- to be able to do it.

14 THE COURT: -- that they can't assure us that they've  
15 had a impartial -- it's impartial -- individual --

16 MR. STANTON: Mm-hmm.

17 THE COURT: -- who has reviewed and made a  
18 determination. And that is a problem.

19 MR. GLOVER: With the four elements --

20 THE COURT: That is a problem.

21 MR. GLOVER: -- that we would have to --

22 THE COURT: What the Monitor appropriately said was,  
23 we're dealing with a very specific situation, and we haven't  
24 articulated the final policy in that regard and, at this point  
25 in time, you need an answer now. You don't need a answer after

1 the events have occurred.

2 MR. GLOVER: Right.

3 THE COURT: So what I have to do is outline something  
4 that we can deal with today. I said it's not precedential. It  
5 is a way to deal with a problem, and it may ultimately be  
6 something that we will refine.

7 MR. STANTON: Yes, sir.

8 THE COURT: And that's what -- that's what I think  
9 what the Special Master and I are thinking because he -- I  
10 listened very carefully to what the Special Master said a  
11 moment ago, and I think he -- I think that's what you were  
12 suggesting, is that we need to articulate a policy that deals  
13 with this particular situation -- a ruling that deals with this  
14 particular situation, and then we can continue to look at -- we  
15 cannot require, by the way, a federal agency to comply with the  
16 order.

17 MR. GLOVER: Understood.

18 THE COURT: Does -- does that make it clear? We  
19 didn't answer this forever in every circumstance.

20 MR. GLOVER: Yes, and whether it is precedential.

21 And what I would like the Court's advice on is whether  
22 we should, in order to formalize this, file, you know, some  
23 sort of expedited motion under seal where we have something on  
24 record, even thought under seal, that, you know, Mr. Stanton is  
25 authorized to supervise and approve or whatever what we may be

1 asked to do by the FBI or the secret service, or should this  
2 conversation be the one that --

3 THE COURT: That's why we have a transcript.

4 But it is not necessary to -- we actually have enough  
5 time to do that if you wanted to. I don't believe that it's  
6 probably desirable to do that in this case.

7 MR. GLOVER: I think Your Honor is clear --

8 THE COURT: I think it's probably better --

9 MR. GLOVER: -- on the record here.

10 THE COURT: -- to have a sealed transcript available  
11 to the Special Master. He will -- he will have that.

12 I'm a little concerned about following the other  
13 course.

14 MR. GLOVER: All right then.

15 THE COURT: The reason is that this conference and  
16 this matter is not ascertainable by anybody else.

17 MR. STANTON: Mm-hmm.

18 THE COURT: And as -- as the Special Master well knows  
19 and Mr. McMullen well knows, no matter how well we guard a  
20 sealed document, it is -- it is more available than this  
21 transcript and this conference.

22 Is the ACLU comfortable with that? Because I don't --  
23 -- what I don't want to do is build a structure based on a  
24 single incident without time to fully analyze the consequences.

25 MR. CASTELLI: I -- I'm comfortable with that.

1           I mean, I think we're having a dialogue with all of  
2 the parties present, and I don't think that the formality of  
3 another written motion would aid us here, but going forward as  
4 far as being comfortable with kind of -- I guess what the  
5 in-place work-around is for right now, I think it makes a lot  
6 of sense.

7           Our -- I think the decree and certainly our client's,  
8 you know, main concern is that information that might come in  
9 that might violate the decree isn't cataloged, retained, and  
10 disseminated. And it doesn't seem like any of those are a  
11 concern here. What we're talking about is, can we act on it?  
12 And I think that -- you know, if there is information that  
13 comes in that is pure political intelligence that the City,  
14 hopefully, would not act on it and would not retain it, and it  
15 wouldn't be a problem if -- if there's a mix here and I think  
16 that may be -- at least that's what I'm getting, is that's the  
17 issue, that there's a mix of some information coming in of  
18 maybe political intelligence that was gathered outside the  
19 knowledge of the City then, yeah, I think it makes sense for --  
20 for -- for the Monitor to be there if the City feels like they  
21 need to come in and help them make a decision at that point if  
22 they can't come make a decision on their own or follow what the  
23 decree says of -- of authorizing the investigation then, at  
24 that point, the Monitor can help them there. The only thing I  
25 would add is, I mean, I don't want the Monitor to become a

1 replacement for this idea that the City does need to follow its  
2 policies and follow the decree that -- that there needs to be  
3 some reporting, something for there to be a follow-up on and  
4 make sure that what was done was done correctly. But, you  
5 know, the decree has some specific categories that have to be  
6 met before the City can initiate one of these investigations.  
7 And I don't want there to be -- I guess if we go to the  
8 Monitor, then we don't have to also, you know, create these  
9 reports, even though a report may be created after the fact,  
10 because we need to go to the Monitor right now because this  
11 is -- there is an emergency.

12 THE COURT: I don't see the City engaging in any  
13 activity that would be contrary to the decree at this time.

14 MR. CASTELLI: Yeah.

15 THE COURT: The -- the question is: Can I receive  
16 information and then respond to that. And an example was, that  
17 if I receive information from the Secret Service --

18 MR. CASTELLI: Mm-hmm.

19 THE COURT: -- that says there's a potential active  
20 shooter and that's the term you used, and I can't -- and the  
21 City can't determine how that information was obtained, can the  
22 City respond to that? The answer is yes --

23 MR. CASTELLI: Yes.

24 THE COURT: -- the City can.

25 If I receive information from the Secret Service that

1 it clearly precluded information, the City cannot initiate an  
2 investigation, they can't engage in typical police work in that  
3 regard, they would not be doing that.

4 MR. CASTELLI: Yeah. That's -- that's my  
5 understanding.

6 THE COURT: I think we're fine.

7 MR. GLOVER: Thank you, Your Honor.

8 THE COURT: I think everything is taken care of in  
9 connection with this event.

10 MR. GLOVER: There is a related matter and, again,  
11 this may be something --

12 THE COURT: I am going to watch my time. I have to be  
13 somewhere else shortly.

14 MR. GLOVER: We have a security issue with regard to  
15 what we call the lobby guard system at city hall. And we've  
16 received advice from the Monitor that we ought not be getting  
17 photographs, having people show I.D. or sign in, or however  
18 they identify themselves, unless they're going to a secure,  
19 sensitive area within city hall, and if I can stay at that and  
20 I apologize. I think that's pretty much it.

21 MR. STANTON: Right.

22 MR. GLOVER: And so we -- for now, we have advised the  
23 Monitor of some parts of our security that we're disabling at  
24 city hall. But we have some concerns, frankly still, about the  
25 idea of a citizen just having to say, I'm going to pay my taxes

1 or I'm going to a city council meeting and then we don't even  
2 know who they are or have them show or sign I.D. We have  
3 orders of protection because of spousal issues with people who  
4 work in the building. We wouldn't know whether one of our  
5 spouses, under an order of protection, is trying to come into  
6 the building. We would just be taking -- anybody that wanted  
7 to do something nefarious could simply say, I'm going to city  
8 hall and not have to have their photo taken, not have to give  
9 an I.D. card, not have to sign in and we would just have to  
10 trust that they are not going to go to a secure area. So it's  
11 going to disable our -- everything except our metal detector  
12 system if we completely comply with that suggestion from the  
13 Monitor team.

14 MR. STANTON: And one of the concerns is the chilling  
15 effect and the least intrusive means is the lens that we were  
16 looking through.

17 And so you bring up a good point, Mark. If there's a  
18 protective order -- and, certainly, if there's a reasonable  
19 suspicion or cause for someone to call down to the front desk  
20 and say, Hey, John Doe is my husband and there is a protective  
21 order and here is a picture; you should be on the lookout. The  
22 concern is taking a picture. You know, if you look at 201  
23 Poplar, for example, I mean, you have some of the worse of the  
24 worst, as you know, individuals. That is not required.

25 THE COURT: That is not required, right.



1 MR. STANTON: You walk to 201 Poplar, you go through a  
2 metal detector, and so I'm not sure if -- in particular, how we  
3 got here, but there is a concern with the list and there is a  
4 concern with maintaining information.

5 So under those circumstances, I think it's more of a  
6 we would rather see an approach instead of a wide net of all of  
7 this additional information.

8 THE COURT: They're certainly not authorized to take  
9 photographs of everybody that comes in city hall.

10 MR. GLOVER: Well, they -- the process over the years  
11 has been that the security mechanism involves -- when I go in  
12 there, there is a photograph and I put it on so that if  
13 employees --

14 THE COURT: Employees carry badges around.

15 MR. GLOVER: -- who see me in the hallway will know  
16 that I've gone through security. That's the point, yes,  
17 because they'd see that going through that security process.

18 THE COURT: Does this require a resolution at this  
19 time? Is this something of that nature?

20 MR. GLOVER: We will -- we will keep the system shut  
21 down until we approach the Court with a particular motion, I  
22 guess.

23 THE COURT: Right. I mean, obviously, the taking and  
24 dissemination of photographs of everybody who comes into a  
25 public building is not something that is contemplated under the

1 decree and we don't really have to go past that.

2 MR. GLOVER: Okay.

3 THE COURT: I think that's ACLU on this one.

4 I mean, I think that -- I didn't -- the first one is  
5 pretty straight-forward. This is a much more complicated  
6 issue. City hall is a public building. Certainly, people are  
7 entitled to have -- and, you know, so is the courthouse across  
8 the street that -- so is our courthouse, and so is 201. You  
9 can walk in there and -- have you ever been in there in early  
10 morning on a heavier court day?

11 MR. GLOVER: Yes.

12 THE COURT: I don't think they're screening a lot. I  
13 don't mean that in a bad way. What I'm trying to say, is that  
14 we don't typically engage in that type of activity.

15 MR. GLOVER: Okay.

16 THE COURT: I don't -- I don't understand this to be  
17 something that we need to address today.

18 MR. GLOVER: All right. I understand, Your Honor.

19 MR. STANTON: That's the position of the Monitor, Your  
20 Honor. I'm just not sure that the heightened security that --  
21 it's not -- unless it's 201 Poplar, I'm not sure what makes the  
22 City any special -- more special, again, under the least  
23 intrusive means, so....

24 MR. GLOVER: We -- we have to show our -- excuse me.  
25 I didn't mean to interrupt you.

1 MR. STANTON: Okay.

2 MR. GLOVER: We have to show our I.D., I do as an  
3 attorney, show my I.D. when I come in this building --

4 THE COURT: Well, sure, sure, sure.

5 MR. GLOVER: -- so we're suggesting there be no I.D.  
6 shown.

7 MR. STANTON: And we're willing -- you know --

8 THE COURT: I think it was the taking of the  
9 photographs that certainly heightens everybody's concern  
10 because that's something that was a problem.

11 MR. CASTELLI: I mean, I think there's a difference  
12 between taking a photograph and showing I.D.

13 THE COURT: That's affirmative a step by the entity,  
14 by the City in this case. That is different than a passive  
15 step, and so --

16 MR. GLOVER: Would the passive step of checking I.D.'s  
17 as people come in still be acceptable or not?

18 THE COURT: Well, I don't know that anybody said that  
19 was inappropriate. I believe I --

20 MR. CASTELLI: I mean, if we're talking -- I think I  
21 would benefit from a lot more information, but if we're talking  
22 about they glanced at my I.D., confirmed my identity, and I was  
23 waved through today, I don't think we'd have a problem with  
24 that. If we're taking I.D.'s, but writing down information,  
25 then I'm not sure.

1 THE COURT: I think it's the accumulation of  
2 cataloging --

3 MR. CASTELLI: Yes.

4 THE COURT: -- of data --

5 MR. CASTELLI: Yes, sir.

6 THE COURT: -- and creating a database --

7 MR. CASTELLI: So -- yeah.

8 THE COURT: -- that is certainly different from the  
9 activity that ACLU just described.

10 MR. STANTON: In the event that an individual does not  
11 have an I.D., how should they be treated at city hall? What's  
12 next?

13 THE COURT: Well, do we need -- I mean, I -- I don't  
14 know that --

15 MR. STANTON: Okay. I'm sorry.

16 MR. CASTELLI: I think we can work through that.

17 MR. STANTON: Okay. I'm sorry. Okay. I just --

18 [All talking at the same time.]

19 MR. CASTELLI: We can work through that.

20 MR. GLOVER: All right. I just --

21 THE COURT: I think these are issues --

22 MR. GLOVER: Okay. Sure.

23 THE COURT: -- that I don't want to --

24 MR. GLOVER: Sure.

25 THE COURT: -- have to deal with it.

1 MR. STANTON: Sure.

2 THE COURT: We dealt with the emergency issue --

3 MR. GLOVER: Right.

4 THE COURT: -- and a security issue, and certainly not  
5 one to tell everybody about, because, otherwise, we might  
6 create a situation where we imperil somebody's --

7 MR. GLOVER: Mm-hmm --

8 THE COURT: -- welfare or their health or life.

9 And so we dealt with the emergency issues.

10 Non emergency matters were not to be really discussed today,  
11 and I think we've covered what we can.

12 MR. GLOVER: May I --

13 THE COURT: I'm sorry. Next time we'll have to get an  
14 extra chair --

15 MR. GLOVER: May I --

16 THE COURT: But sorry about that.

17 MR. GLOVER: -- just state for the record state the  
18 other issues and -- and if Your Honor says I can't deal with  
19 them now, then that's fine. We'll submit a brief.

20 THE COURT: Right. I'm listening.

21 MR. GLOVER: One is under the opinions we've gotten,  
22 we think we have to disband CrimeStoppers because they submit  
23 information to the police that someone who we don't even know  
24 who it is has developed in a way that we don't know how they  
25 developed it, and they submit that, often usually anonymously,

1 as a tipster kind of mechanism. And so we're receiving  
2 information that maybe somebody's been trolling the Internet or  
3 following a particular person because they don't like 'em, or  
4 whatever it may be.

5 THE COURT: We all understand that private individuals  
6 can do things that governmental entities cannot. I'm not going  
7 to rule on that right now, but the next issue?

8 MR. GLOVER: Well, if the Monitor has ruled on it and  
9 that --

10 THE COURT: I -- I --

11 MR. GLOVER: -- They've got to disband it.

12 THE COURT: I --

13 This is a matter that, if you want further review,  
14 there's a mechanism to do --

15 MR. GLOVER: Right.

16 THE COURT: -- that.

17 And we will --

18 MR. GLOVER: Understood.

19 THE COURT: -- deal with that.

20 MR. GLOVER: And then I -- the other issue that I  
21 think is similar and related is the multi-unit gang force where  
22 we coop- -- cooperated with the attorney general's office, the  
23 sheriff's department, alcohol, tobacco and firearms on gang  
24 activity which, of course, we're getting the benefit of  
25 whatever information those agencies have developed and in

1 whatever --

2 THE COURT: Sure.

3 MR. GLOVER: -- way they do it.

4 It seems to be very similar to what we're talking  
5 about with this security issue on this upcoming visit of the  
6 deputy attorney general, but it's an ongoing process and so,  
7 therefore, a little bit different as to whether we can continue  
8 to participate in that activity.

9 MR. STANTON: Yeah.

10 And if I may -- this came up in our meeting yesterday.  
11 We'll go offline. It's nothing that -- that can't  
12 wait, Your Honor. Yeah.

13 THE COURT: Okay. No. I mean, I understand these  
14 matters.

15 MR. STANTON: Right.

16 THE COURT: The Special Master and I are aware of  
17 this, and it's best -- this was not the purpose of the  
18 conference today --

19 MR. GLOVER: Understood.

20 THE COURT: -- and so you did what every lawyer does  
21 and --

22 MR. GLOVER: I asked for more than I could get.

23 [Laughter.]

24 THE COURT: -- you know, you went a little further  
25 than we could go today.

1 Anything else?

2 MR. CASTELLI: Not for the plaintiff.

3 I'm sorry.

4 MR. STANTON: I think we're good, Your Honor.

5 THE COURT: I think that we probably covered what we  
6 should. This was pretty narrow. You know, I'm trying not to  
7 do things in chambers where we can have a different type of  
8 exchange for information.

9 And I'm going to ask the ACLU: You understand the  
10 narrow way in which we're trying to approach matters that have  
11 to be handled in a --

12 MR. CASTELLI: Yes, sir.

13 THE COURT: -- in a very confidential way.

14 Anybody have any issue with the fact that, even though  
15 the City did bring up a few items that we might have discussed  
16 differently, that everything that was covered in this hearing  
17 is a matter that is not to be discussed outside of this  
18 hearing. This is an under-seal proceeding. There will be  
19 plenty of public opportunities on some of the other issues.  
20 Any issue about that at all?

21 MS. STRICKLAND FLOYD: No, Your Honor.

22 THE COURT: Lawyers have to know that they can't come  
23 back and use something from this without getting special  
24 permission from the Court.

25 MS. STRICKLAND FLOYD: Yes, Your Honor.



1 THE COURT: Of course, the Monitor will have a copy of  
2 the transcript in this matter, and that's the guidance for the  
3 immediate issue, which related to the activities on September  
4 the 9th through the 11th, okay?

5 MR. PERRY: Yes, sir.

6 THE COURT: Okay. Well, look, always good to see all  
7 of you.

8 MR. PERRY: Thank you, Your Honor.

9 THE COURT: And we're going to let you be excused.

10 MR. PERRY: Thank you, sir.

11 MR. STANTON: Thank you, Your Honor.

12 THE COURT: Thank you.

13 [Proceedings concluded at 12:43 p.m.]

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REPORTER'S CERTIFICATE

I, Traci D. Walker, Official Court Reporter for the United States District Court for the Western District of Tennessee, with offices at Memphis, do hereby certify:

That I reported on the Stenograph machine the proceedings held **in chambers** on August 27, 2019, in the matter of ACLU of Tennessee, Inc., vs. City of Memphis, Tennessee, Case Number: 2:17-CV-2120-JPM; that said proceedings in connection with the hearing were reduced to typewritten form by me; and that the foregoing transcript, (Pages 1-26) is a true and accurate record of the proceedings.

This 7th day of November, 2019.

\_\_\_\_\_  
/s/ Traci D. Walker, RMR-CRR-CRC