

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

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

**STATEMENT OF ADDITIONAL MATERIAL FACTS IN SUPPORT OF  
DEFENDANT'S RESPONSE TO PLAINTIFF'S MOTION FOR SUMMARY  
JUDGMENT**

1. At no time since the entry of the Consent Decree has the Memphis Police Department ("MPD") engaged in "political intelligence" for the purpose of interfering with any person's or group's First Amendment rights. (Affidavit of former MPD Police Director Larry Godwin, attached as Exhibit 1; Affidavit of former MPD Police Director Toney Armstrong attached as Exhibit 2, Director Michael Rallings Depo. at pp. 107-113 (all Deposition Excerpts of Director Rallings attached as Coll. Exhibit 3); Deposition of Major Lambert Ross at p. 77 (attached as Exhibit 4); Deposition of Major Stephen Chandler at p. 74 (all Deposition Excerpts of Major Chandler attached as Coll. Exhibit 5); Deposition of Major Eddie Bass at pp. 67-68 (attached as Exhibit 6)).

2. The Office of Homeland Security ("OHS") of the MPD also began in 2016 the daily distribution of what is known as the Joint Intelligence Bulletin ("JIB"). After the shutdown of the I-40 Bridge, Major Bass instructed OHS to create a method of collecting and disseminating information related to spontaneous events in an effort to adequately allocate resources and protect public safety. (Depo. Reynolds p. 25 attached as Exhibit 12). The JIB was

designed to collect information from federal, state, and local agencies regarding known threats to public safety for dissemination to other law enforcement agencies. (Depo. Chandler, pp. 22-25).

Several of the first JIBs are attached as Collective Ex. 7.

3. The New Black Panther Party for Self Defense is a radical organization whose leaders have encouraged violence against whites, Jews and law enforcement officers. See <https://www.splcenter.org/fighting-hate/extremist-files/group/new-black-panther-party> (last visited July 9, 2018).

4. Ian Jeffries has announced himself to be a member of the New Black Panther Party to Memphis Police Director Michael Rallings. (Depo. Rallings pp. 104-05.) He has been arrested numerous times including just days after the shut-down of the I-40 Bridge, on July 21, 2016, in Southaven, Mississippi. (Depo. Rallings Ex. 57, Attached as Ex. 8). Mr. Jeffries was previously arrested, and pleaded guilty to, aggravated assault of local radio host, Thaddeus Matthews. See Case History attached as Exhibit 9.

5. On around December 10, 2016, OHS received information from a reliable source that Spencer Kaaz was in Arkansas supporting the Diamond Pipeline Protest. From that information, MPD was able to work with Valero Refinery to develop a contingency plan for a possible protest that would shut down the refinery. (Attached as Exhibit 10, at Bates 20868.)

6. On January 16, 2017, MPD received notice that 20-30 demonstrators had assisted in placing large 55 gallon drums filled with cement at the main delivery entrance of the Valero Refinery. The drums were designed so that the demonstrators would lock arms in the middle of the cement filled barrel. Twelve persons were arrested as a result of these actions. See Exhibit 10 at 20869, 20872.

7. Spencer Kaaz was arrested at Valero as part of this demonstration. See Exhibit 10 at 20878.

8. Spencer Kaaz was also arrested at the Graceland Candlelight Vigil on August 15, 2016. (Pl.'s Ex. Q at 22810.)

9. Paul Garner was arrested at a Graceland protest on July 12, 2016. (Pl.'s Ex. Q at 22803.)

10. Fergus Nolan was arrested at the Memphis Zoo on May 30, 2016, when he blocked Zoo personnel from parking cars on the greensward area of Overton Park. (Pl.'s Ex. Q at 22816.)

11. Subsequently, MPD received reliable information that Mr. Nolan and Mr. Kaaz were using the "Save the Greensward" movement as a cover to disrupt Memphis Zoo operations in an effort to close the Memphis Zoo. (Pl.'s Ex. Q at 22815.)

12. An MPD investigation into this criminal enterprise between Nolan and Kaaz found that Mr. Nolan discussed hacking into the Zoo's computer system. It was then determined that the Zoo's e-commerce site had been tampered with in such a way that it prevented the purchase of tickets from the Zoo's website. (Pl.'s Ex. Q at 22816.)

13. On November 29, 2016, Sgt. Cornwell of OHS emailed Mr. Howard asking if there were any city permits granted for Saturday, December 3, 2016. (Depo. Howard, Ex. 72 at 0999, Howard's Deposition Excerpt and Dep. Exhibit 72 are attached as Collective Ex. 11.) The St. Jude Marathon, Half Marathon, 10k, and 5K were held in downtown Memphis on December 3, 2016. See <http://www.besttimescct.com/results/marathon-awards-2016.HTML> (last visited July 9, 2018). Mr. Howard confirmed that it would be normal procedure for his office and other offices within the City to coordinate when a major event such as the St. Jude Marathon was occurring. (Depo. Howard, p. 46.)

Respectfully submitted,

/s/ Jennie Silk

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Buckner Wellford (#TN 9687)  
R. Mark Glover (#TN 6807)  
Jennie Vee Silk (#TN 35319)  
BAKER, DONELSON, BEARMAN,  
CALDWELL & BERKOWITZ, P.C.  
165 Madison Avenue, Suite 2000  
Memphis, Tennessee 38103  
Telephone: 901.577.2152  
Fax: 901.577.0786  
Email: bwellford@bakerdonelson.com  
mglover@bakerdonelson.com  
jsilk@bakerdonelson.com

*Attorneys for Defendant, The City of Memphis*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 9th day of July, 2018, a copy of the foregoing will be served via the Court's ECF system to:

Thomas H. Castelli  
Mandy Floyd  
ACLU Foundation of Tennessee  
P.O. Box 120160  
Nashville, Tennessee 37212

/s/ Buckner Wellford