

TO: ALL DIVISION OF POLICE PERSONNEL

RE: RENEWED SLMPD COMMITMENT TO RESPECT 1st AMENDMENT
RIGHTS OF ALL PERSONS

Attached is the Consent Judgment entered as part of the settlement of *Maleeha Ahmad v. City of St. Louis*, a case filed in Federal Court that arose out of the September 2017 protests following the acquittal of ex-St. Louis Police Officer Jason Stockley.

Also attached is SO 1-06, the Special Order regarding Recording of Police Activities.

Please read the Consent Judgment, SO 1-06, and this memorandum in their entirety. The discussion that follows explains the Consent Judgment and constitutes an initial training on its contents. At the conclusion of this memorandum, you will be encouraged and provided information on how to ask questions and raise concerns regarding the Consent Judgment and SO 1-06 and your obligations pursuant to them.

Additional trainings on these matters are being organized, including as part of the basic training curriculum for new recruits, the annual in-service training of all department members, and special in-person training for officers of the rank of lieutenant and above.

The matters covered by the Consent Judgment and this memorandum concern among the most fundamental responsibilities of law enforcement officers and should be treated as such.

The Consent Judgment

The City of St. Louis agreed to the Consent Judgment “in the best interests” of the community, to “enhance the vital need for public confidence” in the Police Division, and to promote the City of St. Louis’ “commitment to protecting the constitutional rights of all persons engaged in peaceful expressive activity.”

The Consent Judgment was entered by the Court on August 9, 2021.

The Consent Judgment sets forth a series of agreed-to orders by the United States District Court. They are binding on the City of St. Louis and “its officers, agents, servants and employees” and they regulate (authorize, prohibit or require) actions and activities relating to the following:

- **Police enforcement or threatened enforcement of ordinances** “for the purpose of punishing persons for exercising their constitutional rights to engage in expressive activity.”

- **Police use or threatened use of chemical agents and munitions**, “whatever the method of deployment, against any person engaged in expressive, non-violent activity in the City of St. Louis...”
- **Permission or approval required before police may “declare an unlawful assembly** in cases involving persons engaged in constitutionally protected activity.”
- **Publication and explanation of the consent judgment** to all police officers **and making publicly available on-line “policies, procedures, special and temporary orders, and police manuals ...** that pertain to use of force, including chemical munitions or chemical agents, and to policing of parades, protests, demonstrations, or assemblies.”
- **Provide conspicuous visible display of a “unique identifier”** for “all officers assigned to policing persons engaged in expressive activity” as part of their uniform.
- **Conduct of basic, initial, in-person, in-service training** regarding the consent judgment, Special Order 1-06, and “measures to ensure that all Division of Police personnel respect the First Amendment rights of all persons.”

Essential knowledge on initial training

The following is essential knowledge Division of Police personnel should attain from this initial training regarding the Consent Judgment and SO 1-06:

Right of All Persons to Assemble and Protest

- **First Amendment right to assemble and engage in non-violent protest and criticize and complain about police.** All persons have a sweeping, fundamental, constitutionally protected right to assemble and engage in expressive activity, including non-violent protest and complain and criticize police when carrying out their public duties.
- **Places where a person has a right to be.** The rights of all persons to assemble, engage in expressive activity, including non-violent protest, and to observe, record, criticize and complain about police conduct extends to all traditionally public spaces, including sidewalks, parks, and locations of public protests, as well as any other areas where individuals otherwise have a legal right to be present, including outside an individual’s home, vehicle, or business and common areas of public and private facilities and buildings.
- **Police may restrict public access by establishing police lines** or barricades in areas where a person might otherwise have a right to be when reasonably undertaken and limited to areas where doing so is reasonably necessary to advance law enforcement purposes and objectives of protecting the safety of persons and property, engaging in traffic control and safety, maintaining crowd control and safety, and preventing criminal activity.

- **Police may enforce violations of city ordinances that prohibit the impeding of traffic** when such violations occur during assemblies in which persons are engaged in protest or other expressive activities provided such violations are intentional or purposeful and provided that, in non-emergency situations persons engaged in such violations first should be given clear warning of their violation, and of consequences of continued violation, including possible arrest, as well as instructed as to how to bring their conduct into lawful compliance and given a reasonable opportunity to do so. (Note: Warnings of violation and consequences, and instruction on bringing conduct into lawful compliance may be required and/or desirable in other scenarios, See e.g. failure to disperse; unlawful panhandling.)
- **The right of all persons to criticize and complain about police** includes the right to complain and criticize directly to police in terms that are personal, insulting, disrespectful, inflammatory, angry, and loud, provided, however, that to promote officer and public safety and prevent interference with an officer's discharge of his or her duties, police may lawfully order persons to maintain a reasonable distance from officers (for example, if a protestor is obscuring an officer's line of sight, the officer may order the protestor to move back 10 feet).

Right of All Persons to Observe and Video Record Officers

- **First Amendment secures right to observe and record officers.** All persons have a sweeping, fundamental, constitutionally protected right to observe and record officers in the public discharge of their duties. The right is not absolute, but the exceptions are narrow. Officers should assume they are being continuously recorded whenever carrying out their public duties.
- **Police officers must not interfere with a person's right to record officer activity** by camera video recorder, cell phone recorder" or other means **except** when there is a **clear threat to the safety** of officers, victims or other persons.
- **Use of a recording device during a police encounter does not in itself constitute a threat to officer safety** or provide a lawful basis for ordering a person situated in a lawful location and at a reasonable distance to refrain from recording.
- **To promote officer and public safety** and prevent interference with an officer's discharge of his or her duties, police may lawfully order persons to maintain a reasonable distance from officers.

Police Conduct Authorized by the Consent Judgment

- **The Consent Judgment recognizes the authority of police** as a matter of law to use or threaten to use any chemical agents of all types (not limited to launched tear gas but including hand held mace and foggers) and munitions against protestors without otherwise required warnings in situations where law enforcement officials must defend themselves or

other persons or property against imminent threat of violence or must clear a means of ingress or egress to a hospital, police station, fire station, or other public safety installation to allow immediate access to police, fire or other emergency personnel, **provided** such dispersal is employed to break up an assembly in random fashion so that it ceases to function as a unit or assembly.

Police Conduct Prohibited by the Consent Judgment

- **The Consent Judgment prohibits as a matter of law** police enforcement or threats to enforce any ordinance for the purpose of punishing persons for exercising their constitutional rights to engage in expressive activity.
- **The Consent Judgment prohibits as a matter of law** police declaring an unlawful assembly in cases involving persons engaged in constitutionally protected expressive, non-violent activity except with the express permission and approval of the Police Commissioner, the Assistant Commissioner, or the designated incident commander (who shall hold the rank of captain or above or who is the lieutenant in command of CDT).
- **The Consent Judgment prohibits as a matter of law** police use or threats to use chemical agents or munitions, whatever the method of deployment, against any person engaged in expressive, non-violent activity for the purpose of punishing the person for exercising constitutional rights.
- **The Consent Judgment prohibits as a matter of law** police use or threats to use chemical agents or munitions of all types (not limited to launched tear gas but including hand held mace and foggers) against a person engaged in expressive, non-violent activity in the absence of probable cause to arrest the person. (Note: Commander training will emphasize frequently asked questions regarding resisting arrest scenarios).
- **The Consent Judgment prohibits as a matter of law** police use or threats to use chemical agents or munitions of all types (not limited to launched tear gas but including hand held mace and foggers) against a person engaged in expressive, non-violent activity without first issuing clear and unambiguous warnings (including to persons nearby) that the person is subject to arrest and such chemical agents or munitions will be used and providing the person (and persons nearby) sufficient opportunity to heed the warnings and comply with lawful law enforcement commands.

Police Conduct Required by the Consent Judgment

- **The Consent Judgment requires as a matter of law** that, before issuing orders to use or using chemical agents or munitions for the purpose of dispersing persons engaged in activity that is expressive and non-violent but contravenes the law, police first must:
 - Specify with reasonable particularity the area from which dispersal is ordered;

- Issue audible and unambiguous orders designed to notify all persons within the dispersal area;
 - Provide sufficient warning of the consequences of failing to disperse, including that chemical agents will be used;
 - Provide a sufficient and announced amount of time of not less than five (5) minutes after the issuance of the dispersal order in which to heed the warnings and exit the area;
 - Announce and ensure that a means of safe egress from the dispersal area that is actually available to all persons; and
 - State that refusal to disperse will subject persons to arrest.
- **The Consent Judgment requires as a matter of law** that all officers assigned to police persons engaged in expressive activity (including but not limited to CDT and bicycle officers) visibly display as part of their uniform a unique identifier for their identification as well as the identity of the law enforcement agency with which they are affiliated.

Questions and concerns?

Do you have questions or concerns about the Consent Judgment, SO 1-06 or any of the matters discussed in this memorandum? Sharing your questions and concerns and otherwise providing feedback is greatly encouraged and you may do so via email at Consent Decree Questions consentdecreequestions@slmpd.org.

Per the authority of Colonel John W. Hayden, Jr.
Police Commissioner

DIRECTIVE 2021-08-27

**CONSENT JUDGMENT RESPECTING RIGHT TO ASSEMBLE AND ENGAGE IN NON-VIOLENT PROTEST AND CRITICIZE, COMPLAIN ABOUT, AND VIDEO RECORD POLICE
and
ENFORCING REVISED CITY CODE 17.16.275(A) and (E)**

Temporary Directive Effective Immediately

The United States District Court for the Eastern District of Missouri, upon agreement of the parties, including the City of St. Louis, entered a Consent Judgment in *Ahmad v. City of St. Louis* dated August 9, 2021 (the “Consent Judgment”).

A copy of the Consent Judgment is attached. It sets forth a series of orders by the United States District Court that are binding on the City of St. Louis and its officers, agents, servants and employees and which govern (prohibit and/or require) certain police actions and activities relating to respecting the Constitutional rights of persons to assemble and engage in non-violent protest and criticize and complain about, observe and video record police in the discharge of their public duties.

The Consent Judgment, insofar as it imposes different or additional duties or responsibilities on police, supersedes all current and otherwise applicable policies, procedures, special and temporary orders, and police manuals, including those that pertain to use of force (not limited to use of chemical munitions or chemical agents) and to policing of parades, protests, demonstrations, or assemblies.

On July 6, 2021, in *Langford v. City of St. Louis*, No. 20-1488 (8th Cir. 2021), the United States Court of Appeals for the Eighth Circuit upheld the constitutionality of Revised City Code 17.16.275(A) and (E) regarding impeding pedestrian and vehicular traffic and reversed a permanent injunction restricting the enforceability of the Ordinance that had been entered by District Court for the Eastern District of Missouri.

Accordingly, Revised City Code 17.16.275(A) or (17.16.275 (A) and (E) together) may be enforced and Directive 2021-05-06 is cancelled and no longer is in force and effect, as it has been superseded by this Directive.

The Consent Judgment, and orders set forth therein, remain in force until further notice.

See text of Consent Judgment on the following pages.

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

MALEEHA AHMAD, et al.,)	
)	
Plaintiffs,)	
)	
v.)	No. 4:17-cv-2455 MTS
)	
CITY OF ST. LOUIS, MISSOURI,)	
)	
Defendant.)	

CONSENT JUDGMENT

This matter comes before the Court on the joint motion of Plaintiffs, Maleeha Ahmad, W. Patrick Mobley, and Pamela Lewczuk, and Defendant, City of St. Louis, Missouri, for approval of consent judgment. For the purpose of settlement, and without any admission of liability, unlawful conduct, or wrongdoing, Plaintiffs and Defendant have agreed that this consent judgment is in the best interests of the Plaintiffs, the Defendant, and the community, and that this consent judgment will enhance the vital need for public confidence in the Defendant's Division of Police and will have the effect of promoting Defendant's commitment to protecting the constitutional rights of all persons engaged in peaceful expressive activity within the City of St. Louis. Plaintiffs and Defendant agree that this Consent Judgment is intended to apply for the benefit of all members of the public as third-party beneficiaries of the prospective relief provided herein. In consideration of this consent judgment, Plaintiffs herein expressly waive any claim for damages by reason of any allegations of the amended complaint.

Accordingly, the Court now enters said judgment as follows:

IT IS HEREBY ORDERED that, by consent, the class allegations are stricken from the amended complaint herein; and

IT IS HEREBY FURTHER ORDERED that the City of St. Louis and its officers, agents, servants, and employees, as well as other persons who are in active concert or participation with the City of St. Louis or its officers, agents, servants, or employees, are enjoined from enforcing or threatening to enforce any rule, policy, or practice that grants the police the authority or discretion to:

1. Enforce or threaten to enforce any ordinance of the City of St. Louis for the purpose of punishing persons for exercising their constitutional rights to engage in expressive activity;

2. Use or threaten to use chemical agents, including, but not limited to, mace/oleoresin capsicum spray or mist/pepper spray/pepper gas, tear gas, skunk, inert smoke, pepper pellets, xylol bromide and similar substances (collectively “chemical agents”), whatever the method of deployment, against any person engaged in expressive, non-violent activity in the City of St. Louis in the absence of probable cause to arrest the person and without first issuing clear and unambiguous warnings that the person is subject to arrest and such chemical agents will be used and providing the person sufficient opportunity to heed the warnings and comply with lawful law enforcement commands as authorized in paragraph 3 below;

3. Issue orders or use chemical agents, whatever the method of deployment, for the purpose of dispersing person(s) engaged in expressive, non-violent activity in the City of St. Louis that is in contravention of law without first:

- a. specifying with reasonable particularity the area from which dispersal is ordered;
- b. issuing audible and unambiguous orders in a manner designed to notify all persons within the area that dispersal is required;
- c. providing sufficient warnings of the consequences of failing to disperse, including, where applicable, that chemical agents will be used;
- d. providing a sufficient and announced amount of time of not less than five minutes after the issuance of the dispersal order in which to heed the warnings and exit the area;
- e. announcing and ensuring a means of safe egress from the area that is actually available to all person(s); and
- f. stating that the refusal to disperse will subject them to arrest; or

4. Use or threaten to use chemical agents, whatever the method of deployment, against any person engaged in expressive, non-violent activity in the City of St. Louis, for the purpose of punishing the person for exercising constitutional rights;

5. Declare an unlawful assembly in cases involving persons engaged in constitutionally protected expressive activity only with the express permission and approval of the Police Commissioner, the Assistant Commissioner, or the designated incident commander (who shall hold the rank of Captain or above or is the lieutenant in command of CDT).

6. *Provided*, however, that paragraphs 2 and 3 above shall not apply to situations where law enforcement officials must defend themselves or other persons or property against imminent threat of violence or must clear a means of ingress or egress to

a hospital, police station, fire station, or other public safety installation to allow immediate access to police, fire or other emergency personnel; and *provided further*, that “dispersal” as used herein shall mean to break up in random fashion so as to cease functioning as a unit or assembly; and

IT IS HEREBY FURTHER ORDERED that City of St. Louis shall provide and require training on the contents of this Consent Judgment as well as Special Order 1-06, Recording of Police Activity, dated November 6, 2013, or its equivalent successor order or regulation as follows:

1. The contents and an explanation of this Consent Judgment shall be published to all City of St. Louis police officers within sixty days of this Consent Judgment and the officers shall be provided an opportunity to raise questions or concerns regarding the Consent Judgment and their obligations pursuant to it.

2. Initial training on the requirements of this Consent Judgment as well as Special Order 1-06 shall be completed within 30 days of the date hereof, utilizing the SLMPD "PASS" system; in-person training on the requirements of this Consent Judgment for officers of the rank of lieutenant and above shall be completed within 90 days of the date hereof.

3. Annual in-service training on the requirements of this Consent Judgment and Special Order 1-06 shall be completed as part of the regular in-service training conducted through the Police Academy for all officers.

4. Police Officer trainees shall be instructed of the requirements of this Consent Judgment and Special Order 1-06 as part of basic training; and

IT IS HEREBY FURTHER ORDERED that, in addition to training with regard to the terms of this Consent Judgment, Defendant shall include in Police Academy training the following measures to ensure that all Division of Police personnel respect the First Amendment rights of all persons, including, but not necessarily limited to:

1. Training regarding the First Amendment rights of all persons, including:
 - a. The right to observe and record officers in the public discharge of their duties in all traditionally public spaces, including sidewalks, parks, and locations of public protests, as well as any other areas where individuals otherwise have a legal right to be present, including an individual's home, vehicle, or business and common areas of public and private facilities and buildings;
 - b. The right to criticize or complain about police conduct without being subject to retaliation; and,
 - c. The right to engage in public protest that does not violate state or federal law.
2. Training to address what conduct is considered "obstruction" or "interference," with specific examples, to ensure that Division of Police officers do not unreasonably claim that an individual's presence amounts to the offense of obstructing traffic or interfering with a law enforcement officer, or otherwise violates the law.
3. Training to ensure that Division of Police officers permit any individual to record officer activity by camera, video recorder, cell phone recorder, or any other means, except when there is a clear threat to the safety of officers, victims, or other persons, and to ensure that officers understand that the use of a recording device during a police encounter shall not in itself be considered a threat to officer safety and thus shall not be a

basis to require a person to refrain from recording or to put away his or her recording device, as long as the person recording is in a lawful location at a reasonable distance from the officer and any victim or arrestee; and

IT IS HEREBY FURTHER ORDERED that the Division of Police shall require all officers assigned to policing persons engaged in expressive activity (including but not limited to CDT and bicycle officers), to visibly display their identification which may include name, DSN, or designated call sign (a unique identifier assigned exclusively to an individual officer for purposes of radio communication during assigned duties), and local law enforcement affiliation as part of the uniform. Supervisors shall inspect personnel at roll call prior to deployment of CDT or other units to ensure that officers under their command are complying with this requirement. An officer's repeated failure to display such identification without justification or a supervisor's repeated failure to inspect the display of identification of officers under his or her command will require an investigation and may result in discipline; and

IT IS HEREBY FURTHER ORDERED that the Division of Police shall, within 90 days of the date hereof, make publicly available on-line all policies, procedures, special and temporary orders, and police manuals, consistent with the Missouri Sunshine Law, §610.010, *et seq.*, that pertain to use of force, including use of chemical munitions or chemical agents, and to policing of parades, protests, demonstrations, or assemblies; provided, that nothing herein shall require publication of information pertaining to specific tactics to be used with respect to past or future events such as execution of search or arrest warrants or control of specific parades, protests, demonstrations, or assemblies;


IT IS HEREBY FURTHER ORDERED that this Consent Judgment may be modified pursuant to Federal Rule of Civil Procedure 60(b) and that for purposes of Rule 60(b)(5) and (6) the repeal of, passage of, or amendments to any ordinance, rule, or policy pertinent to this Consent Judgment may constitute grounds for seeking relief from judgment, including modification to or vacatur of this Consent Judgment; and

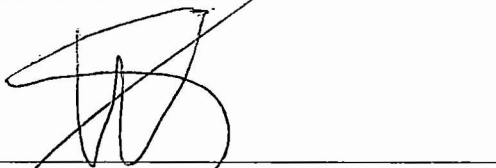
IT IS HEREBY FURTHER ORDERED that the preliminary injunction bond is discharged, and the parties shall file a notice within fourteen days of entry of this Consent Judgment indicating whether they have reached an agreement regarding attorneys' fees and costs and, if no agreement is reached, Plaintiffs shall file their motion for attorneys' fees and bill of costs no later than twenty-eight days after entry of this Consent Judgment; and

IT IS HEREBY FURTHER ORDERED that this Court retains jurisdiction to enforce this Consent Judgment until its expiration; and

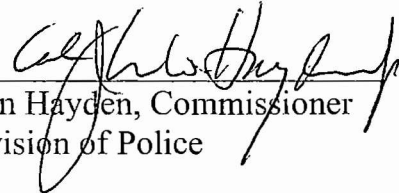
IT IS HEREBY FINALLY ORDERED that this consent judgment shall terminate on a date not later than five years from the date hereof, unless extended by agreement of the parties or by order of Court for good cause shown, but no single court-ordered extension shall exceed two years.

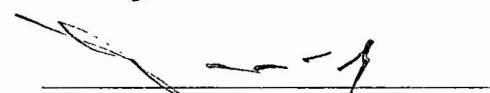
For Plaintiffs:

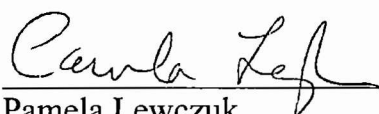

Maleeha Ahmad


W. Patrick Mobley

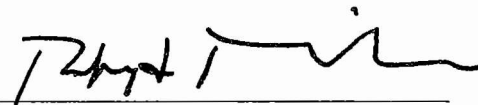
For Defendant:


John Hayden, Commissioner
Division of Police

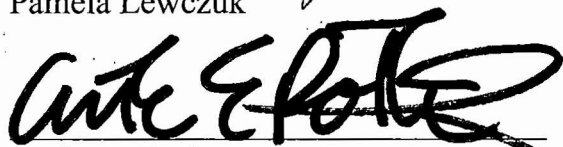

Matt Moak, City Counselor



Pamela Lewczuk

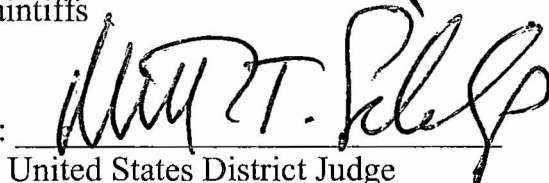


Robert H. Dierker
Associate City Counselor
Attorneys for Defendant



Anthony Rother
ACLU of Missouri Foundation
Attorney for Plaintiffs

SO ORDERED:



United States District Judge

Dated:

