

THOMPSON, et al. VS. CITY OF FLINT, et al.

TERMS OF EQUITABLE RELIEF

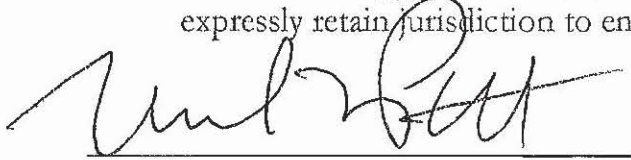
As part of resolving Case No. 07-11107, filed in United States District Court for the Eastern District of Michigan, Southern Division, known as *Thompson, et al. v. City of Flint, et al.*, Defendant City of Flint and Plaintiffs enter into the following agreement concerning enforcement of Flint City Ordinance § 31-11, strip searches, and body cavity searches. This agreement does not constitute an admission of liability or wrongdoing on the part of any Defendant named in this lawsuit, nor should it be read to imply that City of Flint's existing policies, procedures, or training are inadequate or improper. The parties have already agreed to monetary terms of settlement, and the sole purpose of this agreement is to resolve completely the pending case.

1. Frequenting a Disorderly House (Flint City Ordinance § 31-11). City of Flint agrees that Flint City Ordinance § 31-11 requires law enforcement officers to make an individualized finding of probable cause as to each person subject to arrest. Accordingly, City of Flint agrees that its law enforcement officers will be trained not to search, cite, or arrest any person for "attend[ing] or frequent[ing] a disorderly house, room, or place" unless there is particularized probable cause to believe that the specific individual has knowledge of unlawful conduct taking place at that location and knowingly acquiesced in the unlawful conduct at that location. A person shall not be subject to search, citation or arrest merely by virtue of being present at a location where unlawful conduct occurs or being near other individuals who are independently suspected of criminal activity.
2. Strip Searches. City of Flint agrees to comply with M.C.L. § 764.25a.
 - a. City of Flint agrees that "reasonable cause" as required by M.C.L. § 764.25a(2)(a) shall be particularized with respect to the person being strip-searched. A person's mere presence at a location where other people are suspected of engaging in unlawful conduct shall not, by itself, give rise to reasonable cause to strip-search that person without some evidence that the person is concealing evidence of a crime.
 - b. City of Flint agrees that prior written authorization to an officer requesting to perform a strip search ("requesting officer") is valid only if:

- (i) The Chief of Police agrees that the person is concealing a weapon, controlled substance or evidence of a crime and provides the authorization to the requesting officer for the specific event underlying the reason for the strip-search; or
- (ii) The Chief of Police provides written authorization to approve strip searches to a supervisor and:
- (A) the requesting officer informs the supervisor of the basis for the actual or anticipated reasonable cause to strip-search;
 - (B) the supervisor agrees that reasonable cause to strip-search exists;
 - (C) the supervisor authorizes the strip search; and
 - (D) the requesting officer records --
 - the name of the supervisor that s/he approached for permission to conduct a strip-search
 - the date and time when s/he approached the supervisor
- c. City of Flint agrees to prepare written reports as required by M.C.L. § 764.25a(4). The report shall include all information enumerated in M.C.L. § 764.25a(4).
- d. In the event Plaintiffs or their attorneys make a written request for copies of strip-search reports:
- (i) City of Flint agrees to process the request in accordance with the disclosure requirements set forth in the Michigan Freedom of Information Act (FOIA), M.C.L. §15.231 *et. seq.*; and to waive the fees associated with processing any requests submitted within one year of the Court's final order approving this agreement.
 - (ii) Plaintiffs agree that, before receiving any documents responsive to a request submitted more than one year after the Court's final order approving this agreement, they will pay all associated costs to the City of Flint, in accordance with its FOIA fee schedule. Plaintiffs further agree to reference this agreement in any request for documents submitted to the City of Flint.

3. Body Cavity Searches. City of Flint agrees to comply with M.C.L. § 764.25b.
4. Internal Policies. City of Flint agrees to promulgate written internal policies reflecting the terms agreed to in paragraphs 1-3 of this agreement and make those policies known to all City of Flint law enforcement officers whose job assignments make it reasonably likely that they will enforce Flint City Ordinance § 31-11 or conduct a strip search or body cavity search.
5. Training. City of Flint agrees to develop and implement a training curriculum to ensure that its law enforcement officers are familiar with the policies described above in the following manner:
 - (a) All individual City of Flint police officers named as defendants in this action who are still employed by the City of Flint shall be trained under the curriculum no later than 120 days after the Court enters a final order approving this agreement.
 - (b) All City of Flint law enforcement officers whose job assignments make it likely that they will enforce Flint City Ordinance § 31-11 or conduct a strip search, shall be trained under the curriculum no later than 240 days after the Court enters a final order approving this agreement. This Section is not intended to impact law enforcement officers who, either by emergency, necessity, or other extraordinary facts or circumstances, may incidentally be called upon to perform a strip-search.
 - (c) City of Flint shall notify the Court in writing, and provide Counsel for Plaintiffs with a copy of the written notice, when the training described above is complete. There shall be no further continuing obligation to report to Counsel for Plaintiffs.
 - (d) After the training described above is complete, no City of Flint law enforcement officer shall begin a new job function or assignment which makes it likely that they will enforce Flint City Ordinance § 31-11 or conduct a strip search , without receiving the training outlined above. This Section is not intended to impact law enforcement officers who, either by emergency, necessity, or other extraordinary facts or circumstances, may incidentally be called upon to perform a strip-search.
6. Jurisdiction. Plaintiffs and City of Flint stipulate that the Court, as a condition of its final order approving this agreement pursuant to Federal Rule of Civil

Procedure 23(e), and as a condition of its final order of dismissal, shall expressly retain jurisdiction to enforce its terms.



Michael L. Pitt
Pitt McGehee Palmer Rivers & Golden, PC
ACLU of Michigan Cooperating Attorney
Attorney for Plaintiffs

10/21/09
Date



Daniel A. Klemptner
Johnson Rosati Labarge Aseltyne & Field
Attorney for Defendant City of Flint and
Gary Hagler

10/21/2009
Date