

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

IN RE: RACE : Case No. C-1-99-317  
DISCRIMINATION IN :  
CINCINNATI POLICING : Judge Dlott  
:   
: AMENDED COMPLAINT  
: (Class Action)  
:   
:

I. PRELIMINARY STATEMENT

1. This is a civil rights class action challenging disparate treatment of African-American persons by the Cincinnati Police Division. This treatment includes stops, detentions and searches based on race. This treatment also includes discriminatory enforcement of the traffic and other laws resulting in a disproportionate number of African American people being charged with minor traffic violations and discretionary offenses such as jaywalking. This treatment also includes discriminatory uses of force against African-American persons and other practices that have the purpose and/or effect of discriminating against African-American persons because of their race. Plaintiffs seek declaratory and injunctive relief for the class under the First, Fourth, and Fourteenth Amendments to the United States Constitution, federal law, the Ohio Constitution, and state law. Plaintiff Bomani Tyehimba also seeks compensatory and punitive damages for himself individually for injuries he received as a result of a racially motivated stop and use of excessive force by Cincinnati police officers.

2. This amended complaint is filed with a motion for preliminary injunction and a motion to certify the case as a class action. Because of the seriousness of these

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allegations and the effect of these practices on the community, Plaintiffs seek expedited discovery and an expedited hearing on their motions for preliminary injunction and for class certification.

## **II. JURISDICTION AND VENUE**

3. Jurisdiction over the federal claims is conferred on this Court by 28 U.S.C. §1331 and §1343(3) and (4) and 42 U.S.C. §2000d-1. Supplemental jurisdiction under 28 U.S.C. §1367 authorizes this Court to hear the state claims. Venue is proper under 28 U.S.C. §1391, as the defendant city of Cincinnati is a resident or organized in this district and all of the contested actions take place in this district.

## **III. PARTIES**

4. Plaintiff Friends of Cincinnati Black United Front ("Front") is a civil rights organization with members in Cincinnati. The mission of the Front is to eradicate institutional racism in Hamilton County, Ohio, including in Cincinnati. The mission includes advocacy for the elimination of racial discrimination in policing. Individual members of the Front regularly travel throughout Cincinnati on public highways and streets, including areas where a majority of the persons are of another race and at various times have been stopped and detained by Cincinnati police officers. Pursuant to this mission, the Front provides advice, counsel, referrals and financial assistance to its members who challenge racial discrimination in all forums, including in the courts. The Front brings this action on its own behalf and as organizational representative for its members and for the class of African-American persons being subjected to race-based discrimination by the Cincinnati Police. The Front participates as a plaintiff only for the purposes of securing declaratory and injunctive relief.

5. The American Civil Liberties Union of Ohio Foundation, Inc. ("ACLU") is organized under the laws of the State of Ohio to aid in maintaining and extending to all persons constitutional and other fundamental rights. Included in this mission is a commitment to assist its members and others in the task of promoting equal treatment to people of all races by police agencies throughout the state, including Cincinnati. Individual African-American and Black members of the ACLU regularly travel throughout Cincinnati on public highways and streets, including areas where a majority of the persons are of another race and at various times have been stopped and detained by Cincinnati police officers. The ACLU participates as a plaintiff only for the purposes of securing declaratory and injunctive relief. The ACLU brings this action on its own behalf and as organizational representative for its members and for the class of African-American persons being subjected to race-based discrimination by the Cincinnati Police.

6. Plaintiff Bomani A. Tyehimba is an African-American resident of Cincinnati, Ohio.

7. Defendant City of Cincinnati is a municipal corporation organized under the laws of the State of Ohio. It is a person subject to federal jurisdiction.

8. Defendant Stratmann, at all times relevant, has been a police officer employed by the City of Cincinnati. For the constitutional and common law claims, Defendant Stratmann is sued in his official capacity with respect to the declaratory and injunctive relief sought herein, and in his individual capacity with respect to the request for damages and attorney's fees in this action. For the federal statutory claims, Defendant Stratman is sued in his individual and official capacities.

9. Defendant Ploehs, at all times relevant, has been a police officer employed by the City of Cincinnati. For the constitutional and common law claims, Defendant Ploehs is sued in his official capacity with respect to the declaratory and injunctive relief sought herein, and in his individual capacity with respect to the request for damages and attorney's fees in this action. For the federal statutory claims, Defendant Ploehs is sued in his individual and official capacities.

#### **IV. CLASS ACTION ALLEGATIONS**

10. This action is brought, and may be properly maintained, as a class action under the provisions of Rules 23(a) and 23 (b)(2) of the Federal Rules of Civil Procedure. Plaintiff organizations bring this class action on behalf of themselves, their members and all others similarly situated. The members of the class are as follows:

All African-American or Black persons and people perceived as such who reside, work in and/or travel on public thoroughfares in the City of Cincinnati, Ohio either now or in the future and who are stopped, detained, and arrested by Cincinnati Police Officers or their agents.

11. The number of class members is not known with precision but exceeds hundreds of thousands of individuals. The class is so numerous that joinder of all members is impracticable.

12. The claims of the members of the representative organizational plaintiffs are typical of the claims of the class because plaintiff members and all class members sustained and continue to suffer injury arising from defendants' wrongful conduct as alleged herein.

13. The representative plaintiffs will fairly and adequately protect the interests of the members of the class. Proposed class counsel is experienced in the prosecution of

class actions, including cases arising from the deprivation of civil rights, cases regarding police misconduct, race discrimination and complex civil litigation.

14. Defendants have acted, or refused to act, on grounds generally applicable to the class, thereby making final injunctive and corresponding declaratory relief appropriate with respect to the class.

## V. FACTS

### **A. History of Racial Discrimination By Cincinnati Police Division**

15. Racial discrimination in policing has a long history in Cincinnati. Opposition by African-American citizens to Cincinnati Police Division (CPD) discriminatory practices triggered race riots in Cincinnati in 1967.

16. At the time of the riots, African-American persons were protesting the improper use of the loitering law by Cincinnati police officers, contending that the law was used to harass Black people. In 1968, the Kerner Commission, which studied the riots in eight major cities, including Cincinnati, found that police used their discretion to charge disproportionate numbers of Blacks with loitering compared to white persons. Moreover, the Commission found that on the first day of the riot that for similar conduct the Cincinnati Police charged White people with disorderly conduct but charged African-Americans with more serious violations of the "Riot Act," further fueling racial hostility toward the police.

17. A common complaint by African-Americans to the Kerner Commission was their subjection to verbal harassment and the abusive and degrading police practice of "*stopping of Negroes on foot or in cars without obvious basis.*" Harris, Kerner Report, p. 303 (1988 edition).

18. Police relations with the African-American community remained strained through the 1970s. Within an eighteen-month period in 1978 and 1979, White police officers killed four Black civilians and Black civilians killed four White police officers. In March, 1979, 600 angry police wives marched on City Hall. In May, 1979, hundreds of Cincinnati police officers participated in a protest that included surrounding City Hall with 60 cruisers, turning on their emergency and head lights, locking their doors and marching to police headquarters, where they threw the cruiser keys into a pile. Meetings at City Hall to address tensions between African-Americans and police were disrupted by fistfights in Council chambers and in the halls.

19. Police officer demands were appeased by the City in 1979 in part by the issuance of high powered .357 magnum weapons, expansion bullets, and bullet proof vests. These measures further heightened distrust and animosity toward the police among African American citizens.

20. The Mayor's Community Relations Panel including Chair Lawrence Hawkins, V.P. of the University of Cincinnati, and member Archbishop Joseph L Bernadin reported to City Council in 1979 that a problem existed in the CPD "beyond simply a few bad apples." The report further noted that citizens believed that

City Council, the City Administration, or the Police Administration neither really care nor are willing to do anything about reported incidents of misconduct. The existing complaint mechanisms have little credibility... The perceived lack of concern on the part of official Cincinnati for disciplining police misconduct has contributed to an atmosphere of fear and distrust. The public questions whether or not the Police Division can police itself, and more seriously, whether elected officials and appointed officials are willing to control the police.

Hawkins Report, III-2.

21. The Hawkins Report also noted that members of the African-American community perceived racism and class prejudice by the police. The major institutional problems the group discovered were lack of police accountability for misconduct; lack of adequate training in human relations and other areas; insufficient number of minority officers; lack of communication between minorities and police; and lack of racial equality in the delivery of policing services.

22. In 1981, The United States Commission on Civil Rights published another review of policing in Cincinnati. The findings of this group included misuse of force by the police, inadequate oversight of the police, and inequitable distribution of police services. One finding focused on the fact that police would frequently fail to explain or refuse to provide civilians with the reasons for their actions, creating resentment, fear and distrust in civilians. Another finding noted that the lack of African-Americans and women on the force further hurt the credibility of the police force as a group available to protect all members of the community.

23. In 1981 the City finally entered into a consent decree that sought to address the discrimination against Blacks and women in hiring and promotions in the CPD.

24. In 1981, the City finally made operational the Office of Municipal Investigation with limited responsibility and power to investigate citizen complaints against the police.

25. One study completed on the first five years of OMI's operation found that OMI made a finding of improper conduct against 94 officers but none of those officers received any discipline as a result of OMI's investigations and findings.

26. In 1983, a "Comprehensive Report" prepared by a group of City administrators that included attorney (and now Hamilton County Judge) Cheryl Grant, advised the City

Manager that 86% of the CPD personnel who were interviewed reported answered "YES" to the question, "Is there racial prejudice-racism in the Cincinnati Police Division?"

27. In 1987 a second consent decree was entered by the City to address racial and gender discrimination in the CPD at the rank of lieutenant and above.

28. In 1991 two African-American citizens were killed by Cincinnati police officers. A team of City Administrators investigated the police action causing the two deaths. The major recommendations involved increased training for officers dealing with minority and special needs populations.

29. In 1995, Pharon Crosby, an African-American student, was subjected to excessive force by the Cincinnati Police in the central business district. Recommendations by a City panel to the City Manager again called for increased training and again called for better measures to review police misconduct generally and track and supervise officers who use excessive force or engage in other inappropriate conduct.

30. In August, 1995, a panel headed by former Ohio Governor John J. Gilligan addressed allegations of racism lodged by the Sentinel Police Association against the City of Cincinnati. The panel reported to the city manager that a renewed commitment to community oriented policing was needed; that field training officers were critical to training and that their position should be upgraded; that more conflict training was needed and should be carried out on the job by matching veterans with new officers; that accountability be improved, and that CPD discipline needed to be carefully studied because African Americans made up 23% of the force but represented 44% of the discipline. There was a strong perception that for the same conduct white officers were

counseled or tolerated and black officers were given formal discipline. The group also recommended civil service reforms.

31. On information and belief, between January, 1995 and December, 2000, Cincinnati police officers killed 13 persons while they were being apprehended. All thirteen individuals were African-Americans.

32. In 1998, the City entered into an agreement with several community groups drawn largely from the African-American community. The United States Department of Justice mediated this agreement. In the agreement the City agreed to upgrade OMI and the system for holding police accountable; again agreed to upgrade training on cultural awareness and special needs; and again agreed to upgrade its system for tracking officers' performance.

33. In 1999, the Sentinel Police Association presented the City with a "Final Report for the New Millenium." The report included over 150 complaints from African American civilians who alleged racial targeting, racially discriminatory stops, excessive force, all echoing the types of complaints that had triggered commissions and studies for more than thirty years.

34. As set out in §B-E below, the Cincinnati Police Division continues to use racially discriminatory practices that have been identified and discussed for thirty years.

**B. Disparate Treatment of Class Members in Stops, Searches and Length of Detention Where no Charges are Filed**

35. Defendant City has tolerated, acquiesced in, ratified and been deliberately indifferent to practices by members of the CPD, based on race, of stopping African-American citizens without reasonable suspicion of criminal activity. This disparate

treatment based on race has been perpetuated and implemented by various tactics including but not limited to the following:

36. **Racial stops.** Defendant City stops a disproportionate number of African-Americans in their vehicles and on foot for interrogation when there is no reasonable suspicion that a crime has been committed.

37. For example, class member Klinton McGhee, an African-American male, was a Walnut Hills High School student in February, 2000. He was driving with two African-American female passengers on Madison Road in the Hyde Park neighborhood of Cincinnati. He did not violate any traffic laws. Nonetheless, he was stopped by a group of five police cruisers that night. He was ordered to produce his license and registration and numerous officers shined flashlights into the car looking at the contents of the car and the occupants very carefully. After awhile one officer returned and claimed that he was simply checking to see if they were wearing their seatbelts. McGhee and his passengers were all frightened by the experience.

38. Class member Larry Davant, an African-American male, reports on four instances within the year 2000 when he was stopped, often at gunpoint and detained and then released. One stop resulted in a misdemeanor charge of which he was later acquitted.

39. Class member Shepherd Allin Gaines, an African-American male, attempted to find a friend's apartment in English Woods. When he was not successful he left and started to drive away. The police stopped him and accused him of dealing drugs simply because he had been to English Woods and inquired of a person there as to the location of

the apartment. Even though the police had no evidence that he was a drug user, they searched his car.

40. Class member Wendell Young, an African-American male, former Cincinnati police officer and presently a Diversity manager for MSD, was singled out for a license plate check and detained while the officer threatened to file disorderly conduct charges against him when Mr. Young questioned him about his directives.

41. Sometimes the disparate treatment of stopping African-Americans and not Whites is evident in a single incident. For example, class member Shirelyn Beauman, an African-American female, was with approximately seven friends in the front of a residence on private property on September 26, 1999. They were talking in normal tones and not being boisterous. Across the street was a very loud college party involving a large number of White people who were screaming and drinking and being very disorderly. The police asked the White college students to quiet down and did not arrest or cite anyone. But then they came across the street and interrogated the African-Americans about an alleged light that they thought had been directed toward them, cited one person for holding an open container on private property and cited Ms. Beauman for resisting arrest when she asked them for their names and badge numbers. The charges were eventually dismissed but the trauma of being viewed as a criminal while the White students were viewed with respect cannot be so easily dismissed.

42. Another class member, Otha Smiley, an African-American male, was part of a group of three African-American boys and two white girls walking in Corryville on July 11, 1999. Cincinnati police officer Patrick Caton ordered the African-American boys to stop and he detained them. Officer Caton advised the White girls to leave the area and he

did not detain them. This stop and eventual use of force on Mr. Smiley is the subject of a civil rights lawsuit, *Smiley v. George, et al.*, USDC S.D.OH. No. C-1-00-765 which remains pending.

43. **Discriminatory Action After Stops.** Defendant City detains a disproportionate number of African-Americans for investigation for lengthy periods of time and harasses them or treats them in an abusive manner after a suspicion has clearly been disproven. This practice includes but is not limited to drawing weapons on innocent African American civilians; placing innocent African-American civilians in handcuffs and requiring them to lay down on the street or sit in the cruiser; and using abusive language in order to provoke a citizen into a reaction that can then be used to charge a crime.

44. For example, when the CPD officers stopped class member Charnell Warner, an African-American female, on January 19, 2001, they were looking for two males. She was driving in a car with her husband and two minor children. The incorrect identity of this class member was obviously and immediately apparent. The couple was eventually released without charges. Nonetheless, before their release Ms. Warner and her husband were ordered out of their vehicle at gunpoint *with the children also in firing range of the weapons*, each of the parents was handcuffed, each of them was locked in a cruiser for some period of time, all while the children were crying and frightened.

45. Another class member, Stephanie Keith, an African-American female, was stopped on June 22, 2000. She was riding in a car with her husband. The police stopped the car based on an anonymous tip that two Black males in a similar car were pointing a gun. As soon as they were stopped, it was obvious to the police that they had the wrong persons. The couple was eventually released without charges. Nonetheless before

release, the couple was ordered out of their car, handcuffed, searched and placed in the back of a cruiser. Moreover, the police also conducted a search of their car, including the trunk, without their consent.

46. **Retaliation.** Defendant City permits officers to retaliate against African-American persons who exercise their First Amendment right to request an officer's name, badge number and identity.

47. For example, on December 31, 2000, class member Timothy Black was one of a group of African-Americans approached as they were leaving a pool hall that had just closed. In response to questioning by the police officer, Mr. Black asked for the officer's badge number. The officer cited that request as one of the reasons for charging him with disorderly conduct.

48. Class member Shirelyn Beauman, as described above, experienced retaliation when she started recording police names and badge numbers.

49. **Searches.** The City permits officers to search the person and autos of a disproportionate number of African-American persons who are innocent of any criminal activity.

50. For example, class member Stephanie Keith, as described above, experienced a search of her auto even though it was clear that she was not the person the police were seeking.

51. Class member Shepherd Allin Gaines, as described above, also experienced a search without any reasonable basis to suspect drug activity. Although Mr. Gaines advised the officers that he had possessed a weapon which he kept in the car, the officers arrested him anyway. The charges were later dismissed.

52. **Photos.** The defendant City permits officers to take Polaroid photos of innocent citizens at stops not followed by arrests and then keeping these photos in the cruisers for use in the ongoing monitoring of innocent African-American persons.

**C. Disparate Treatment of Class Members In Discretionary Charges  
Discretionary Charges.**

53. Defendant City has cited or arrested African-American persons in disproportionate numbers for crimes that are within the discretion of a police officer to charge. For example, on information and belief, for the period 3/99-12/00, African Americans were charged with:

81% of all citations issued by the CPD for driving without proof of insurance;

72% of all citations issued by the CPD for driving under suspension or without a license;

70% of all citations issued by the CPD for driving without a seat belt; and

79% of all jaywalking citations issued by the CPD.

54. The proof of insurance, driving under suspension and seat belt charges are normally identified secondary to a stop for another reason. On information and belief African-American drivers in Cincinnati have a dramatically higher incidence of being charged with secondary offenses than do White drivers.

55. African-Americans make up 38% of the population of the city according to the 1990 census but receive 47% of all traffic citations, even though only 74% of African Americans of driving age hold licenses compared to 92% of white persons.

56. These statistics have support in the experience of individual class members. For example, one class member, Kareem Abdul Hadrack, was only cited with three

discretionary minor traffic offenses after being detained for nearly an hour in November, 2000 while the police interrogated him about drugs and guns, searched his car without his consent and ordered him out of his vehicle. The three minor charges were later dismissed by the prosecutor.

57. **Drug laws.** African-Americans have been disproportionately targeted for stops, arrests and property forfeitures under the drug laws including the Cincinnati Exclusion Zone Ordinance and forfeiture laws and regulations.

**D. Disparate Treatment of Class Members Who Reside in Metropolitan Housing and Who are Subject to Discriminatory Searches**

58. Cincinnati Police Officers are often hired on "special detail" through the CPD to work as security guards for the Cincinnati Metropolitan Housing Authority (CMHA). On information and belief, these officers are routinely permitted to use the master keys to units owned by African-American persons and conduct searches of their living units without consent, without a warrant and without any exigent circumstance or other justifiable reason.

**E. Disparate Impact of Rewarding Officers Who Accomplish More Arrests**

59. On information and belief, Cincinnati Police Officers are expected to make more arrests in predominately African-American neighborhoods than in predominately White neighborhoods. Officers are evaluated in part based on their achievement of these arrest goals or quotas.

60. On information and belief officers are commended for making arrests but not commended in similar fashion for accomplishments that prevent crime or promote good

police-community relations. This continued pressure to make arrests causes officers to arrest more low income and minority persons who are least likely to fight the charges in court. This practice of rewarding for arrests rather than framing rewards consistent with the COP philosophy has a disparate impact on African-Americans.

#### **F. Deliberate Failure of City to Reform Discriminatory Practices**

61. The City has been deliberately indifferent to members of the plaintiff class by failing to supervise its police officers in a manner that would expose and correct the practices that are the subject of this lawsuit.

62. The need for effective supervision and discipline has been evident for thirty years and the failure to establish an effective system for supervision and discipline has been a major reason that discriminatory practices have continued.

63. Upon information and belief, the City has lost each of the last ten cases of police discipline presented to arbitrators under the labor agreement with the Fraternal Order of Police. This dismal record of success in arbitration has had a chilling effect on all discipline, causing police supervision to fail to charge or to undercharge officers guilty of misconduct, including racially discriminatory policing.

64. The City deliberately hobbles the Office of Municipal Investigation and the Civilian Police Review Panel by failing to heed their recommendations, failing to adequately staff and provide resources necessary for their work, and by failing to cooperate with their investigations.

65. Every review of the CPD in the last thirty years has called for more cultural diversity training, including ways for police to rely on interpersonal de-escalation skills

rather than force when interacting with citizens. The City has deliberately failed to provide such training in a meaningful and effective manner. Typically, a session may be devoted to discussion of such issues in the training academy but little is done after the formal classroom sessions to help officers effectively police when they are in an unfamiliar cultural environment. This cultural awareness training can only be accomplished through supervised field training. But with deliberate indifference to this critical task, the City will assign as field training officers, individuals with three or fewer years of experience. In a 1999 field training officer class, 80% of those selected as field training officers had three or fewer years of experience.

66. The City has a practice of tolerating, acquiescing in and failing to discipline those officers that engage in discourteous conduct toward citizens. The Kerner Commission in 1968 warned about the importance of professionalism and respect in all police-citizen relations. Numerous commissions and reports since that time have continued to recommend that the city insist on courtesy by its officers and punish those who fail to act consistent with professional guidelines. A disproportionate amount of discourteous and harassing actions by Cincinnati police officers is directed at African-American persons. The City has deliberately failed to address this issue and routinely permits complaints of discourtesy to go unaddressed and undisciplined, thereby perpetuating this racially discriminatory practice.

67. As recently as 1998, the City Council approved an agreement mediated by the United States Justice Department between the City and various community groups that required the city to enhance its existing personnel database by requiring entry of performance related information about each officer, including civilian and other

complaint histories and discipline. Now, three years later, that comprehensive database has not been established. As a result of its breach of this commitment, the City is consciously failing to effectively supervise its officers.

68. In September 1999, the Sentinel Police Association renewed its call for the establishment of a comprehensive personnel-tracking database. Even though the City has previously agreed that such a system would provide objective facts necessary to tracking racial discrimination, the City has deliberately failed to act on this request.

69. The need to determine if police action on the scene is consistent with written policies and professional standards is a basic element of any system of accountability. Police action that is described over radio transmissions and through use of the mobile computer terminals is traceable. In recent months, however, on information and belief, the City has allowed critical police action to be taken "off the record" by permitting private cell phone use by officers at the scene of civilian arrests and interrogations. This "off the record" communication further erodes the ability to hold the officers accountable. By permitting the practice, the City is consciously failing to effectively supervise and control its officers.

70. Eighteen months ago, in September 1999, the City was requested by the Sentinel Police Association to collect data with respect to traffic stops that do not result in arrests. The Sentinel study of police misconduct had clearly indicated that a disproportionate number of African-American citizens were subjected to stops due to their race and color without any reasonable suspicion of a crime. The Sentinels requested that such data be included in the performance database. The City has deliberately failed to establish a record keeping system for stops not accompanied by arrests.

71. The Kerner Commission also warned in 1968 that aggressive policing which focuses on arrests and involves officers policing neighborhoods who are unfamiliar with the residents will have a disparate impact on African-American citizens. The City has long been aware that community oriented policing (COP) improves police relations-community, prevents crime, and results in a more equitable enforcement of the law among citizens of all races. While initiating some programs, the City has nonetheless been deliberately indifferent to the disparate impact of continued rewards to those officers who engage in aggressive police practices. These practices include but are not limited to (1) rewarding officers for high volumes of arrests without scrutinizing the quality of those arrests and (2) disciplining officers who fail to achieve an "expected" number of arrests where such arrest expectations are higher in majority African-American neighborhoods.

72. The Cincinnati Chief of Police, during the year 2000, publicly admitted that racial profiling takes place within the Cincinnati Police Division. An Assistant Chief of Police, also during the year 2000, admitted that racial profiling continues because of inadequate training.

73. The City has knowingly, intentionally, deliberately and consciously continued police practices that have a disparate impact on African American citizens.

#### **H. Federal Funding of Cincinnati Police Division**

74. At all times relevant to this action, the City of Cincinnati has maintained or constituted a program or activity that receives federal financial assistance for the United States Department of Justice. Thus, defendant City is subject to the requirements of 42

U.S.C. §2000d *et seq.* and 28 CFR §42.101 *et seq.* Plaintiffs are the intended beneficiaries of such program or activity.

### **I. Disparate Treatment of Plaintiff Tyehimba**

75. On February 23, 1999, plaintiff Bomani Tyehimba, an African-American male, was stopped by defendants Ploehs and Stratmann without any reasonable suspicion that he had engaged in a crime.

76. Defendants, with guns drawn and aimed directly at Mr. Tyehimba, ordered him to exit his van. With the gun inches from his head, the officers removed the keys from Mr. Tyehimba, handcuffed him and searched his person. His feet were kicked apart, his pockets rifled, and he was questioned about the money on his person, his employment and other personal facts. He was then marched to the police cruiser and still handcuffed, locked inside for twenty minutes.

77. The officers used an alleged minor traffic violation as pretext for this racially discriminatory stop, search and detention.

78. The police action against Mr. Tyehimba occurred in full view of his Mr. Tyehimba's minor son.

79. Defendant officers acted consistently and pursuant to the racially discriminatory policies and practices of the Cincinnati Police Department as alleged in this complaint.

80. Defendant City failed to adequately train and supervise the officers and was thereby deliberately indifferent to the rights of the plaintiff and other members of the class.

81. As a direct and proximate result of all of the defendants' actions, plaintiff Tyehimba suffered serious mental anguish, embarrassment, emotional distress and pain and suffering.

**J. Irreparable Harm to Plaintiffs Caused by Police Practices**

82. As a direct and proximate result of defendant City's actions, the plaintiff organizations have lost resources, experienced harm to their missions, been diminished in their effectiveness and otherwise been unable to accomplish their goal of ending racial discrimination in policing in Cincinnati.

83. As a direct and proximate result of defendants actions, members of the plaintiff class, both members of the plaintiff organizations and those similarly situated, have experienced mental anguish, embarrassment, emotional distress and pain and suffering.

84. Racially discriminatory policing destroys the trust that African-Americans must have in their police force, eroding the very values necessary for a safe, democratic community.

85. Fundamental constitutional rights including the right to equal protection under the law, the right to free expression and association, the right to due process of law, the right to travel and the right to be free from unreasonable searches and seizures are all abused by the practices alleged in this complaint.

**K. Necessity For Injunctive Relief**

86. There is no adequate remedy at law. The African-American civilians in this community have waited for more than thirty years for the City of Cincinnati to deliver on its promises of equal justice for all regardless of race, police accountability, and police

training. The time has come and the need is urgent for court action on this pressing problem. Only prompt action by this federal court ordering declaratory and injunctive relief will address the imbalance of equities in this matter and serve the public interest.

## **VI. CLAIMS FOR RELIEF**

### **First Claim – 42 U.S.C. §1983 - - United States Constitution**

87. Defendants, acting under color of law, have violated rights secured to the plaintiffs by the First, Fourth, and Fourteenth Amendments to the United States Constitution including the right to free expression, the right of association, the right to travel, the right to be free of unreasonable searches and seizures, the right to due process of law, and the right to equal protection under the law.

### **Second Claim – Title VI, Federal Civil Rights Act and Regulations**

88. The defendant City of Cincinnati has violated rights secured to the members of the plaintiff class by 42 U.S.C. §2000d *et seq.* and 28 CFR §42.101 *et seq.*

### **Third Claim – State Constitution**

89. The defendant City has violated rights secured to the members of the plaintiff class by the Ohio Constitution, including the right to be free from unreasonable searches and seizures under Art. I, Sec. 14 and the right to free expression, free association, due process and equal protection under the law.

## **VII. PRAYER FOR RELIEF**

**WHEREFORE**, plaintiffs request that this court:

- A. Certify this action as a class action pursuant to Fed. R.Civ. Proc. 23(a) and (b)(2);
- B. Issue a declaratory judgment that the practices at issue in this case violate the constitutional and statutory rights of the class members;
- C. Issue a preliminary and permanent injunction against the City and all those acting in concert prohibiting the practices at issue in this action;
- D. Award to Plaintiff Tyehimba compensatory damages against all defendants;
- E. Award to Plaintiff Tyehimba punitive damages against the individual defendants;
- F. Award to plaintiffs reasonable costs, expenses and attorney fees;
- G. Award such other and further relief as this court shall deem just and reasonable.

## **JURY DEMAND**

Plaintiff Tyehimba seeks a trial by jury of all claims triable to a jury on his individual claim for damages.

Respectfully Submitted,

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