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May 4, 2020

VIA EMAIL

The Honorable Jon P. McCalla
c/o Independent Monitor Edward L. Stanton III
6075 Poplar Avenue, Ste. 500
Memphis, TN 38119
monitoringteam@memphispdmonitor.com.

Re: *Kendrick* Consent Decree Public Comment

Dear Judge McCalla:

Pursuant to your Order Adopting Public Comment Procedure (ECF No. 295) in *ACLU of Tennessee, Inc. v. The City of Memphis*, No. 2:17-cv-02120-JPM-jay, *MLK50: Justice Through Journalism* (“MLK50”) and its founder, editor, and publisher, Wendi Thomas, submit these public comments regarding the City of Memphis’s (the “City”) compliance with the *Kendrick* Consent Decree. Specifically, the City has refused MLK50’s repeated requests to add it, Ms. Thomas, and MLK50’s managing editor, Deborah Douglas, to the City’s media advisory lists, which is inconsistent with the City’s obligations under the *Kendrick* Consent Decree.

Paragraph (F)(1) of the *Kendrick* Consent Decree provides that “the City of Memphis shall not disrupt, discredit, interfere with or otherwise harass any person exercising First Amendment rights.” Similarly, Paragraph (F)(2) provides that “[t]he City of Memphis shall not engage in any action for the purpose of, or reasonably having the effect of deterring any person from exercising First Amendment rights.” The City has interfered with MLK50 and its journalists’ First Amendment rights and attempted to deter them from exercising their First Amendment rights by refusing to add them to the City’s media advisory lists.

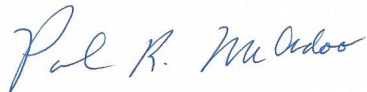
The City maintains a list of media email contacts that it uses to inform members of the media of events and actions involving the City (the “media advisory list”). Until January 2019, Ms. Thomas was on that media advisory list. After learning that she had been removed from the media advisory list in fall 2019, Ms. Thomas, on multiple occasions, has sought to have herself, MLK50, and Ms. Douglas added to it, but the City has refused to do so. On March 16, 2020, and then again on April 13, 2020, the undersigned wrote to the City to make the same request on behalf of MLK50. Copies of these letters are enclosed. To date, the City’s only response to the undersigned’s letters was a non-substantive acknowledgment of receipt.

As discussed in more detail in the enclosed letters, the City’s refusal is motivated by its perception that MLK50’s coverage of it is somehow unfair or “not

objective.” Such content- and viewpoint-based discrimination, however, runs afoul of the First Amendment. The attached letters more fully discuss the case law on this issue. Not having the same access to information available to other members of the media whom the City has included on its media advisory list interferes with MLK50 and its journalists’ First Amendment rights and is done to deter their coverage of the City, both of which are violations of the *Kendrick* Consent Decree.

As this Court has explained, “Public input is a key component of ensuring the City’s compliance with the *Kendrick* Consent Decree.” (ECF No. 295 at 1.) MLK50 appreciates the opportunity to bring this issue to the attention of the Court so as to ensure the City’s compliance with the *Kendrick* Consent Decree. If you need anything further from me or my clients, please do not hesitate to contact me at your convenience.

Best regards,

A handwritten signature in blue ink that reads "Paul R. McAdoo". The signature is written in a cursive style with a large initial "P" and "M".

Paul McAdoo
Reporters Committee for Freedom of the Press
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Enclosures