



State Headquarters  
2966 Woodward Avenue  
Detroit, MI 48201-3035  
Phone 313.578.6800  
Fax 313.578.6811  
Email [aclu@aclumich.org](mailto:aclu@aclumich.org)  
[www.aclumich.org](http://www.aclumich.org)

Legislative Office  
P. O. Box 18022  
Lansing, MI 48901-8022  
Phone 517.372.8503  
Fax 517.372.5121  
Email [lansing@aclumich.org](mailto:lansing@aclumich.org)  
[www.aclumich.org](http://www.aclumich.org)

West Michigan Regional Office  
89 Ionia NW, Suite 300  
Grand Rapids, MI 49503  
Phone 616.301.0930  
Fax 616.456.1450  
Email [aclu@aclumich.org](mailto:aclu@aclumich.org)  
[www.aclumich.org](http://www.aclumich.org)

April 18, 2013

Emergency Manager Kevyn Orr  
Mayor David Bing  
Coleman A Young Municipal Center  
2 Woodward Ave, Suite 1126  
Detroit, MI 48226  
Fax: (313) 224-4128

Chester L. Logan, Interim Chief of Police  
Detroit Police Department  
1300 Beaubien St.  
Detroit, MI 48226  
[Chiefofpolice@dpdhq.ci.detroit.mi.us](mailto:Chiefofpolice@dpdhq.ci.detroit.mi.us)

**Re: Unlawful Detroit Police Practice of Abducting Homeless People from  
Greektown and Deserting Them in Remote Areas of the Detroit Metro Area.**

Dear Emergency Manager Orr, Mayor Bing, and Chief Logan:

Over the past year, the American Civil Liberties Union of Michigan (“ACLU”) has documented an alarming pattern of abuse and harassment of homeless individuals by Detroit police officers in Greektown. Our investigation has found that on numerous occasions, Detroit police officers have approached individuals who are or were perceived to be homeless; forced them into police vans, sometimes in handcuffs; and driven them to remote areas of Detroit and neighboring cities. Officers have dubbed this practice as taking homeless people “for a ride.” In some cases, police officers also ordered the individuals to throw out any money in their pockets so that they had no option but to walk—often several miles and sometimes in the middle of the night through unlit and potentially dangerous neighborhoods—in order to return to downtown Detroit where many shelters, warming centers, and churches are located. An officer told one person we interviewed that the police were under orders to clear Greektown of the homeless, and multiple officers have told homeless individuals that they don’t have a right to be the neighborhood.

These actions by Detroit police officers are deplorable and violate federal law, including the Fourth Amendment to the United States Constitution, and the Equal Protection Clause, the Due Process Clause, and the substantive right to intrastate travel under the Fourteenth Amendment. Moreover, in arresting, detaining and forcibly removing homeless individuals without probable cause, and by searching them and taking their money and other belongings, Detroit Police officers are violating the 2003 Consent Judgment with the United States Department of Justice. Not only are police endangering the lives and violating the constitutional

rights of homeless individuals, but they are also compromising the city of Detroit's security by using their time and resources to harm rather than protect the city's inhabitants.

We call on the Detroit Police Department to immediately investigate and stop these abusive practices, described below, and to remind its officers that a person who has lost their home has not lost their right to dignity and equal protection under the law. The City should be implementing programs to help its most vulnerable residents. The City may not simply sweep the ugly problem of homelessness under the rug for the benefit of tourists by forcefully removing poverty-stricken people from Greektown and dumping them in remote parts of the city or outside its borders.

## **I. Factual Background**

Since January 2012, the ACLU has received several complaints from homeless individuals or individuals perceived to be homeless who have been stopped by police in the Greektown area and told they cannot be in the neighborhood. Many have been picked up, handcuffed, forced into police vans, and then driven to remote areas in or beyond Detroit with no means of safe return. Below is a sample of some of the stories of individuals who have been subject to these abusive practices by Detroit police.

### **A. Andrew Sheehan**

Mr. Sheehan is a 37-year old man who was born in Royal Oak but raised by his adopted parents in Livingston County. As a result of his struggle with substance abuse, Mr. Sheehan was homeless on and off for several years, until 2013. After completing a drug rehabilitation program, he is now working, living in an apartment, and continuing to attend religious services at Sts. Peter and Paul Church in Greektown.

In December 2011, Mr. Sheehan was sleeping above a manhole in Greektown to keep warm. He woke up one morning to find he had been handcuffed by a police officer who subsequently put him in a police van, drove him approximately five miles to the corner of Harper Avenue and Gratiot Avenue, abandoning him on the street. In January 2012, Mr. Sheehan was walking to Saints Peter and Paul Church in the afternoon when a police officer accosted him on the street, shoved Mr. Sheehan against a wall and told him he was not allowed to be in Greektown.

In March 2012, Mr. Sheehan was lying over a manhole on Beaubien Street to keep warm when Officer Ford and a female officer drove up in a paddy-wagon. The officers pulled him to his feet, handcuffed him, and "took him for a ride." Although the officers said they were taking Mr. Sheehan to a shelter, they instead drove to the boundary between Detroit and River Rouge on Fort Street—eight miles from where they picked Mr. Sheehan up—and dropped him on the side of the street.

A few days later, Mr. Sheehan was sitting on a manhole cover in Greektown, trying to keep warm, when Officer Prince drove up in his patrol car and told Mr. Sheehan he had to leave.

When Mr. Sheehan refused, Officer Prince handcuffed him and again put him in a van and removed him from Greektown.

#### **B. Dennis B.<sup>1</sup>**

Dennis B. is a 54-year-old man from Detroit who has been homeless on and off for many years. In 2011, Dennis was seized and “taken for a ride” by officers approximately four or five times. On several occasions, Detroit Police Officer Ford approached Dennis near St. Mary’s Church, frisked him for loose change, and insisted that he throw out any money in his pockets. One evening in December 2011, Dennis was sitting in the parking lot of St. Mary’s Church when Officer Ford approached him, told him he was not permitted to be in Greektown, placed him in the police van, and dropped Dennis around 6 Mile Road on the east side of Detroit.

That same month, Dennis was sleeping in St. Mary’s parking lot one morning when he was awoken by two police officers who told him that he could not be in Greektown and placed him in the police van. The officers, including Officer Prince and another police officer, dropped Dennis again near 6 Mile Road, several miles from downtown Detroit.

In January 2012, Dennis was standing outside St. Mary’s Church in the early afternoon when Officer Prince approached him, told him he was not allowed to be in this area of Detroit, and that he was going to take Dennis “for a ride.” The officer then took Dennis to the corner of Gratiot Street and Harper Street and left him there.

#### **C. Charles E.**

Charles E. is a 58-year-old man from Detroit who has had a brain aneurism, experiences seizures, and has an ulcer in his leg. After his son’s death in 1992, Charles began to experience severe emotional and mental difficulties, leading to the loss of his job and home. In March 2012, in the early evening, Charles and his brother were walking on the sidewalk on Lafayette Street near Beaubien Street when a police paddy-wagon pulled up. Officer Ronan and a female police officer jumped out of the van. When Charles asked what was happening, Officer Ronan told him to “Shut up” and the female officer started screaming that she was tired of chasing these “sons of bitches” around the city, and told them to get their “asses” in the police van. The officers then put Charles and his brother in the van and drove to Buchanon Street in Southwest Detroit, where the officer abandoned them on the side of the road. Charles was afraid because it was dark and he had heard that neighborhood was known to have drug activity. Because he was afraid of what he might encounter in that area, he and his brother crossed the Lodge freeway and walked two hours back to downtown Detroit, despite the significant pain Charles was experiencing from the blood clots in his legs.

#### **D. Elvin D.**

Elvin is a 46-year-old man who has lived in Detroit his entire life. Elvin has been homeless, on and off, for four or five years. In October or November 2012, Elvin was sleeping in Hart Plaza when, around midnight, a police officer approached him and offered to take him to

---

<sup>1</sup> Several of the individuals we interviewed requested that we not use their last names in this letter.

a warming center. But instead of taking Elvin to a shelter, the officer dropped him off on Michigan Avenue in Dearborn. Elvin walked most of the night to return to downtown Detroit.

### **E. Marvin S.**

Marvin is a 37-year-old man who grew up in Detroit. In March 2013, Marvin was standing on Woodward when two officers with the Wayne County Sheriff's Department pulled up next to Marvin, handcuffed him, and placed him in the back of their squad car. At the time, Marvin was not committing any crimes. In fact, he demanded to know why he was being arrested. The officers, however, refused to answer his questions as they drove out of downtown Detroit. Eventually, the officers pulled over in Allen Park near the "World's Largest Tire" near I-94, approximately 14 miles from downtown Detroit, and told Marvin to "get out." Fortunately, Marvin was able to afford a bus ticket to get back to downtown Detroit.

## **II. Banishing and Forcibly Removing Homeless Individuals From Greektown And Seizing Their Personal Property Violates the U.S. Constitution.**

Not only are the actions described above inhumane and deeply offensive, but they also violate the United States Constitution. The Fourth Amendment protects the rights of persons "to be secure in their persons . . . against unreasonable searches and seizures . . . ." <sup>2</sup> The purpose of the Fourth Amendment's protection against unreasonable seizures is "to prevent arbitrary and oppressive interference by enforcement officials with the privacy and personal security of individuals." <sup>3</sup> The Fourth Amendment also ensures "the ability of persons to move or travel about the United States without fear of being stopped or detained unless the police have an adequate constitutional justification for doing so." <sup>4</sup>

While police are permitted to briefly stop and detain an individual for investigation if the officers have a reasonable suspicion that criminal activity has occurred or is imminent, <sup>5</sup> when detention rises to the level of an "arrest," the Fourth Amendment requires that the seizure be supported by probable cause. <sup>6</sup> A person is "arrested," within the meaning of the Fourth Amendment when he is detained in manner to make it clear to a reasonable person that he is not free to leave -- whether or not he is formally charged with a crime. <sup>7</sup> Courts have held that when an

---

<sup>2</sup> U.S. Const. Amend.IV.

<sup>3</sup> *U.S. v. Mendenhall*, 446 U.S. 544, 554-55 (1980) citing *United States v. Martinez-Fuerte*, 428 U.S. 543, 554.

<sup>4</sup> *U.S. v. Buchanan*, 72 F.3d 1217, 1223 (6th Cir. 1995), citing *Brinegar v. United States*, 338 U.S. 160, 177 (1949) (a person traveling on the highway "who has given no good cause for believing he is engaged in [illegal] activity is entitled to proceed on his way without interference."); *Shapiro v. Thompson*, 394 U.S. 618, 629-30 (1969) (discussing the right to freedom to travel throughout the United States).

<sup>5</sup> *Terry v. Ohio*, 392 U.S. 1, 27 (1968); *Dorsey v. Barber*, 517 F.3d 389, 395 (6th Cir.2007); *Humphrey v. Mabry*, 482 F.3d 840, 847 (6th Cir.2007); *Williams v. Leatherwood*, 258 Fed. Appx. 817, 824 (6th Cir.2007).

<sup>6</sup> *Dunaway v. New York*, 442 U.S. 200, 212-14, (1979); *Centanni v. Eight Unknown Officers*, 15 F.3d 587 (6th Cir. 1994).

<sup>7</sup> *United States v. Canales*, 572 F.2d 1182, 1187 (6th Cir.1978) ("[a] clear deprivation of liberty caused by law enforcement officers without formal words is nonetheless an arrest.")

officer seizes a person and transports him against his will, the officer has arrested that person and therefore cannot do so without probable cause.<sup>8</sup> Clearly, handcuffing and forcibly removing homeless individuals from Greektown with no evidence or probable cause of criminal activity but simply because their presence is considered, by some, to be undesirable clearly violates the Fourth Amendment. Moreover, even if these individuals *were* actually involved in criminal activity, the correct response from the police is not to carry out an extrajudicial arrest and removal.

The Fourth Amendment also protects individuals from unreasonable seizures of their personal property. Under the Fourth Amendment, a “‘seizure’ occurs where there is some meaningful interference with an individual’s possessory interests in that property.”<sup>9</sup> This interference is not limited to the confiscation of a person’s property; rather, as the Supreme Court has recognized, “the destruction of property by state officials poses as much of a threat, if not more, to people’s right to be ‘secure ... in their effects’ as does the physical taking of them.”<sup>10</sup> The Supreme Court has made clear that “an officer who happens to come across an individual’s property in a public area could seize it only if Fourth Amendment standards are satisfied—for example, if the items are evidence of a crime or contraband.”<sup>11</sup> Courts recognize that the personal property of homeless individuals is no entitled to no less legal protection for the fact that it may be found in public.<sup>12</sup> Indeed, these personal items—clothes, money, medicine—may be all these individuals have and are certainly entitled to the same legal protection as anyone else’s belongings.

Furthermore, police officers have no legal authority to exclude poverty-stricken members of the community from whole areas of this city in which they live, or to create exclusionary zones through which these individuals cannot pass. Detroit police are singling out poor individuals who are or appear to be homeless and essentially excluding them as a class from a

---

<sup>8</sup> See *Kaupp v. Texas*, 538 U.S. 626, 631 (2003) (handcuffing and transportation to a police station interrogation room constitutes an arrest); *Hayes v. Florida*, 470 U.S. 811, 816 (1985) (involuntary transport to a police station for questioning was constructively an arrest); *Dunaway v. New York*, 442 U.S. 200, 212 (1979) (transporting an individual to a police station interrogation room is “indistinguishable from a traditional arrest”); *Centanni v. Eight Unknown Officers*, 15 F.3d 587, 592 (6th Cir. 1994) (the seizure, prolonged detention, and removal of a person to a police station “constitutes a de facto arrest requiring probable cause.”).

<sup>9</sup> *Soldal*, 506 U.S. at 61- 62.

<sup>10</sup> *United States v. Jacobsen*, 466 U.S. 109, 113 (1984) (other citation omitted).

<sup>11</sup> *Soldal* at 68.

<sup>12</sup> See, e.g., *Pottinger v. City of Miami*, 810 F.Supp. 1551, 1573 (S.D.Fla.1992) (“[T]he loss of items such as clothes and medicine threatens the already precarious existence of homeless individuals by posing health and safety hazards . . . [T]he property of the homeless individuals is due no less protection under the Fourth Amendment than that of the rest of society.”); *Lavan v. City of Los Angeles*, 797 F.Supp.2d 1005, 1011 (C.D. Cal. 2011) (issuing a preliminary injunction in favor of homeless individuals whose property was being seized by the City of Los Angeles and observing that plaintiffs’ legitimate expectation of privacy in their property was “not necessarily altered by the fact that the City may have found the property in a public place.”). See also *State v. Mooney*, 218 Conn. 85, 112 (Conn. 1991) (finding a homeless person’s belongings were entitled to Fourth Amendment protections and recognizing that those bags or other personal items “represented, in effect, the defendant’s last shred of privacy from the prying eyes of outsiders, including the police.”).

section of their own city. But the police have no authority to make such distinctions. As the Supreme Court recognized in *Saenz v. Roe*, “Citizens of the United States, whether rich or poor, have the right to choose to be citizens of the State wherein they reside. The States, however, do not have any right to select their citizens.”<sup>13</sup> Thus cities and their police departments cannot decide that some citizens should be evicted or are unworthy of police respect and protection. Indeed, the Supreme Court has repeatedly held that policies allowing individuals to walk or remain on streets “only at the whim of a police officer” violate the Due Process Clause of the U.S. Constitution.<sup>14</sup>

Barring homeless and poor individuals from these neighborhoods—problematic in and of itself—is made worse where this exclusion makes it impossible for them to reach critical services. As the stories above indicate, excluding homeless or poor community members from downtown Detroit means these individuals cannot attend religious services, work, receive legal and social assistance, and get assistance from shelters and warming centers in the downtown area. Federal courts have held that police do not have the authority to exclude people from moving through public spaces and, in so doing, to deny them access to necessary services. For example, in *Johnson v. City of Cincinnati*, the U.S. Court of Appeals for the Sixth Circuit invalidated a city ordinance creating a “drug-exclusion zone” that prevented a homeless person from visiting his attorney and further held that homeless individuals have a fundamental right to intrastate travel.<sup>15</sup> In endorsing this substantive right to intrastate travel, the Sixth Circuit explained, “The right to travel locally through public spaces and roadways—perhaps more than any other right secured by substantive due process—is an everyday right, a right we depend on to carry out our daily life activities. It is, at its core, a right of function.”<sup>16</sup>

As the Sixth Circuit recognized, the right to enter and move through one’s city is an essential right because without access to the city’s services and workplaces, individuals cannot carry out basic life functions—and indeed, cannot escape their poverty by finding work and social services. Homeless and other poor individuals are entitled to the same legal protections that apply to all community members, and should be supported—not obstructed or abused—when they try to access services in their city. At a time when so many of Detroit’s inhabitants are struggling with significant economic loss, to discriminate against the poor and exclude them—worse, to endanger their lives by dropping them off in remote areas at night and with no means of safe return—is illegal, unwarranted, and shameful.

---

<sup>13</sup> *Saenz v. Roe*, 526 U.S. 489, 510-511 (1999) (internal citations omitted).

<sup>14</sup> *Shuttlesworth v. City of Birmingham*, 382 U.S. 87, 90 (1965); *Kolender v. Lawson*, 461 U.S. 352 (1983) (holding unconstitutional a California statute prohibiting loitering as vague and “implicate[ing] consideration of the constitutional right to freedom of movement.”); *Papachristou v. Jacksonville*, 405 U.S. 156, 164 (1972) (vagrancy ordinance void where it allowed and encouraged arbitrary and discriminatory arrests of the poor and gave the police almost “unfettered discretion.”).

<sup>15</sup> *Johnson v. City of Cincinnati*, 310 F.3d 484 (6th Cir. 2002). Similarly, in *Kennedy v. City of Cincinnati*, the Sixth Circuit held that the plaintiff had a liberty interest to remain in a public place of his choice, which defendants violated by barring him from entering any area designated by the city as part of its recreation system. *Kennedy v. City Of Cincinnati*, 595 F.3d 327, 336 (6th Cir. 2010).

<sup>16</sup> *Id.* at 498.

### **III. Unlawful Arrests and Detention of Homeless Individuals Violate the Consent Decree with the U.S. Department of Justice**

Since 2003, the Detroit Police Department has been subject to a consent decree with the United States Department of Justice that addresses, among other things, lawful arrests. Specifically, Section 5 paragraphs 42-43 of the Consent Judgment require that Detroit Police officers have probable cause before effectuating an arrest; review and memorialize the arrest within 12 hours of its occurrence; and, should probable cause not be found, provide an explanation for why the arrest occurred. As explained above, the Detroit police have been arresting homeless individuals, within the meaning of the Fourth Amendment, by apprehending and transporting them, against their will, in a vehicle from which they were not free to leave. Therefore, their actions must be supported by probable cause of criminal activity. Such probable cause may exist in *some* interactions with homeless individuals but in all the cases described here, and in many more documented cases, homeless individuals were involved in nothing more than necessary life functions—e.g., walking, sleeping, sitting. The fact that these individuals are not brought to a precinct does not negate the fact that an arrest has occurred; rather, it removes these unlawful arrests from the necessary review.

The officers involved have no lawful authority to forcibly remove homeless individuals from neighborhoods or the city limits of Detroit, nor are they authorized to take homeless individuals' personal property or to banish them from areas of the city. Even if Detroit police officers believe they are authorized to briefly stop and frisk homeless individuals as part of an investigatory stop—and the facts here belie the suggestion that these are investigatory stops—under Section V of the 2003 Consent Judgment, police must nonetheless have reasonable suspicion to fear for their personal safety before searching an individual and limit the scope of the search to the source of suspicion. It does not appear that, in stopping homeless individuals who are sleeping or walking down the street, the officers involved have any reasonable suspicion for their safety; and they certainly have no authority to then seize or destroy homeless individuals' money.

The Detroit Police Department has made some improvements while under the Consent Decree but the actions of Detroit Police officers, in conducting illegal stops and arrests, violate the consent judgment and suggest the need for increased training and vigilance on when police officers may lawfully stop, arrest, and detain a person.

### **IV. Remedial Action Requested**

To address and prevent these abuses, the ACLU requests that the Detroit Police Department immediately do the following:

1. Investigate the abuses described in this letter and the pattern or practice of “taking for a ride” homeless and other poor individuals;
2. Issue a policy directive to Detroit police officers explaining that it is illegal to (a) forcibly seize homeless individuals and drop them off in remote places of the city or outside its borders; (b) throw away or force them to throw away personal belongings; and (c) exclude homeless individuals from Greektown or any other neighborhood of Detroit;

3. Discipline the officers involved in these unlawful seizures and removals of homeless individuals;
4. Issue a public apology to all individuals who have been subject to these practices.

We look forward to working with you to ensure these abusive practices are stopped.

Very truly yours,



Sarah L. Mehta, Staff Attorney  
Michael J. Steinberg, Legal Director  
American Civil Liberties Union of Michigan  
2966 Woodward Avenue  
Detroit, Michigan 48201  
(313) 578-6814  
fax (313) 578-6811  
[smehta@aclumich.org](mailto:smehta@aclumich.org)  
[msteinberg@aclumich.org](mailto:msteinberg@aclumich.org)

cc: Detroit City Council

Council President Charles Pugh [CouncilPresidentPugh@detroitmi.gov](mailto:CouncilPresidentPugh@detroitmi.gov)  
Council President Pro Tem Gary Brown [councilmemberbrown@detroitmi.gov](mailto:councilmemberbrown@detroitmi.gov)  
Council Member Saunteel Jenkins [councilmemberjenkins@detroitmi.gov](mailto:councilmemberjenkins@detroitmi.gov)  
Council Member Kenneth Cockrel [Kenneth.Cockrel@detroitmi.gov](mailto:Kenneth.Cockrel@detroitmi.gov)  
Council Member Brenda Jones [bjones\\_mb@detroitmi.gov](mailto:bjones_mb@detroitmi.gov)  
Council Member André L. Spivey [CouncilmanSpivey@detroitmi.gov](mailto:CouncilmanSpivey@detroitmi.gov)  
Council Member James Tate [councilmembertate@detroitmi.gov](mailto:councilmembertate@detroitmi.gov)  
Council Member Kwame Kenyatta [K-Kenyatta\\_MB@detroitmi.gov](mailto:K-Kenyatta_MB@detroitmi.gov)  
Council Member Joann Watson [WatsonJ@detroitmi.gov](mailto:WatsonJ@detroitmi.gov)