

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

DWAYNE FURLOW et al.,

Plaintiffs,

v.

JON BELMAR et al.,

Defendants.

Case No.: 4:16-cv-00254-JAR

**PLAINTIFFS' STATEMENT OF UNCONTROVERTED MATERIAL FACTS IN  
SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

Pursuant to Local Rule 4.01, Plaintiffs hereby submit the following statement of uncontroverted material facts in support of their motion for summary judgment and the memorandum in support:

**I. Parties**

1. Plaintiff Ralph Torres is a 52-year-old resident of St. Louis County, arrested pursuant to a Wanted on April 1, 2015. Ex. 28, at 1 (Just. Ctr., Torres, 4-1-15).

2. Plaintiff Dwayne Furlow is a 32-year-old resident of St. Louis County, arrested pursuant to a Wanted on January 29, 2016. Ex. 27, at 1 (Just. Ctr., Furlow, 1-29-15).

3. Plaintiff Howard Liner is a 37-year-old resident of St. Louis County, arrested pursuant to a Wanted on October 5, 2015. Ex. 26, at 1 (Just. Ctr., Liner, 10-5-15).

4. Defendant Jon Belmar was appointed to the position of Chief of Police on January 31, 2014 by the St. Louis County Board of Police Commissioners. Defendant Belmar has served the agency since 1986. Ex. 58 (Belmar Bio).

5. Defendant St. Louis County operates a police department that is the primary law enforcement agency serving St. Louis County, serving a population of over one million, and a geographical area of more than 500 square miles. *Id.*

6. The St. Louis County Police Department has roughly 800 officers. Ex 13, 81:1-3 (Morrow).

7. Defendant Laura Clements is a detective in the St. Louis County Police Department. Ex. 31, at 1 (Torres SLCPD IR, 2-15).

8. Defendant Clements entered a Wanted for Ralph Torres on February 19, 2015. *Id.*

9. Defendant Christopher Partin is a police officer in the St. Louis County Police Department. Ex. 32, at 1 (Furlow SLCPD IR, 11-15).

10. Defendant Partin is the Reporting Officer for the Wanted entered for Dwayne Furlow on November 11, 2015. *Id.*

11. Defendant Kevin Walsh is a police officer in the St. Louis County Police Department. Ex. 33, at 1 (Furlow SLCPD IR, 1-16).

12. Defendant Walsh entered the Wanted for Dwayne Furlow on January 25, 2016. *Id.*

13. Edward Schlueter is a police officer in the St. Louis County Police Department. Ex. 30, at 1 (Liner SLCPD IR, 8-15).

14. Officer Schlueter is the Reporting Officer for the Wanted entered for Howard Liner on August 26, 2015. *Id.*

15. Officer Schlueter is one of the John Does Defendants in the First Amended Class Action Complaint. Ex. 6, 12:5-14:2 (Schlueter). Ex 16, at 19, 28 (Amended Complaint).

## **II. Plaintiff Ralph Torres**

10. At 11 a.m. on April 1, 2015, Plaintiff Ralph Torres was in his garage with his eight-year-old son, fixing a bicycle, when he was approached by St. Louis County Police Officer Scott Leible. Ex. 31, at 6-7 (Torres SLCPD IR, 2-15); Ex. 8, 88:25-89:4 (Torres).

11. Officer Leible had conducted a computer search which alerted him that a Wanted was outstanding for Mr. Torres, and which provided Mr. Torres's address. Ex. 31, at 7 (Torres SLCPD IR, 2-15).

12. The Wanted for Mr. Torres was issued by Detective Laura Clements on February 23, 2015. Ex. 31, at 5 (Torres SLCPD IR, 2-15).

13. Officer Leible arrived at Mr. Torres's residence, informed Mr. Torres of the Wanted, and arrested him without incident. *Id.* at 7.

14. At approximately 11:30 a.m., Officer Leible informed Defendant Clements that Mr. Torres had been arrested on her Wanted. Ex. 28, at 4 (Just. Ctr., Torres, 4-1-15).

15. Mr. Torres was booked at the St. Louis County Justice Center at 4:54 p.m. *Id.* at 1.

16. Defendant Clements was not on duty when she learned that Officer Leible arrested Mr. Torres. Ex. 3, 235:6-10 (Clements).

17. Defendant Clements arrived at the Justice Center at 8:45 p.m. that evening to interview Mr. Torres. Ex. 28 (Just. Ctr., Torres, 4-1-15); Ex. 3, 215:11-18 (Clements).

18. Mr. Torres told Defendant Clements that he did not wish to speak with her, and he invoked his right to an attorney. Ex. 3, 216:14-18 (Clements); Ex. 8, 99:8-11 (Torres).

19. After Mr. Torres invoked his rights, Defendant Clements instructed the Justice Center to continue holding Mr. Torres for the full 24 hours. Ex. 8, 102:1-8 (Torres); Ex. 3, 229:24-230:12; 233:2-7 (Clements); Ex. 28, at 4 (Just. Ctr., Torres, 4-1-15).

20. Defendant Clements applied for a warrant the next day, but it was refused by the Prosecuting Attorney's Office. Ex. 3, 233:10-17 (Clements); Ex. 31, at 10 (Torres SLCPD IR, 2-15).

21. Mr. Torres was released after nearly 25 hours in police custody. Ex. 31 (Torres SLCPD IR, 2-15); Ex. 28, 1-2 (Just Ctr., Torres, 4-1-15).

22. The allegations which led Detective Clements to issue the Wanted against Mr. Torres were brought by his ex-wife during a December 16, 2014 phone call with Detective Clements and by their five year old daughter during a November 26, 2014 forensic interview conducted by the Child Center in Wentzville Missouri. Ex 31, at 3 (Torres SLCPD IR, 2-15); Ex. 3, 178:15-179:1 (Clements).

23. Detective Clements was not present for the forensic interview, though she did watch a video recording of it. *Id.* at 265:9-17.

24. Detective Clements did not speak to the forensic interviewer about the interview. *Id.* at 265:9-17.

25. Mr. Torres was awarded custody of his daughter in December 2015. Ex. 8, 37:12-38:1 (Torres).

26. More than two months after the allegations were first made against Mr. Torres, on January 27, 2015, Defendant Clements attempted to contact Mr. Torres by phone, reaching his voicemail. Ex. 31, at 5 (Torres SLCPD IR, 2-15).

27. Mr. Torres returned her call, stated that he “referred any matters pertaining to his ex-wife to his attorney,” and provided Defendant Clements with his attorney’s contact information. *Id.*

28. On February 23, 2015, after she was unable to reach Mr. Torres’s attorney, Defendant Clements issued a Wanted for Ralph Torres. *Id.*

29. Detective Clements testified that her determination of probable cause was based only on her telephone conversation with Mr. Torres’ ex-wife, and the video recording of the forensic interview of Mr. Torres’ daughter. Ex. 3, 178:15-179:1 (Clements).

30. At no time before or after she issued the Wanted for Mr. Torres did Detective Clements consider Mr. Torres to be a flight risk or a danger to anyone. *Id.* at 181:23 – 182:6.

31. Defendant Clements made no attempts to visit Mr. Torres at his home. *Id.* at 211:13-16.

32. During the time that Detective Clements was investigating the allegations against Mr. Torres, the Missouri Department of Social Services (DSS) was concurrently investigating the allegations against Mr. Torres. Ex. 36, at 1 (MDSS Letter).

33. At no point before or after she issued the Wanted for Mr. Torres, nor at any point prior to Mr. Torres' arrest on April 1, 2015, did Detective Clements speak to the DSS investigators about the status of their investigation or any of their investigative findings. Ex. 3, 159:14–17 (Clements).

34. On March 30, 2015, two days before Mr. Torres was arrested, the Missouri Department of Social Services closed its case against Mr. Torres for lack of evidence, noting inconsistencies in Mr. Torres's daughter's statements to investigators. Ex. 36, at 1 (MDSS Letter).

35. Defendant Clements did not learn of this disposition until preparing for her deposition in this case. Ex. 3, 174:22-25 (Clements).

36. Mr. Torres's mugshot, which was taken in conjunction with these accusations, was published on a website called [STLMugshots.com](http://STLMugshots.com) that also indicates he was charged with "STAT SODOMY 1st U 14YR," which remains publicly accessible. Ex. 57 (Torres Mugshot).

37. No charges were brought against Mr. Torres. Ex. 3, 138:2-5 (Clements).

### **III. Plaintiff Dwayne Furlow**

38. On the morning of November 11, 2015, Mr. Furlow was taking his daughter to preschool when his son called him to tell him that their neighbor, Janet Virgin, had been hitting him in the face, and that there was a police officer on the scene. Ex. 7, 150:24-151:10, 152:2-5 (Furlow).

39. Mr. Furlow's son was taking a taxi cab to school and the taxi driver observed the incident. Ex. 4, 164:11-12 (Partin); Ex. 7, 151:6-152:1 (Furlow).

40. Defendant Partin was the officer on the scene, and he spoke to Ms. Virgin, who alleged that Mr. Furlow took her phone and hit her in the head. Ex. 4, 125:7-16 (Partin).

41. Mr. Furlow's son handed Officer Partin his cell phone so he could speak with Mr. Furlow. *Id.* at 125:18-21.

42. Over the phone, Mr. Furlow informed Defendant Partin that Ms. Virgin had assaulted his children. *Id.* at 125:22-126:4.

43. Defendant Partin informed Mr. Furlow that Ms. Virgin had accused Mr. Furlow of stealing her phone, and asked Mr. Furlow to return home to be questioned. Ex. 32, at 4 (Furlow SLPCD IR, 11-15).

44. Mr. Furlow declined to return to his home to be questioned by Defendant Partin, and Defendant Partin informed him he would enter a Wanted into the system for him if Mr. Furlow did not return. *Id.* at 4; Ex. 7, 152:22-153:23 (Furlow).

45. Later that day, Defendant Partin entered a Wanted for Mr. Furlow. Ex. 4, 134:24-135:1 (Partin).

46. That same day, Mr. Furlow's attorney, Blake Strode, attempted to contact Defendant Partin. *Id.* at 141:4-17.

47. Mr. Strode informed Defendant Partin that his client was invoking his Fifth Amendment right to remain silent. *Id.* at 142:13-15; 144:20-24; Ex. 7, 195:24-198:10 (Furlow).

48. At this point, Defendant Partin did not cancel the Wanted. Ex. 4, 144:25-145:10 (Partin).

49. Mr. Strode also sent a letter to St. Louis County Police Department Captain Guy Means on November 11, 2015 via email indicating that Mr. Furlow did not wish to speak to law enforcement. Ex. 61 (Means Letter).

50. This letter was also emailed to Peter Krane and Priscilla Gunn at the St. Louis County Counselors' office that same day. *Id.*

51. The Wanted was not cancelled following these efforts by Mr. Furlow's attorney. Ex. 4, 154:10-12 (Partin).

52. Mr. Strode arranged for Mr. Furlow to come into the police station on December 12, 2015. *Id.*

53. Mr. Furlow again invoked his Fifth Amendment right to remain silent. *Id.* at 154:20-21; Ex. 32, at 6-7 (Furlow SLCPD IR, 11-15).

54. Defendant Partin issued Mr. Furlow a summons that only contained information concerning December 12; it had no information regarding the alleged incidents of November 11. Ex. 34 (Furlow Arrest Notification); Ex. 4, 157:10-14 (Partin).

55. The prosecutor dropped the charges against Mr. Furlow. Ex. 35 (Furlow Prosecutor's Note).

56. On January 25, 2016, Defendant Walsh spoke to Mr. Furlow on the phone concerning allegations made against Mr. Furlow. Ex. 5, 121:14-122:4 (Walsh).

57. Defendant Walsh asked Mr. Furlow to return home to be questioned, and Mr. Furlow said he did not want to speak to Officer Walsh. *Id.* at 122:1-21.



58. Defendant Walsh told Mr. Furlow that if he did not return to his home to speak with him in person, he would issue a Wanted against him. *Id.* at 122:9-15.

59. Mr. Furlow did not return, and Defendant Walsh issued a Wanted against him. *Id.* at 122:22-25.

60. On January 28, 2016, Mr. Furlow was stopped for a traffic violation because his temporary license plates were purportedly in the wrong place. Ex. 33, at 5–6 (Furlow SLCPD IR, 1-16); Ex. 7, 260:19-262:15 (Furlow).

61. The officers determined that Mr. Furlow had a Wanted out for his arrest, so they took him into custody. Ex. 33, at 5–6 (Furlow SLCPD IR, 1-16).

62. The arresting officer read Mr. Furlow his rights, and Mr. Furlow invoked his right to remain silent. *Id.*

63. Defendant Walsh did not interview Mr. Furlow. *Id.*

64. It was decided that Mr. Furlow would be held for twenty-four hours, in accordance with department policy. Ex. 27 (Just. Ctr., Furlow, 1-29-2016); Ex. 5, 139:19-20 (Walsh).

65. In fact, from the time Mr. Furlow was detained until the time he was released, more than 24 hours had passed. Ex. 27, at 1–2 (Just. Ctr., Furlow, 1-29-2016).

66. Defendant Walsh did not pursue a warrant for Mr. Furlow’s arrest. Ex. 5, 133:14-134:3 (Walsh).

67. No charges were brought against Mr. Furlow for this incident. Ex. 5, 139:9-20 (Walsh).

**IV. Plaintiff Howard Liner**

68. An SLCPD officer issued a Wanted against Plaintiff Howard Liner on March 23, 2015 after Mr. Liner's girlfriend reported that he had stolen her vehicle. Ex. 29, at 3 (Liner SLPCD IR, 3-15).

69. After the Wanted was live in the REJIS system, the officer determined that the vehicle was actually repossessed by Mr. Liner's girlfriend's loan company and the accusation against Mr. Liner was unfounded. *Id.*

70. At this point the Wanted was cancelled. *Id.*

71. On August 25, 2015, a separate Wanted was issued against Mr. Liner by Officer Ed Schlueter. Ex. 30, at 5 (Liner SLPCD IR, 8-15).

72. Officer Schlueter issued the Wanted after speaking with both Jaylen Davis, an acquaintance of Mr. Liner who accused Mr. Liner of stealing car tires and rims from Mr. Davis's front lawn, and Jaylen Davis's mother. *Id.* at 5; Ex. 6, 104:16-105:18 (Schlueter).

73. Neither Jaylen Davis nor his mother claimed to have seen Mr. Liner steal the car tires and rims. *Id.* at 107:23-108:2.

74. On October 5, 2015, a St. Louis Metropolitan Police Department officer reported to the scene of an argument between Mr. Liner and another individual, and ran a record check on Mr. Liner. Ex. 38 (SLMPD Liner).

75. Upon discovering the outstanding Wanted, Mr. Liner was arrested at approximately 4:45 a.m. *Id.*

76. Mr. Liner was booked at the Metro PD by Officer French at 5:38 a.m. *Id.*

77. At 10:51 a.m., SLCPD was notified that Liner was in custody. Ex. 63 (SLMPD Liner Fugitive Form).

78. Mr. Liner was booked at the St. Louis County Justice Center at 7:41 p.m. Ex. 26 (Just. Ctr. Liner, 10-5-15).

79. That same day, Officer Goelz informed Officer Schlueter that Mr. Liner had been arrested on his Wanted. Ex. 30, at 7 (Liner SLCPD IR, 8-15).

80. The next morning, around 9:45 a.m., Officer Schlueter interviewed Mr. Liner at the St. Louis County Justice Center. *Id.* at 10.

81. Officer Schlueter determined that the rims could not possibly fit in the trunk of Mr. Liner's car because of the make and model of the vehicle. *Id.* at 10; Ex. 6, 143:6-9 (Schlueter).

82. Mr. Liner was released about an hour later, on October 6, 2015, at 10:57 AM. Ex. 26, at 1 (Just. Ctr., Liner, 10-5-15).

83. Officer Schlueter did not investigate to determine the type of car Mr. Liner drove before deciding to issue the Wanted for him. Ex. 6, 112:13-113:1 (Schlueter).

84. Howard Liner was held for over 30 hours. Ex. 26, at 1 (Just. Ctr., Liner, 10-5-15); Ex. 38 (SLMPD Liner).

85. Mr. Liner's mugshot was published on a website called STLMugshots.com that also indicates he was charged with "STEALING VALUE 500-24999," which remains publicly accessible. Ex. 56 (Liner Mugshot).

#### **V. The Wanted Practice in Ferguson**

86. Departmental General Orders ("G.O.s") are typically used by police departments to lay out their official policies and procedures. Ex. 2, 77:7-14 (Gomez).

87. In the City of Ferguson, General Order 424.00 covers “Teletype Wanted Arrests.” Ex. 60 (Ferguson G.O. 424.00).

88. Since it was last revised, on December 31, 2012, the Ferguson G.O. has required all teletype Wanted entries to be “based on probable cause” and for an officer issuing such Wanted to obtain supervisor approval before placing the Wanted into the computer system. *Id.*

89. After the August 2014 shooting death of Michael Brown in Ferguson, Missouri, the Civil Rights Division of the U.S. Department of Justice (“DOJ”) investigated the Ferguson Police Department. The resulting report, issued on March 4, 2015, included an evaluation of the Wanted process. Ex. 41, at 22 (DOJ Ferguson Report).

90. The Ferguson Police Department has roughly 40 officers. Ex. 13, 81:4-6 (Morrow).

91. The Ferguson Report found that “[the Ferguson Police Department] and other law enforcement agencies in St. Louis County use a system of ‘wanted’ or ‘stop orders’ as a substitute for seeking judicial approval for an arrest warrant.” Ex. 41, at 22 (DOJ Ferguson Report).

92. The Ferguson Report found that although “FPD command staff express support for the wanted system, extolling the benefits of being able to immediately designate a person for detention[,] . . . this expedience carries constitutional risks” including the risk of arresting suspects on less than probable cause. *Id.*

93. The DOJ conducted “interviews with command staff and officers” who, the Report found, “indicate[d] that officers do not clearly understand the legal authority

necessary to issue a wanted. For example, one veteran officer told [the DOJ] he will put out a wanted ‘if I do not have enough probable cause to arrest you.’ He gave the example of investigating a car theft. Upon identifying a suspect, he would put that suspect into the system as wanted ‘because we do not have probable cause that he stole the vehicle.’ Reflecting the muddled analysis officers may employ when deciding whether to issue a wanted, this officer concluded, ‘you have to have reasonable suspicion and some probable cause to put out a wanted.’” *Id.* at 22–23.

94. The Ferguson Report found that sometimes Ferguson Police officers issued Wanted “not merely in spite of a lack of probable cause, but *because* they lack probable cause.” *Id.* at 23.

95. The Ferguson Report also found that “[t]here is evidence that the use of wanteds has resulted in numerous unconstitutional arrests in Ferguson.” *Id.*

96. In particular, the Report found that “[i]nternal communications reveal[ed] problems with FPD officers arresting individuals on wanteds without first confirming that the wanteds are still valid. In 2010, for instance, an FPD supervisor wrote that ‘[a]s of late we have had subjects arrested that were wanted for other agencies brought in without being verified first. You guessed it, come to find out they were no longer wanted by the agencies and had to be released.’ The same supervisor told us that in 2014 he cleared hundreds of invalid wanteds from the system, some of them over ten years old, suggesting that invalid wanteds have been an ongoing problem.” *Id.*

97. The Report noted that “Wanted can also be imprecise, leading officers to arrest in violation of the Fourth Amendment. For example, in June 2011, officers arrested a man at gunpoint because the car he was driving had an active wanted ‘on the

vehicle and its occupants' in connection with an alleged theft. In fact, the theft was alleged to have been committed by the man's brother." *Id.*

98. The Report found that Wanteds "could be used improperly to develop evidence necessary for arrest rather than to secure a person against whom probable cause already exists," noting that officers may be jailing individuals on less than probable cause in order to conduct interviews of those individuals. *Id.*

99. The DOJ spoke with "[o]ne senior supervisor [who] acknowledged that wanteds could be abused. He agreed that the potential exists, for example, for an officer to pressure a subject into speaking voluntarily to avoid being arrested." *Id.*

100. The DOJ was also concerned by what they observed to be "minimal training and supervision provided on when to issue a wanted, and the lack of any meaningful oversight to detect and respond to improperly issued wanteds." *Id.* at 23.

101. The Report found that despite the requirement of supervisory review, many supervisors indicated "that they had never declined to authorize a wanted." *Id.* at 24.

102. The Report found that Ferguson officers expressed frustration at the County prosecutor's office, noting that they were "too restrictive in granting warrant requests, and that this has necessitated the wanted practice." *Id.*

#### **VI. The St. Louis County Police Department Policy on Wanteds.**

103. Missouri state law allows an officer to "arrest, on view, and without a warrant, any person the officer sees violating or who such officer has reasonable grounds to believe has violated any ordinance or law" of Missouri, over which such officer has jurisdiction. R.S.Mo. § 544.216.1.

104. It is the view of St. Louis County that “reasonable grounds” is less than probable cause. Ex. 2, 246:22-247:12 (Gomez).

105. St. Louis County policy requires there to be probable cause to arrest a person. *Id.* at 247:2–7, 13–18.

106. Until July 15, 2015, the written policy on Wantedes in St. Louis County did not mention “probable cause” as a requirement to issue a Wanted. Ex. 21, at 2–3 (G.O. 11-26); Ex. 18, at ¶ 6 (Interrogatory Responses); Ex. 2, 88:7–12 (Gomez).

107. In fact, no policy, procedure, manual, guideline, or written document of any kind prior to July 15, 2015 in St. Louis County indicated that probable cause was required to enter a Wanted. Ex. 2, 262:18–25 (Gomez).

108. Bolded text indicates amended language in a new version of a General Order. Ex. 2, 99:5–19 (Gomez); 108:13-16; Ex. 13, 51:23–52:1 (Morrow).

109. On July 15, 2015, more than four months after the Ferguson Report was issued, SLCPD issued a new G.O., adding language explicitly indicating that probable cause is necessary to issue a Wanted. Ex. 22, at 2–3 (G.O. 15-26); Ex. 2, 100:22–101:1 (Gomez).

110. G.O. 15-26 cancelled and replaced G.O. 11-26 as of July 15, 2015. Ex. 22, at 1 (G.O. 15-26).

111. On September 14, 2016, the SLCPD issued a new G.O. related to Wantedes, G.O. 16-26, adding a requirement that a supervisor review a Wanted before it is issued. Ex. 23, at 2-3 (G.O. 16-26).

112. The probable cause language was added as a direct result of the Ferguson Report. Ex. 13, 54:16–55:17 (Morrow); Ex. 15, 135:3–9 (Burk); Ex. 18, at ¶ 6 (Interrogatory Responses).

113. The County maintains that the addition of probable cause as a requirement for a Wanted was solely for clarification, because probable cause was always, and remains, required for any arrest. Ex. 13, 64:6–15 (Morrow); Ex. 2, 115:11–15 (Gomez).

114. Until September 14, 2016, because there was no policy requiring an officer to discuss his basis for issuing Wanted, if the officer decided not to discuss the Wanted with his supervisor, there was nothing other than an officer's understanding of the law that would prevent a Wanted from being issued without probable cause. Ex. 15, 61:15–18 (Burk).

115. Additionally, there was no requirement that the an officer document the basis for his probable cause determination in a police report. Ex. 6, 65:12–19 (Schlueter).

116. G.O. 15-26 also added a new type of Wanted, referred to as a “Stop Order.” Ex.22, at 2–3 (G.O. 15-26); Ex. 2, 99:2–19, 101:24–102:4 (Gomez).

117. G.O. 16-26, effective as of September 14, 2016 and still in effect today, cancelled G.O. 15-25. Ex. 23, at 1 (G.O. 16-26); Ex. 2, 107:11–22, 108:4–8 (Gomez).

118. Unlike with the addition of “probable cause” to G.O. 15-26, the County maintains that the mandatory supervisory review prior to issuing a Wanted was a new policy. Ex. 13, 71:15–23 (Morrow); Ex. 2, 115:11–19; 116:15–19 (Gomez).

119. The addition of probable cause and of supervisory review to the Wanted process resulted in the SLCPD having the exact same safeguards in place on September



14, 2016 as the Ferguson Police Department did prior to the time that the Ferguson Report was issued. Ex. 60 (Ferguson G.O. 424.00); Ex. 23 (G.O. 16-26).

120. The DOJ had found that those same safeguards did not prevent Wanted in Ferguson from operating as an “end-run around the judicial system” with a high risk of abuse. Ex. 41, at 22 (DOJ Ferguson Report).

121. It is the policy of the SLCPD that Wanted may be issued in order to have a person who the issuing officer has probable cause to believe has committed a crime arrested for purposes of interrogating that person while in custody. Ex. 2, 39:12-40:8; 65:8-66:7 (Gomez); Ex. 13, 124:3-12 (Morrow); Ex. 5, 55:25-56:6 (Walsh); Ex. 4, 42:2-5 (Partin); Ex. 15, 35:6-9 (Burk).

122. This policy is not written, but it is widely followed by officers in the SLCPD. Ex. 5, 55:25-57:8 (Walsh).

123. SLCPD officers are trained that Wanted are to be used for investigatory purposes. Ex. 6, 36:17-37:3 (Schlueter).

124. SLCPD officers are trained that so long as they have probable cause, they can arrest a person for whatever purpose. Ex. 2, 39:17-40:1 (Gomez).

125. The information obtained during the custodial interrogation of a person arrested on a Wanted supports the warrant application, if one is made, for that person. Ex. 3, 28:16-25 (Clements); Ex. 2, 128:2-7 (Gomez).

126. It is the policy of the SLCPD that arresting a suspect of a crime in order to interrogate that person is a valid use of the power to arrest. Ex. 2, 39:17-40:1 (Gomez).

127. The SLCPD does not require that a person who has been arrested on a Wanted be promptly brought before a neutral magistrate. *Id.* at 249:14-16.

128. The SLCPD does not require that an officer who has either arrested or has issued a Wanted on which a person has been arrested use the period in which that person is detained to seek a warrant. Ex. 3, 233:2-7 (Clements).

129. An officer who issue a Wanted does so for the purpose of making an in-person contact with the person the issuing officer believes has committed a crime. *Id.* at 26:19-23.

130. Detectives Clements and Walsh and Officers Partin and Schlueter issued WANTEDs against the Named Plaintiffs in accordance with SLCPD policy. Ex. 3, 221:24-222:4 (Clements); Ex. 5, 70:7-11 (Walsh); Ex. 4, 62:25-63:19 (Partin); Ex. 6, 32:20-25 (Schlueter).

#### **VII. Issuing a Wanted.**

131. The SLCPD provides its officers with access to three database systems for storing and accessing a variety of information relevant to their day-to-day police work, including entering and searching for WANTEDs: Regional Justice Information System (“REJIS”), Missouri Uniform Law Enforcement System (“MULES”), and National Crime Information Center (“NCIC”). Ex. 22, at 2 (G.O. 15-26); Ex. 2, 30:25-31:4 (Gomez).

132. When an officer wishes to enter a person as Wanted, the officer must provide the report number, first and last name, age or date of birth, height and weight of the suspect to a computer clerk called a “CARE operator.” Ex. 22, at 2 (G.O. 15-26); Ex. 2, 13:11-13; 100:3-21 (Gomez); Ex. 12, 27:4-14 (Jennings).

133. The CARE operator creates the Wanted entry upon instruction from the issuing officer without independently assessing probable cause. Ex. 2, 213:12-17 (Gomez); Ex. 3, 102:2-103:13 (Clements).

134. After the release of the Ferguson Report, language regarding the requirement to have probable cause before issuing a Wanted was added to the REJIS screen that only a CARE operator sees when entering a Wanted. Ex. 12, 73:11-74:21, 76:1-12, 77:2-8 (Jennings).

135. The data contained in each Wanted entry is received and stored by REJIS. Ex. 1, 36:12-14 (Meschke).

136. Wanted entries entered into REJIS can be viewed by most agencies in St. Louis County and surrounding Missouri, Illinois and Kansas counties, but not all. Ex. 22, at 3 (G.O. 15-26); Ex. 12, 23:23-24:7 (Jennings).

137. REJIS is a government agency created by St. Louis City and St. Louis County and serves various other government agencies' IT functions, including data storage and hosting law enforcement applications. Ex. 1, 22:4-13 (Meschke).

138. A Felony Wanted for a Class A Offense may remain active in the REJIS system indefinitely. Ex. 44, at 54 (Wanted Entry Guide 1-2017); Ex. 43, at 52 (Wanted Entry Guide 7-14); Ex. 52 (Wanted Rules Chart); Ex. 15, 107:7-14 (Burk); Ex. 10, 39:7-9 (Parr).

139. Non-Class A Offense Felony Wanted entries may remain active in the REJIS system for three years. Ex. 44, at 54 (Wanted Entry Guide 1-2017); Ex. 43, at 52 (Wanted Entry Guide 7-14); Ex. 52 (Wanted Rules Chart).

140. Misdemeanor Wanted may remain active in REJIS for one year. Ex. 44, at 54 (Wanted Entry Guide 1-2017); Ex. 43, at 28 (Wanted Entry Guide 7-14); Ex. 52 (Wanted Rules Chart).

141. A REJIS Wanted is frequently referred to as just a “Wanted,” but MULES/NCIC temporary Wanted, Stop Orders, and Person of Interests are also types of Wanted. Ex. 44, at 4 (Wanted Entry Guide 1-2017); Ex. 43, at 4 (Wanted Entry Guide 7-14); Ex. 2, 125:22-126:14 (Gomez).

142. Misdemeanor and felony temporary Wanted records in MULES can be viewed by law enforcement agencies in the State of Missouri. Ex. 22, at 3 (G.O. 15-26); Ex. 13, 39:5-17 (Morrow).

143. Felony temporary Wanted records in the NCIC system can be viewed by law enforcement agencies nationwide. Ex. 22, at 3 (G.O. 15-26).

144. Temporary Wanted entered into NCIC or MULES automatically are cancelled after 48 hours. *Id.*; Ex. 44, at 12 (Wanted Entry Guide 1-2017); Ex. 43, at 3 (Wanted Entry Guide 7-14); Ex. 40 (2016 MULES Manual).

145. Additionally, a “Stop Order” or “Person of Interest” is a type of Wanted entry used to keep a Wanted record in MULES for up to one year. Ex. 22, at 3 (G.O. 15-26); Ex. 44, at 26 (Wanted Entry Guide 1-2017); Ex. 43, at 26 (Wanted Entry Guide 7-14); Ex. 40 (2016 MULES Manual).

146. After one year, MULES Stop Orders and Person of Interest entries are automatically purged from the MULES system. Ex. 44, at 26 (Wanted Entry Guide 1-2017); Ex. 43, at 3 (Wanted Entry Guide 7-14); Ex. 52 (Wanted Rules Chart); Ex. 40 (2016 MULES Manual).

147. Stop Orders and Person of Interests are limited to one charge. Ex. 22, at 3 (G.O. 15-26); Ex. 44, at 27 (Wanted Entry Guide 1-2017); Ex. 43, at 28 (Wanted Entry Guide 7-14); Ex. 52 (Wanted Rules Chart).

148. A Stop Order and Person of Interest entry may also be referred to as a “Wanted for Questioning,” “Stop Hold,” or “Stop and Hold.” Ex. 44, at 26 (Wanted Entry Guide 1-2017); Ex. 43, at 28 (Wanted Entry Guide 7-14).

149. In St. Louis County, an officer who encounters a person with a Stop Order is to handle it in the same way as a Wanted or arrest order. Ex. 22, at 3 (G.O. 15-26).

150. As of April 25, 2016, MULES renamed “Stop Order” to “Person of Interest” or “POI,” but indicated that the “method for dealing with” the record did not change. Ex. 51, at 2 (Stop Order Change to POI).

151. St. Louis County agrees that Stop Order and a Person of Interest entries are the same thing. Ex. 2, 29:20-22, 102:5-7 (Gomez).

152. St. Louis County maintains that Stop Orders and Person of Interest entries require probable cause because they are types of Wanted, and Wanted require probable cause. Ex. 2, 102:8-103:1 (Gomez).

153. MULES is not clear on whether probable cause is required to issue a POI. Ex. 51, at 5-6 (Stop Order Change to POI); Ex. 40, at 5 (2016 MULES Manual); Ex. 44, at 27 (Wanted Entry Guide 1-2017); Ex. 15, 181:18-21 (Burk).

154. Wanted may also be issued on vehicles. Ex. 2, 160:14-25 (Gomez).

155. Wanted cannot be the basis of an extradition across state lines. Ex. 23, at 4 (G.O. 16-26); Ex. 2, 92:12-22; 94:12-95:11 (Gomez).

156. A computer clerk typically validates active Wanted to ensure they are still valid ninety days after the Wanted is issued, and once a year thereafter. Ex. 2, 74:10-12 (Gomez); Ex. 20, at 4 (Bureau Proc. 15-29).

157. This validation serves to determine whether the Wanted should remain in the system, not whether it was properly entered into the system in the first place; there is no assessment of whether or not it was or remains supported by probable cause. Ex. 2, 163:6-164:12 (Gomez).

158. As a matter of SLCPD policy, once a Wanted has been issued in the REJIS or MULES system, there is no process by which the subject of the Wanted is made aware that there is a Wanted issued against them. Ex. 3, 53:8-19 (Clements).

159. There is no process by which the subject of a Wanted may quash the Wanted, or challenge the basis for the Wanted, other than submitting him or herself to the police station for questioning. Ex. 4, 65:2-19 (Partin).

160. St. Louis County issued over 15,000 Wanted during the class period. Ex. 59 (SLCPD Wanted Data 2011-2016).

161. Of those, 2,500 arrests were made pursuant to the Wanted. *Id.*

### **VIII. Arresting on a Wanted.**

162. SLCPD officers use “arrest order” and Wanted synonymously. Ex. 2, 139:22-24 (Gomez).

163. The SLCPD authorizes its officers to take a person who has a Wanted issued against him or her into custody. *Id.* at 164:14-21.

164. An officer who wishes to learn whether an individual is tagged as Wanted can run the person's name through the REJIS or MULES databases while in the field, including from the police car. Ex. 15, 28:15-19 (Burk); Ex. 2, 31:18-24 (Gomez).

165. This happens during routine traffic stops, when taking information from witnesses of crimes, and other chance encounters between law enforcement and individuals in much the same way as an officer would check for any outstanding warrants. Ex. 15, 28:20-25 (Burk); Ex. 2, 61:20-63:2 (Gomez).

166. Officers may also run a search for people with outstanding Wanted in a geographical area. Ex. 3, 208:17-209:2 (Clements).

167. Probable cause is not required to run a name check. Ex. 2, 62:5-12 (Gomez); Ex. 15, 29:10-13 (Burk).

168. When an individual's name is run in the system and there is a Wanted issued against that person, the officer running the search will learn that there is a Wanted out for that person, the name of the officer who issued the Wanted, and the crime for which the person is wanted. Ex. 15, 31:20-33:5 (Burk).

169. The basis for the issuing officer's probable cause determination is not revealed to the arresting officer. Ex. 15, 33:6-9 (Burk); Ex. 2, 257:20-24 (Gomez).

170. There is no requirement of exigent circumstances to issue or arrest someone on a Wanted instead of pursuing a warrant. Ex. 2, 85:21-86:4, 88:20-89:6, 136:1-9 (Gomez).

171. There is no judicial involvement in the Wanted process. Ex. 13, 77:9-16 (Morrow); Ex. 2, 67:15-17 (Gomez).

**IX. Detaining on a Wanted**

172. Missouri state law provides that officers may not hold a person arrested on a Wanted for longer than twenty-four hours. R.S.Mo. § 544.170.1; Ex. 2, 240:4-13 (Gomez).

173. The SLCPD interprets this statute to mean they are allowed to hold a suspect without a warrant for 24 hours. Ex. 13, 121:15-21 (Morrow).

174. The time in which a person is detained may be used by an officer to arrive at the station to question the person, or to apply for a warrant. Ex. 2, 241:13-242:17 (Gomez).

175. SLCPD officers routinely, and according to SLCPD policy, use the time in which the person arrested on a Wanted is detained to interrogate that person. *Id.* at 23:16-25, 39:14-40:1, 65:8-66:7, 133:9-19, 135:11-15, 258:21-259:5 (Gomez); Ex. 13, 36:10-22, 41:2-5, 77:24-78:3 (Morrow); Ex. 3, 29:22-30:20 (Clements); Ex. 4, 42:2-5 (Partin); Ex. 5, 55:25-56:6 (Walsh); Ex. 6, 32:18-25, 35:21-36:14 (Schlueter); Ex. 15, 35:6-9 (Burk).

**X. Applying for a Warrant.**

176. The G.O. currently governing warrant application procedure in St. Louis County is G.O. 16-37. Ex. 25, at 9-13 (G.O. 16-37).

177. G.O. 16-37 has been in effect since March 16, 2016, and is still in effect today. *Id.* at 1; Ex. 2, 144:16-145:5 (Gomez).

178. G.O. 16-37 indicates that officers are “permitted and encouraged to apply for an arrest warrant or summons prior to effecting a full custody arrest” where there is no potential danger to the public or risk of loss of evidence.” Ex. 25 (G.O. 16-37).



179. The St. Louis County Prosecuting Attorney's Office ("PAO") requires that an officer make in-person contact with a suspect before applying for a warrant. Ex. 13, 36:10-22 (Morrow); Ex. 2, 131:2-15 (Gomez); Ex. 4, 45:3-13 (Partin); Ex. 5, 52:6-12, 53:22-54:2 (Walsh); Ex. 14, 64:15-24, 40:4-10 (Monahan).

180. As a result, SLCPD officers typically issue a Wanted rather than apply for a warrant, even if the officer believes she has probable cause to arrest a person. Ex. 5, 83:14-16 (Walsh); Ex. 3, 28:23-25 (Clements); Ex. 2, 127:20-128:11, 131:23-132:7 (Gomez).

181. If an officer is able to make an in-person contact with a suspect without arresting that person, the officer typically will not enter a Wanted. Ex. 2, 248:22-249:7 (Gomez).

182. REJIS notes that a Wanted Entry is for when a "[s]ubject is wanted for questioning" and there is no warrant associated with the record. Ex. 44, at 3, 4 (Wanted Entry Guide 1-2017); Ex. 43, at 3, 4 (Wanted Entry Guide 7-14).

183. A warrant entry is when a "subject is wanted by the court and there is a warrant number associated with at least one charge on the record." Ex. 44, at 3, 4 (Wanted Entry Guide 1-2017); Ex. 43, at 3, 4 (Wanted Entry Guide 7-14).

184. A Wanted may no longer be active or valid, for instance because probable cause has dissolved, yet it could remain in the system and an officer may arrest an individual on the invalid Wanted. Ex. 15, 109:4-17, 121:10-18 (Burk).

185. St. Louis County does not maintain easily accessible records on how many officers who arrested individuals on Wanted were later denied warrants for lack of

probable cause. Ex. 2, 230:17-23 (Gomez); Ex. 14, 78:1-9 (Monahan); Ex. 18, at ¶ 4 (Interrogatory Responses).

## **XI. LEPAC**

186. The Law Enforcement Policy Advisory Committee (“LEPAC” or the “Committee”) was formed by the REJIS commission in 1974. Ex. 45, at 1 (LEPAC Procedures 1984).

187. The Objective of the Committee is “to provide advice and recommendations to the REJIS Commission on policy issues affecting the law enforcement and corrections users of the network and/or relating to law enforcement and corrections information maintained on the network.” Ex. 42, Art. II (LEPAC Bylaws).

188. St. Louis County Police Lieutenant Jeff Burk joined the LEPAC board in May 2012, by virtue of his position as commander of the Bureau of Central Police Records. Ex. 15, 102:18-19, 103:16-20 (Burk).

189. In advance of LEPAC meetings, members would receive a packet including, among other things, “LEPAC Agenda Items.” *Id.* at 105:4-7.

190. These Agenda Items contained memos detailing topics to be discussed at the next LEPAC meeting. *Id.* at 105:8-10.

191. Citing the U.S. Department of Justice’s Report on Ferguson, the LEPAC Agenda Item memo for LEPAC’s May 7, 2015 meeting, recommends that LEPAC affirm the current validation schedule for Wanted, or make changes that LEPAC felt appropriate. Ex. 46 (LEPAC Agenda 5-7-15).

192. On May 7, 2015, LEPAC affirmed the current Stop Order Validation policy, which required that any MULES qualified record be validated 90 days after the record was entered and then annually thereafter. Ex. 47, at 2-3 (LEPAC Minutes 5-7-15).

193. On August 6, 2015, LEPAC approved the addition of the following language to REJIS's Wanted training manual – “The law enforcement officer entering the ‘wanted’ information must have probable cause to believe the person committed the crime prior to entering a REJIS ‘Wanted’ on that person.” Ex. 48, at 2 (LEPAC Minutes, 8-6-15).

194. On May 5, 2016, LEPAC agreed to add the language “Contact & Advise – Not Probable Cause to Detain/Arrest – Contact ORI” to the “Wanted Person” screen for “Person of Interest” records, noting the potential confusion among officers. Ex. 49, at 2 (LEPAC Minutes 5-5-16).

195. On a November 3, 2016, LEPAC noted that the May 5, 2016 decision caused confusion among various departments and they agreed not to change the “Wanted” language, and decided that the information would be kept in the REJIS system only and not forwarded to MULES since they did not allow detention/arrest on “Person of Interest.” Ex. 50, at 2 (LEPAC Minutes 11-3-16).

## **XII. Training**

196. Wantedes are a common and routinely used mechanism among officers in the St. Louis County Police Department. Ex. 6, 75:16-25, 89:15-19 (Schlueter); Ex. 3, 46:22-47:8 (Clements); Ex. 5, 57:13-17 (Walsh).

197. The police academy lasts for six months and includes both academic and physical training. Ex. 5, 26:12-18 (Walsh).

198. Newly hired officers in the St. Louis County Police Department do not receive training on Wanted, as distinct from arrests generally, in the police academy. Ex. 19, at ¶ 6 (RFA Responses); Ex. 3, 31:12-20 (Clements).

199. Officers are taught Constitutional law in the academy. Ex. 37, at 5-7 (Basic Training Curriculum); Ex. 13, 93:21-23, 95:17-96:5 (Morrow).

200. Instructors in the police academy are not legal professionals and they lack a formal educational background in Constitutional law. Ex. 13, 50:18-25, 96:6-97:4 (Morrow); Ex. 55 (Grames CV).

201. Trainings conducted on how to use the REJIS or MULES systems do not explain the legal requirements for issuing a Wanted or when it is appropriate to issue a Wanted. Ex. 12, 42:2-9, 45:8-10, 65:11-66:8 (Jennings); Ex. 5, 61:5-17 (Walsh).

202. Officers are taught about the 24-hour rule in the academy. Ex. 3, 76:8-21 (Clements); Ex. 37, at 7 (Basic Training Curriculum).

203. Detective Laura Clements testified to using the 24-hour rule to obtain information that is used in support of a warrant for a suspect's arrest. Ex. 3, 80:8-23, 81:13-23, 82:4-8 (Clements).

204. During the academy, officers and recruits in St. Louis County are given updated policies and then asked to read and sign off on them without being specifically trained on the application of the policies. Ex. 4, 34:18-20 (Partin); Ex. 39 (Acknowledgment of Policy).

205. Field training, which follows academy training, pairs new officers with more senior officers for monitoring, advice, and instruction as the new officers begin to respond to calls and conduct investigations. Ex. 5, 46:15-47:1, 47:9-23 (Walsh).

206. Officers are taught that a Wanted is a tool used to complete the officer's investigation by allowing the officer to interview a suspect while the suspect is detained, which then allows the officer to seek a warrant. Ex. 2, 23:14-25 (Gomez); Ex. 13, 36:10-22, 37:7-38:6, 38:11-19 (Morrow); Ex. 6, 32:10-25 (Schlueter); Ex. 3, 52:7-17 (Clements); Ex. 5, 55:25-56:6 (Walsh); Ex. 4, 144:15-19 (Partin).

207. Detective Clements testified that she has never been trained on when it would be appropriate to seek an arrest warrant before a person is in custody and that she has never done so. Ex. 3, 65:22-66:2 (Clements).

208. Officers are taught about the 24-hour rule in field training. Ex. 3, 77:19-24 (Clements).

209. During field training, police officers in St. Louis County are given policies and then asked to read and sign off on them without being specifically trained on the application of the policies. Ex. 6, 34:8-20 (Schlueter); Ex. 39 (Acknowledgment of Policy).

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the *Plaintiffs' Statement of Uncontroverted Material Facts in Support of Plaintiffs' Motion for Summary Judgment* was served upon all parties of record by this Court's CM/ECF electronic notification system on this 25<sup>th</sup> day of August, 2017:

/s/ Eric A. Stone  
Eric A. Stone