

June 10, 2020

City Attorney Tearman Spencer
City Hall
200 E. Wells Street, Room 800
Milwaukee, WI 53202

Dear City Attorney Spencer,

In the wake of the killings of George Floyd, Joel Acevedo, and Breonna Taylor by police, people have come together to express their pain and outrage and advocate for racial justice and police reform. These protests have been mostly conducted peacefully, a practice fully protected by the First Amendment.

Unfortunately, law enforcement has issued hundreds of tickets to these demonstrators, many for curfew or unlawful assembly violations alone. Such citations penalize what would otherwise be perfectly lawful activity, absent the imposition of constitutionally questionable curfew or dispersal orders. See *Washington Mobilization Committee v. Cullinane*, 566 F.2d 107 (D.C. Cir. 1977) (even when there is unlawful activity by some participants in demonstration, the police may not act against the assembly as a whole, unless it is “substantially infected with violence or obstruction.”); *Barham v. Ramsey*, 434 F.3d 565, 573 (D.C. Cir. 2006) (finding mass arrests invalid where there were only isolated acts of violence and vandalism). Other tickets have been for disorderly conduct, resisting arrest and other minor offenses, and many seemed to be given in retaliation for protected activity, such as recording police actions. While we do not have systematic data on all of the individuals who have received tickets, anecdotally it appears that they may be disproportionately young Black men, further exacerbating the disparities we see throughout our criminal legal system.

We ask that you dismiss all municipal citations related to these demonstrations, as many other jurisdictions have decided to do. In New York, for example, the District Attorneys in Manhattan, Brooklyn and the Bronx announced they would not prosecute people arrested for and accused of low-level offenses, such as disorderly conduct and unlawful assembly.¹

As I am sure you know, even municipal citations have negative consequences for employment, housing, and other aspects of life. Particularly for people with limited financial means, unpaid fines and fees can result in jail time, lost driving privileges, unmanageable debt burdens and burdensome collection procedures. The \$691 fine for curfew tickets represents a substantial amount of money for people with no or limited discretionary income.

¹ <https://www.nytimes.com/2020/06/05/nyregion/nyc-protests-george-floyd.html>

While various organizations are working to ensure that people who receive citations will be represented in municipal court, the best course would be to simply dismiss these tickets before initial appearances, potential motion practice and trials unnecessarily clog the municipal court's docket.

Local leadership is essential for the safety of our communities and the vitality of our democracy. You can change the course of this moment and our history by breaking with harmful tactics of the past and demonstrating a new kind of leadership for the future. We feel that under your new leadership, the City Attorney's Office can step up and ensure the equitable administration of justice for all the residents of Milwaukee.

Please advise us whether your office will dismiss citations related to the protests of the past two weeks. Thank you for your attention to this matter.

1. Larry Dupuis, ACLU of Wisconsin
2. Molly Collins, ACLU of Wisconsin
3. Aneeq Ahmad, Ahmad & Associates
4. Mindy M. Nolan, Ahmad & Associates
5. John A. Birdsall, Birdsall Obear & Associates
6. Nicole A. Muller, Birdsall Obear & Associates
7. Kirk B. Obear, Birdsall Obear & Associates
8. Nate Cade, Cade Law
9. Carlos Pastrana, Cade Law
10. Michelle L. Velasquez, Civitas Law Group, Inc.
11. William F. Sulton, Gingras Thomsen & Wachs LLP
12. Peter Goldberg
13. Jason D. Luczak, GRGB Law
14. Robert J. Dvorak, Halling & Cayo, S.C.
15. Richard Saks, Hawks Quindel
16. Arthur Heitzer, Law Office of Arthur Heitzer
17. Brenda Lewison, Law Office of Arthur Heitzer
18. Lorraine McNamara-McGraw, Horizons Law Group, LLC
19. Anthony Cotton, Kuchler & Cotton
20. Nicholas M. Weege, Lagmann, Inc.
21. Colleen Foley, Legal Aid Society of Milwaukee, Inc.
22. Gabriela Leija
23. Erika Petty, LOTUS Legal Clinic
24. Chad Lanning, Lubar & Lanning, Immediate Past President of the Wisconsin Association of Criminal Defense Lawyers
25. Rebecca Coffee, Mastantuono & Coffee SC
26. Craig Mastantuono, Mastantuono & Coffee SC
27. Leah Thomas, Mastantuono & Coffee SC
28. Milwaukee Turners Confronting Mass Incarceration committee

29. NAACP Milwaukee Branch
30. National Lawyers Guild, Milwaukee chapter
31. Elizabeth Gamsky Rich, Rich Law SC
32. Allison Ritter, Ritter Law Office, LLP
33. Justin L. Singleton, The Singleton Law Firm
34. Chelsea M Payant, Sommer, Olk & Payant, SC
35. Lillian Cheesman, Summit Law Office, LLC
36. Craig R. Johnson, Sweet & Associates
37. Claudia Verba
38. Aaron Nelson, Wisconsin Association of Criminal Defense Lawyers
39. Gretchen Schuldt, Wisconsin Justice Initiative