SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION

BLACK LIVES MATTER D.C., et al., Plaintiffs, v. MURIEL BOWSER, et al., Defendants.	2018 CA 003168 B Judge John M. Campbell Next Court Date: November 2, 2018

PLAINTIFFS' RESPONSE TO DEFENDANTS' STATUS REPORT REGARDING THE DISTRICT OF COLUMBIA'S IMPLEMENTATION OF THE NEAR ACT

Defendants' status report reveals that, more than two and a half years after the passage of the NEAR Act, and approximately nine months after misrepresenting in communications to the public that the NEAR Act had already been implemented or was in the process of being implemented, Defendants are still trying to dodge their data-collection responsibilities under that Act.

Defendants' proposed interim solution complies with neither the letter nor the spirit of the NEAR Act. Instead, Defendants propose a piecemeal and partial collection system that:

- still fails to collect all the required data;
- collects some of the required data in a manner that makes complete collection exceedingly unlikely and difficult to verify, and the data itself nearly impossible to aggregate and analyze;
- collects some of the required data in a medium (body-worn camera recording) that does not qualify as a "record" under the NEAR Act and that will not normally be kept longer than 90 days; and
- is unclear as to whether data will be collected for stops resulting in warnings.

Defendants propose that this flawed system remain in place for nearly a year (until the end of summer 2019). By that time, Defendants represent, they will have a system that "feature[s] data fields which correspond to each of the data categories required by Title II(G) of the NEAR Act," Defs.' Status Report 5 — *except* for one field (the reason for the stop) that Defendants have decided, in contravention of the NEAR Act's clear requirements, is sometimes better left out, *see id.* at 5-6.

Although Plaintiffs are mindful of the Court's understandable reluctance to interfere with the operations of MPD, "[t]here is a point when the court must let the agency know, in no uncertain terms, that enough is enough." *In re Int'l Chem. Workers Union*, 958 F.2d 1144, 1150 (D.C. Cir. 1992) (citation and internal quotation marks omitted). If that point had not been reached prior to these filings, Defendants' latest proposal has brought us to it without doubt. Defendants have shown the Court, through years of inaction and now a plainly inadequate proposal, that they are not interested in complying with the NEAR Act data-collection requirement and cannot be trusted to do so without judicial intervention.

Fortunately, there is a simple, minimally intrusive solution that the Court can order — the use of a one-page form with fields for each category of data required by the NEAR Act — to ensure prompt compliance. Plaintiffs respectfully propose such a form as an Appendix to this response and in the Proposed Order. The Court can then leave it in MPD's hands to decide whether the data from this form will be processed or aggregated electronically, what other data to collect and how, and even how long the interim form will remain in use. By creating an interim remedy that will bring MPD into compliance with the NEAR Act right away and that can be used until MPD creates its preferred system, the Court will free MPD to proceed with its own ultimate solution at its own pace.

What the Court should not do is reward Defendants' stonewalling and dithering by accepting half-measures that fall short of statutory compliance. The preliminary injunction should be granted.

I. Defendants' Proposed Interim Solution Falls Well Short Of Compliance With The NEAR Act's Data Collection Requirement.

Measured against the clear requirements of the NEAR Act, Defendants' proposed interim solution is inadequate in several ways. Title II(G) of the NEAR Act amended the D.C. Code to provide:

> The Mayor of the District of Columbia shall cause the Metropolitan Police force to keep the following records: …

Records of stops, including:

A. The date, location, and time of the stop;
B. The approximate duration of the stop;
C. The traffic violation or violations alleged to have been committed that led to the stop;
D. Whether a search was conducted as a result of the stop;
E. If a search was conducted:
    i. The reason for the search;
    ii. Whether the search was consensual or nonconsensual;
    iii. Whether a person was searched, and whether a person's property was searched; and
    iv. Whether any contraband or other property was seized in the course of the search;
F. Whether a warning, safety equipment repair order, or citation was issued as a result of a stop and the basis for issuing such warning, order, or citation;
G. Whether an arrest was made as a result of either the stop or the search;
H. If an arrest was made, the crime charged;
I. The gender of the person stopped;
J. The race or ethnicity of the person stopped; and
K. The date of birth of the person stopped.

D.C. Code § 5-113.01(a)(4B).

Defendants propose to implement this requirement from November 9, 2018, to the end of summer 2019 using two forms specified in its draft General Order 304.10 and its Attachment B (attached as Exhibits 1 and 3 respectively to Defendants' Status Report). For "NOI stops" (i.e., stops resulting only in issuance of an NOI, or Notice of Infraction), MPD will require officers to complete an NOI form, provided as Exhibit 4 to the Status Report. *See* Attach. B (Defs.' Ex. 3), at 2, § II.C.4. MPD proposes that certain information from NOI stops be recorded not on any form but on officers' body-worn cameras (BWCs). For other stops, MPD will require officers to complete an "RMS" form whose content is specified in Attachment B, with several data points to be entered only in the "narrative" section of that form. *See id.* at 2-5, § II.C.5 & II.D.

Unfortunately, the inadequate content of these forms, the use of BWCs in place of written electronic or paper records for NOIs, the overreliance on the narrative section of the RMS form, and a lack of clarity as to data collection for stops resulting in warnings, all render MPD's proposal woefully inadequate to collect and keep all the required data.

A. Defendants' proposal would fail to collect all the required data.

Although Defendants claim that their interim measures will bring them into compliance and even produce a chart (Defs.' Ex. 5) purporting to show how this will be so, Defendants' claim and their chart are simply wrong. The RMS form, whose contents are outlined in Attachment B (Defs.' Ex. 3, at 4-5), is missing five categories of data:

E. If a search was conducted:
   ii. Whether the search was consensual or nonconsensual; and
   iii. Whether a person was searched, and whether a person's property was searched;
F. Whether a warning, safety equipment repair order, or citation was issued as a result of a stop and the basis for issuing such warning, order, or citation;
G. Whether an arrest was made as a result of either the stop or the search; and
H. If an arrest was made, the crime charged.

The RMS form does contain some general, catch-all categories in which these elements *might* be entered: for instance, E(ii) and E(iii) *could* be addressed in answering "If there was a search, what type?" and F, G, and H *could* be included under "Result of Stop." *See* Attach. B (Defs.' Ex. 3), at 5 (chart). But nothing in Attachment B (or anything else in Defendants' proposed General Order) requires that these five statutorily-mandated categories of data be included. So whether they are collected will be a matter of happenstance. The D.C. Council did not intend for the data to be collected in an erratic manner, and nothing in the statute suggests that occasional, periodic, or even frequent compliance is sufficient. The NEAR Act instructs Defendants to cause the specified categories of data to be collected comprehensively. Under Defendants' proposal, several of them are not required to be collected in the RMS form that applies to all non-NOI stops.

B. Defendants' use of the "internal narrative" section of the RMS form to collect several data categories is virtually guaranteed to fail.

The proposed RMS form has an additional problem as well: it relegates several categories of NEAR Act-required data to the "Internal Narrative" section of the form. Specifically, Defendants' new order designates five data categories for inclusion only in the narrative section of the RMS form rather than in separate fields designated for these categories:

B. The approximate duration of the stop;
C. The traffic violation or violations alleged to have been committed that led to the stop;
D. Whether a search was conducted as a result of the stop;
E. If a search was conducted:
    i. The reason for the search; and
    iv. Whether any contraband or other property was seized in the course of the search.

See Attach. B (Defs.' Ex. 3), at 5 (chart). Although in theory this system could result in the collection of all the specified types of data, common sense teaches that it will not. Busy officers, charged with narrating salient details of the stop as well as with filling out numerous specific types of information listed in the General Order but not on the form in front of them, are very unlikely to remember to include each of the required but unlisted categories every time they complete the open-ended narrative section. Officers are, of course, charged with keeping a great deal of information in their heads and learning it well. But they are only human, and the NEAR Act categories are a lot to remember. Rather than the simple and straightforward measure of creating a form with designated and clearly-marked fields to facilitate officers' compliance with the law, Defendants have chosen a method of recording five categories of data that practically ensures they will sometimes, if not often, be accidentally left out.

Compounding the problem with the narrative section is the difficulty supervisors will have in monitoring officers' compliance with the mandate to include required categories. Because the narrative box contains no fields and no structure, each officer will inevitably fill out the narrative in his or her own way and sequence based on his or her own style and how each encounter unfolded. As a result, a supervisor charged with ensuring the presence of each NEAR Act-required data category in the narrative box will have to spend an inordinate amount of time finding each piece of information amidst a free-flowing narrative. Monitoring officer adherence to recordkeeping requirements is essential to ensure compliance, as recent experience teaches. *See Huthnance v. District of Columbia,* 793 F. Supp. 2d 183, 200 (D.D.C. 2011) (Lamberth, C.J.) (recounting results of study finding that more than 34% of MPD disorderly conduct arrest reports from the first half

of 2005 failed to state probable cause for arrest and further noting two experts' views that "had the District reviewed the PD-163s in a systematic fashion, these deficiencies — and the larger problem of unconstitutional arrests that they indicate — would have been identified").

Here, had Defendants elected to create fields for each data category, a supervisor could quickly scan a form to see if each item has been completed. But Defendants have instead chosen a method for collecting some of the data that is both difficult for officers to implement consistently and difficult for supervisors to monitor. It is hard to imagine a more cumbersome method of collecting the data than the one Defendants have chosen. And even this method, as explained in the previous section, still fails to require that five statutorily-required categories of data be collected at all.

Defendants may respond that, as the agency charged with implementing the law, they are entitled to choose whatever method of compliance they see fit, and any flaws are merely a matter of internal management, not a problem for this Court's attention. That view exalts form over substance. It is obvious that Defendants' system, relying on officers to remember detailed data requirements, is designed to fail at least some of the time. Any plea for deference would also fly in the face of the embarrassing history of Defendants' foot-dragging on NEAR Act implementation. Perhaps on a clean slate, a court might, out of respect for its coordinate branch, defer to an agency's implementation plan even if it seems poorly designed or unlikely to be effective. But Defendants have repeatedly demonstrated their antipathy to this law and thereby forfeited whatever benefit of the doubt they might otherwise deserve from this Court.

A final shortcoming of Defendants' proposed use of the narrative section to collect several of the required data categories is that the data from the narrative will be difficult to aggregate and analyze. Like the MPD supervisor checking for the inclusion of each category, a member of the public or government-watchdog organization trying to create a comprehensive, data-based analysis

of MPD's policing practices will have to sift through paragraphs of prose narratives to find the information that the D.C. Council required MPD to record and keep for the purpose of enabling public disclosure. Plaintiffs recognize that the NEAR Act does not by its terms require the data to be collected in the most convenient form for aggregation and analysis. Nonetheless, the D.C. Council passed the NEAR Act in part to promote "transparency and accountability," "increase[] opportunities for community participation and collaboration in policing," and enhance "community trust." Declaration of Shana Knizhnik in Support of Pls.' Mot. for Prelim. Inj'n ("Knizhnik Decl."), Attach A at 23 (D.C. Council Judiciary Committee Report on the NEAR Act). Achieving those goals necessarily requires sharing information with watchdog organizations like Plaintiffs in a manner conducive to meaningful analysis.

Thus, the choice to record data in a manner resistant to practical aggregation and analysis may technically comply with the law (at least as to the data categories it will reliably collect) but certainly runs contrary to the Council's goals in passing it. It is difficult to interpret MPD's use of the narrative field for the collection of NEAR Act data categories as anything other than a deliberate attempt to undermine efforts to aggregate and analyze the data and thereby obtain a clear picture of the way MPD is policing the people of the District. Even though this aspect of MPD's proposed solution may not violate the letter of the law, Defendants' choice to design a system so obviously in tension with the spirit of the law should be considered along with the plan's other, more blatant flaws when assessing the need for judicially mandated relief.

C. Defendants' proposal to collect certain categories of data on body-worn cameras does not comply with the NEAR Act requirement that MPD "keep" "records."

For "NOI stops," Defendants propose to use not the RMS form but a separate Notice of Infraction form that they attach as Exhibit 4. Even allowing for the fact that some of the NEAR Act data categories are not implicated in a stop resulting only in the issuance of an NOI, *see* Status

Report 3, the NOI form is still deficient. Defendants admit that the NOI form does not collect NEAR Act item (B), the duration of the stop; item (C), the violation that led to the stop; or item (J), the race or ethnicity of the stopped individual. *See* Defs.' Ex. 5.

Defendants' solution to the absence of these required data categories is, surprisingly, not to change their form to include these categories, but instead to instruct officers to ask for the information verbally and record it on their BWCs. Status Report 4; Defs.' Ex. 5. This purported solution is doubly deficient.

First, BWC recordings are not "records" within the meaning of the NEAR Act. Although the term "records" is not defined in the Act, the legislative purpose (noted above) to increase community participation in policing policy and to promote transparency rebuts the suggestion that "records" was meant to include so inaccessible a format as a BWC recording. Like the narrative field in the RMS form, collecting NEAR Act data via BWC relies on the officer to remember what questions to ask a stopped subject rather than employing a form that would assist the officer by providing clearly labeled fields. But a BWC recording is even worse than a narrative field on a form in terms of the accessibility of the data. In a narrative field on a form, at least, a person searching for NEAR Act data knows which part of the form to read. To find data on a BWC recording, by contrast, one would have to watch the entire recording, which will last as long as the stop did. A single stop might easily take five to ten minutes, or more, depending on the circumstances. Compiling a comprehensive data set, of course, requires watching *each* BWC of *each* NOI step. Obtaining the BWCs to begin with is no small feat, either: because the District redacts faces of uninvolved individuals before releasing BWC footage and charges FOIA requesters for that process, costs can be prohibitive. For instance, undersigned counsel was informed by MPD earlier this month that a recent ACLU FOIA request for 82 BWCs would cost over $49,000 to fulfill. And the number of NOI stops in a year far exceeds 82; for instance, MPD's

most recent annual report says that MPD issued more than 7,500 citations in 2016 just in the categories of speeding 30 or more miles per hour above the limit, seatbelt/child restraint violations, and distracted driving. *See* Metro. Police Dep't, Annual Report 2016, at 34, *available at* https://mpdc.dc.gov/sites/default/files/dc/sites/mpdc/publication/attachments/MPD%20Annual%20Report%202016_lowres.pdf. Thus, to deem a BWC a "record" for purposes of the NEAR Act is to believe that the Council was content to permit MPD to send intended consumers of the NEAR Act data on a treasure hunt through untold hours of video footage, acquired at great cost, in search of data that the Council intended MPD to collect and make publicly available. In light of the NEAR Act's goals of transparency and accountability, that hypothesis is singularly implausible.

Second, the NEAR Act commands that the Mayor "cause the Metropolitan Police force to keep" the required data. D.C. Code § 5-113.01(a); *see also* Knizhnik Decl., Attach. A at 25 (committee report) (stating that NEAR Act "requires MPD to *maintain* records of stops" (emphasis added)). But BWC recordings are not "kept" (or "maintained") for any significant length of time. MPD's General Order 302-13 provides that for an ordinary stop that does not involve a major crime, an internal investigation, a First Amendment assembly, or other special circumstances, the retention period for a BWC recording is just 90 days. G.O. 302-13, at 23-24, *available at* https://go.mpdconline.com/GO/GO_302_13.pdf. Although the NEAR Act does not specify the amount of time that MPD must "keep" the required data, interpreting "keep" to mean "keep for ninety days and then destroy" is, again, a manifestly implausible interpretation of the statute, as it would require a person or organization interested in obtaining a full set of NEAR data to file BWC FOIAs every few months to prevent key portions of the data from being destroyed.

It is particularly revealing and discouraging that one of the data types that Defendants propose to collect via BWCs rather than via written electronic or paper records is data about stopped individuals' race and ethnicity. One of Plaintiffs' most urgent purposes, of course, in

obtaining the data that the D.C. Council required MPD to collect via the NEAR Act is to determine whether the pattern of stops in the District of Columbia reflects racial bias. This concern is not farfetched. For example, a recent report by WUSA9-TV analyzed pre-NEAR Act data about investigatory stops from 2010 to 2016 released earlier this year by MPD and found that approximately *eighty percent* of those stops involved black individuals. *See* Knizhnik Decl., Attach. N. As D.C. Circuit Judge Janice Rogers Brown has observed, D.C. police reportedly have a practice of subjecting individuals "who fit a certain statistical profile" to "intrusive searches unless they can prove their innocence" "[d]espite lacking any semblance of particularized suspicion when the initial contact is made." *United States v. Gross*, 784 F.3d 784, 789 (D.C. Cir. 2015) (Brown, J., concurring). Despite the importance of race and ethnicity data to achieving the goals of the NEAR Act and to ensuring that District police are treating all members of the community with fairness and dignity, Defendants propose to collect this crucial data category via the medium that is both the least accessible to the public and the most quickly destroyed by MPD. Again, Defendants present no reason why they could not simply add a race/ethnicity field to their existing form. It is thus hard to resist the conclusion that, in choosing this counterintuitive and inaccessible "collection" method, Defendants are trying to obstruct inquiry into the racial characteristics of stopped individuals because Defendants fear what such an inquiry might disclose about their policing practices.

D. Defendants' proposal does not make clear that data will be collected for stops resulting in warnings.

Finally, Defendants' proposed interim solution leaves in question whether the required data will be collected for NOI stops that result only in warnings. In detailing data-collection procedures for NOIA stops, Attachment B distinguishes between NOI stops and NOI stops resulting only in a warning. For the former, Defendants have attached the applicable form in Exhibit 4. But for the latter, Attachment B refers to a form that is not provided: a "warning NOI." Attach. B (Defs.' Ex.

3), at 2, § II.C.3. Is this a different form? The NOI form but with the word "warning" written on it somewhere (although there is no obvious place for an officer to indicate that the NOI is intended to convey only a warning and not a citation)? Defendants do not say. Defendants' plan therefore leaves open the question whether all the required data will be collected for NOI stops resulting in just a warning. Given that Defendants have provided concrete plans for recording data for "stops" and "NOI stops" that do not comply with the NEAR Act, the Court should be skeptical that Defendants intend to collect all categories of NEAR Act data in scenarios that Defendants' Status Report and attachments do not clearly address.

II. Defendants' Ultimate Solution Will Take Nearly A Year And Still Fail To Collect All The Required Data In All Cases.

Even Defendants' long-term plan to collect NEAR Act stop-and-frisk data falls short of full compliance with the Act's requirements. Defendants' proposal is to leave in place its inadequate interim system for nearly a year — until the end of summer 2019. The system Defendants envision implementing at that time is certainly an improvement over their inadequate interim system. Defendants represent that it will include data categories for almost every required field.

Nevertheless, for a significant subset of stops — NOI stops — Defendants propose to omit from their form one of the required data categories: the reason for the stop. Status Report 5. Defendants express concern that including this field on the NOI form could "result in confusion for the recipient of the ticket." *Id.* Defendants posit that, for ticket recipients who seek review of the ticket, "[i]f the alleged reason for the stop differs from the ticket, the recipient of the ticket may respond to information about the reason for the stop and not the content of a ticket." *Id.* Defendants therefore propose that this data category continue to be collected on officers' BWCs only, even though (as demonstrated above) this collection method neither constitutes a "record" for the purpose of the NEAR Act, nor ensures that MPD will "keep" the information for more than 90 days.

Defendants' proposed exclusion of a data category from their recordkeeping system would leave them out of compliance with the NEAR Act. Defendants cite no statutory authority to omit that field or any field, or to decide on their own which fields merit inclusion. Instead, Defendants offer a hypothetical problem — confusion — that they have decided to solve in the manner least consistent with the NEAR Act's mandate: by omitting a required category of data. Not only do Defendants lack authority to modify the NEAR Act's requirements, but they do not explain why they could not address this problem with a simpler solution, such as recording the reason for the stop on a portion of the form retained only by MPD and not provided to the subject of the stop. Perhaps there are other solutions. But in addressing Defendants' concern about confusion, the one course of action that the NEAR Act does *not* permit is to omit a data category entirely from record-keeping. And this is the response that Defendants, ever-recalcitrant to implement the NEAR Act's data collection requirement, have chosen.

The Court should consider both the time lag and the inadequacy of Defendants' proposed ultimate solution as further reasons to order a fully compliant interim solution now.

III. Court-Ordered Relief Need Not Be Intrusive, And This Court Has The Power To Order It.

The Court has expressed understandable concern that it avoid becoming, in the Court's phrasing, the Chief Information Officer of MPD. At the same time, however, the Court has the undeniable power to fashion relief for violations of law. *See, e.g., District of Columbia v. Sierra Club*, 670 A.2d 354, 358 (D.C. 1996).

Fortunately, these imperatives — to vindicate the legislative mandate of the NEAR Act and to avoid undue interference with the operation of the police department — can be harmonized. From the start, the Court has contemplated ordering Defendants to require officers to use a simple one-page paper form that lists each category of data required by the NEAR Act. This solution requires no effort on the part of MPD either in terms of design or technological implementation. It does not preclude MPD from using other forms or collecting other data in other ways. It would, of course, place a small

burden on officers to fill out one additional form — but officers fill out forms all the time, and MPD could control how long this burden exists by controlling how quickly it devises its final, integrated solution to come into compliance with the Act.

If courts have the power, in response to violations of law, to change school boundaries, *see Swann v. Charlotte-Mecklenburg Bd. of Ed.*, 402 U.S. 1, 28 (1971), redraw congressional districts, *see Personhuballah v. Alcorn*, 155 F. Supp. 3d 552, 556 (E.D. Va. 2016) (three-judge court), place a D.C. agency into receivership and appoint a receiver to manage it, *see LaShawn A. v. Kelly*, 887 F. Supp. 297, 316 (D.D.C. 1995), *aff'd sub nom. LaShawn A. v. Barry*, 107 F.3d 923 (D.C. Cir. 1996), and even order the early release of prison inmates who have been convicted of crimes, *see Brown v. Plata*, 563 U.S. 493, 501-02 (2011), then surely ordering the use of one extra one-page form falls comfortably within the equitable power of the Court — a power that "is broad, for breadth and flexibility are inherent in equitable remedies," *id.* at 538 (citations and internal quotation marks omitted). Such a remedy would be entirely in proportion to the Defendants' prolonged noncompliance with the NEAR Act and would be closely drawn to correcting the violation of law without intruding any more than necessary on the functions of the police department.

For the Court's convenience, a proposed form is attached to this Response as an Appendix and also to the Proposed Order. The definition of "stop" stated on the proposed form is based on Defendants' proposed new General Order. *See* Defs.' Ex. 1, at 13 (definition number 14). The fields in the proposed form correspond to the NEAR Act's requirements as follows:

Form Field	NEAR Act data category
1, 2, 3	A. The date, location, and time of the stop;
4	B. The approximate duration of the stop;
5	C. The traffic violation or violations alleged to have been committed that led to the stop;
9	D. Whether a search was conducted as a result of the stop;
10	E. If a search was conducted: (i) The reason for the search;
9(a)	(ii) Whether the search was consensual or nonconsensual;
9(b), 9(c)	(iii) Whether a person was searched, and whether a person's property was searched; and
9(d)	(iv) Whether any contraband or other property was seized in the course of the search;
11, 12	F. Whether a warning, safety equipment repair order, or citation was issued as a result of a stop and the basis for issuing such warning, order, or citation;
13	G. Whether an arrest was made as a result of either the stop or the search;
14	H. If an arrest was made, the crime charged;
6	I. The gender of the person stopped;
7	J. The race or ethnicity of the person stopped;
8	K. The date of birth of the person stopped.

CONCLUSION

The Court should grant Plaintiffs' motion for a preliminary injunction and order MPD to begin collection and retention of the NEAR Act-required data for all stops in the District of Columbia using the attached form within 14 days from the date of the Court's order.

October 26, 2018

Respectfully submitted,

/s/ Scott Michelman

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APPENDIX: PROPOSED FORM

NEAR Act Data-Collection Form for "Stop" of Individuals

To be completed for each individual "stopped." Each question must be answered.*

When/where/why stop made

1. Date of stop: _____

2. Time of stop: _____ am ☐ pm ☐

3. Location of stop: *(number or block)* _____ *(street name)* _____ NW ☐ SW ☐ NE ☐ SE ☐

4. Approximate duration of stop: _____ minutes

5. Reason for stop: _____

Who was stopped

6. Subject's gender: Male ☐ Female ☐ Gender nonbinary/Other ☐

7. Subject's race/ethnicity:
   - American Indian or Alaska Native ☐
   - Asian ☐
   - Black or African-American ☐
   - Hispanic or Latino/a/x ☐
   - Native Hawaiian / Pacific Islander ☐
   - White or Caucasian ☐
   - Other (specify): _____ ☐

8. Subject's date of birth: _____

Search information

9. Was search conducted as a result of stop? Yes ☐ No ☐
   - (a) Was search consensual? Yes ☐ No ☐ N/A – no search ☐
   - (b) Was subject's person searched? Yes ☐ No ☐ N/A – no search ☐
   - (c) Was subject's property searched? Yes ☐ No ☐ N/A – no search ☐
   - (d) Was anything seized? Yes, contraband ☐ Yes, other property ☐ No ☐ N/A – no search ☐

10. Reason for search: _____ N/A – no search ☐

Result of stop

11. Was the subject issued: Warning ☐ Safety equipment repair order ☐ Citation ☐ None of these ☐

12. Basis for issuance: _____ N/A – none issued ☐

13. Was subject arrested? Yes, as a result of the stop ☐ Yes, as a result of the search ☐ No ☐

14. Crime of arrest: _____ N/A – no arrest ☐

Administrative

Officer / Badge #: _____ CCN #: _____ Other incident ID #: _____

** A "stop" is a seizure of an individual's person and occurs whenever an officer uses his or her authority to compel a person to halt, remain in a certain place, or to perform an act (such as producing identification). If a person is under a reasonable impression that he or she is not free to leave the officer's presence, a stop has occurred.*

CERTIFICATE OF SERVICE

I hereby certify that on the 26th day of October 2018, a copy of PLAINTIFFS' RESPONSE TO DEFENDANTS' STATUS REPORT REGARDING THE DISTRICT OF COLUMBIA'S IMPLEMENTATION OF THE NEAR ACT was served on counsel for Defendants through CaseFileXpress.

/s/ *Scott Michelman*
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