

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

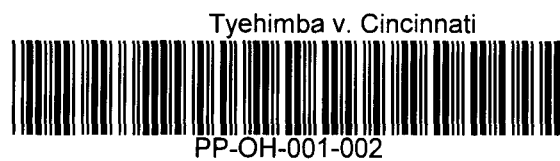
<b>BOMANI TYEHIMBA,</b>	:	Case No. C-1-99-317
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<b>Plaintiff</b>	:	<b>Judge Dlott</b>
	:	
<b>vs.</b>	:	<b><u>LITIGATION PLAN</u></b>
	:	
<b>CITY OF CINCINNATI, et al.</b>	:	
	:	
<b>Defendants</b>		

The parties to the above action hereby propose a joint litigation plan and case schedule.

**I. INTRODUCTION**

This individual action is currently pending on a motion to amend it to a class action lawsuit. The proposed class action complaint challenges alleged disparate treatment of African-American persons by the Cincinnati Police Division. This treatment includes alleged stops, detentions and searches based on race. This treatment also includes allegedly discriminatory enforcement of the traffic and other laws resulting in a disproportionate number of African-American people being charged with minor traffic violations and discretionary offenses such as jaywalking. Plaintiffs also allege discriminatory use of force against African-American persons and other practices that have the purpose and/or effect of discriminating against African-American persons because of their race.

The parties enter into this joint litigation plan in order to coordinate their investigation and discovery so that facts may be expeditiously determined and the prospects for settlement readily assessed. By entering into this plan neither party agrees



to waive their rights to fully litigate all aspects of this case. Rather, they simply agree to delay normal litigation efforts and instead pursue this alternative path of collaborative fact finding and negotiation for at least 120 days.

## **II. Litigation Plan and Schedule**

**A. Motion to Amend and Service of Class Complaint .** The defendants do not oppose the motion to amend and waive service of the class action complaint. The defendants reserve all rights to file motions to dismiss and to oppose certification of a class if the matter is not resolved through the process proposed in this plan.

**B. Collaborative Fact Finding and Negotiation.** The parties agree to defer formal litigation efforts except as set out in this plan for a period of 45 days while they pursue collaborative fact finding and initial disclosures under the local rules. Specifically, this means that the City of Cincinnati will meet with the plaintiffs by March 23, 2001 and agree on a database(s) which shall be produced with the following information, mobile computer terminal transmissions (all), radio traffic transmissions (all); Citations issued 1997 – present; personnel information that is already entered in a database; and misconduct complaint and investigation information. The parties will also cooperate to collate all of the testimony presented at various public hearings and submitted to the City alleging racial discrimination in policing. Further, the City will provide to the plaintiffs during this time a complete report (including source documentation) on the status of all city action taken in response to the 1995 City Manager Police Review Panel; the 1998 Mediation Report, The Civilian Police Review Panel Reports, and The Citizen's Advisory Commission Reports and statements.

The parties will also agree to share in the cost of retaining Jay Rothman and the Aria Group, Inc. to conduct a structured conflict resolution process subject to the approval of the court. That process will include a broad based inquiry of persons with an interest in the problem of alleged racial discrimination by police; a collation and analysis of the responses and a dialogue and problem solving process to be co-chaired by Mr. Rothman and Mag. Judge Jack Sherman. The parties shall conclude this process and report to the court no later than June 15, 2001.

**C. Goal of Collaborative Process:** The conflict resolution process will be designed to develop a consent decree subject to the approval of the court and to develop a community consensus in support of the decree. Racial profiling and racial discrimination allegations are serious issues of constitutional significance and need prompt attention by the courts, the police administration, police officers, and the public. The parties recognize that any resolution must be achieved without compromising the safety and security of the public and the law enforcement officers. The parties recognize that a community consensus is needed in order to secure the support of all stakeholders in any decree approved by this court. The collaborative efforts described in this plan will assist the parties in developing police practices, supervising police action and channeling citizen complaints into processes and institutions that have been developed or revitalized through this collaborative process and then monitored as a decree through this independent, neutral court.

**D. Protective Order.** The government records, databases, personnel files, and criminal record files produced during the collaborative law process shall be available to the parties in the litigation as necessary. A protective order shall be submitted and approved by the

court to limit access or require redacting as necessary in order to protect the safety and security of members of the public and law enforcement officers.

**E. Report to Court.** The Parties agree to report to the Court every thirty days or as otherwise requested by the court. A status conference will be set for June 15, 2001 at which time the parties should be prepared to propose a schedule for notice and approval of a proposed consent decree or set the case on a schedule for litigation.

**F. Damage Actions and Consolidated Cases.** The parties agree to report to the court on June 15, 2001 as to whether any resolution can be provided for damage claims that have been asserted in this action and in the consolidated actions or that will possibly be asserted in future actions by class members. If no resolution or process can be established, the parties will propose a litigation plan for each action.

**G. Waivers.** No party is waiving any legal or factual argument, substantive or procedural (except service) by entering into this agreement

**H. Stay on Litigation.** All pleadings and discovery in this case, except those filed pursuant to the litigation plan, shall be stayed until June 15, 2001.

Signed:

**Plaintiffs' Counsel:**

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Kenneth L. Lawson  
Trial Attorney for Plaintiffs

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Scott Greenwood  
Trial Attorney for Plaintiffs

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Alphonse A. Gerhardstein  
Trial Attorney for Plaintiffs

**Defendants' Counsel:**

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Michael Harmon  
Richard Ganulin  
Assistant City Solicitor  
City of Cincinnati  
Trial Attorney for Defendants

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Donald Hardin  
Trial Attorney for Defendants

SO ORDERED:

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Susan J. Dlott  
United States District Judge  
Date: