

# Investigation of the Ville Platte Police Department and the Evangeline Parish Sheriff's Office



United States Department of Justice  
Civil Rights Division

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## INTRODUCTION

After engaging in a thorough investigation, the Department of Justice (“DOJ”) concludes that there is reasonable cause to believe that both the Ville Platte, Louisiana Police Department (“VPPD”) and the Evangeline Parish Sheriff’s Office (“EPSO”) have engaged in a pattern or practice of unconstitutional conduct.<sup>1</sup> Both VPPD and EPSO have arrested and held people in jail—without obtaining a warrant and without probable cause to believe that the detained individuals had committed a crime—in violation of the Fourth Amendment to the Constitution. We have additional concerns that these unconstitutional holds have led to coerced confessions and improper criminal convictions. These findings reflect the results of an investigation into both agencies, which have engaged in nearly identical practices within overlapping jurisdictional boundaries.

VPPD and EPSO have used these arrests, called “investigative holds,” as a regular part of their criminal investigations, inducing people to provide information to officers under threat of continued wrongful incarceration. The arrests include individuals suspected (without sufficient evidence) of committing crimes, as well as their family members and potential witnesses. The individuals who are improperly arrested are strip-searched, placed in holding cells without beds, toilets, or showers, and denied communication with family members and loved ones. Individuals are commonly detained for 72 hours or more without being provided an opportunity to contest their arrest and detention. Instead, they are held and questioned until they either provide information or the law enforcement agency determines that they do not have information related to a crime. Indeed, we have concerns that some people may have confessed to crimes or provided information sought by EPSO and VPPD detectives, apparently to end this secret and indefinite confinement.

The investigative hold practice is routine at EPSO and VPPD. Both agencies acknowledged that they used holds to investigate criminal activity for as long as anyone at the agency can remember. The number of holds used in recent years is staggering. Between 2012 and 2014, for example, EPSO initiated over 200 arrests where the only documented reason for arrest was an investigative hold. In that same period, VPPD used the practice more than 700 times. The number of holds by EPSO and VPPD is likely even higher; both agencies use such rudimentary arrest documentation systems that the total number of arrests for investigative hold purposes is likely underreported.<sup>2</sup>

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<sup>1</sup> The Special Litigation Section of the Civil Rights Division conducted the investigation pursuant to the Violent Crime and Law Enforcement Act of 1994, 42 U.S.C. § 14141 (“Section 14141”). Section 14141 prohibits government agencies from engaging in a pattern or practice of conduct by law enforcement officers that deprives individuals of rights, privileges, or immunities secured by the Constitution or laws of the United States.

<sup>2</sup> Illegal arrests without probable cause made under the guise of “investigative” or “48-hour” holds have been documented in a number of jurisdictions across the country. See Steven J. Mulroy, *“Hold” On: The Remarkably Resilient, Constitutionally Dubious 48-Hour Hold*, 63 CASE W. RES. L. REV. 815 (Spring 2013) (identifying the use of unlawful investigative holds in jurisdictions in Illinois, Texas, Missouri, Louisiana, Ohio, Tennessee, and Michigan). When confronted with the practice, both state and federal courts have universally denounced these types of detentions. See, e.g., *Dunaway v. New York*, 442 U.S. 200, 216 (1979); *Brown v. Illinois*, 422 U.S. 590, 605 (1975); *Davis v. Mississippi*, 394 U.S. 721, 726-27 (1969); *United States v. Roberts*, 928 F. Supp. 910, 915 (W.D. Mo. 1996); *Robinson v. City of Chicago*, 638 F. Supp. 186, 192 (N.D. Ill. 1986); *State v. Huddleston*, 924 S.W.2d

After the DOJ began its investigation into VPPD and EPSO's use of investigative holds in April 2015, leadership of VPPD, EPSO and the City of Ville Platte admitted that the holds are unconstitutional and have taken laudable steps to begin eliminating their use. More work remains to be done. The agencies' policies, procedures, training, and data collection and accountability systems must ensure that investigative holds are eliminated permanently. The agencies also must work to repair community trust, because many people may still be justifiably reluctant to provide information to law enforcement for fear that doing so could subject them to an unconstitutional detention.

## BACKGROUND

Evangeline Parish is located approximately 80 miles west of Baton Rouge, Louisiana. Covering 662 square miles, the Parish has a population of 33,578 residents, of whom 29 percent are African American.<sup>3</sup> Ville Platte, the Parish seat and largest city in Evangeline Parish, has a population of 7,303 spread across roughly four miles, of whom 64 percent are African American.<sup>4</sup>

The Evangeline Parish Sheriff's Office is responsible for patrolling all of Evangeline Parish, assisting with criminal investigations in towns within the Parish, and operating the Evangeline Parish Jail. Ville Platte has its own police department and operates the City Jail located next to VPPD headquarters. VPPD and EPSO leadership reported that the two agencies work together to address criminal activity in Ville Platte.

Sheriff Eddie Soileau is the elected Sheriff of the Evangeline Parish Sheriff's Office. He was first elected in 2007, and won re-election again in the fall of 2015. EPSO has roughly 65 full-time and 45 part-time employees, including a chief of patrol, 14 patrol deputies, four detectives, and corrections officers and a warden at the Parish Jail. The current annual operating budget is around \$2.6 million.

Chief Neal Lartigue has led VPPD for the last nine years and has worked within the agency for nearly a quarter century. VPPD currently employs 18 full-time sworn officers, including four detectives and 16 part-time civilian officers who work in the City Jail. Officers assigned to patrol work twelve hour shifts, with two or three officers assigned per shift. The Mayor of Ville Platte is responsible for setting VPPD's total annual budget authorization, but the

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666,676 (Tenn. 1996). This is to be distinguished from permissible brief "Terry stops" pursuant to *Terry v. Ohio*, 392 U.S. 1 (1968), *see* N. 15, *infra*.

<sup>3</sup> U.S. Census QuickFacts: Ville Platte, Louisiana, <http://quickfacts.census.gov/qfd/states/22/2278715.html> (last accessed Nov. 3, 2015); U.S. Census QuickFacts: Evangeline Parish, Louisiana, <http://quickfacts.census.gov/qfd/states/22/22039.html> (last accessed Nov. 3, 2015).

<sup>4</sup> *Id.*

Chief of Police may allocate the money as he or she sees fit. VPPD's annual budget for 2015 was \$1.9 million.<sup>5</sup>

## METHODOLOGY

Our investigation focused solely on whether EPSO or VPPD engages in a practice of using unconstitutional "investigative holds" to detain individuals for questioning during criminal investigations. We developed a comprehensive understanding of EPSO and VPPD's investigative hold practice by obtaining and reviewing all relevant policies and documents, visiting Ville Platte and Evangeline Parish, touring EPSO and VPPD's facilities, and meeting with a diverse group of officers, City and Parish leadership, and local stakeholders. We met with Ville Platte Mayor Jennifer Vidrine, Sheriff Soileau and his chief deputy, VPPD Chief Lartigue and Captain Shawn Duplechain, and numerous EPSO and VPPD detectives and officers. We also toured the City and Parish jails and interviewed several individuals who work in each facility. Our investigation benefited from the full cooperation of these local officials and law enforcement officers. We are grateful for the insights they shared into the challenges of policing their community. We also met with current and former agents at the Federal Bureau of Investigation who have investigated federal crimes in Ville Platte and Evangeline Parish.

As part of our investigation, we spoke to a broad cross-section of community members, including some who were subjected to an investigative hold by either EPSO or VPPD. We held a community meeting in September 2015 that was attended by approximately 150 individuals, many of whom recounted their interactions with EPSO and VPPD officers and detectives. We also spoke with numerous individuals who called or emailed the Department of Justice to provide information about our investigation. To gain additional information, we spoke with former FBI investigators and officials at the Louisiana State Office of the Inspector General who have interacted with Ville Platte and Evangeline Parish residents during their own investigations.

Finally, we reviewed thousands of pages of documents, including City Jail booking logs, Parish Jail booking cards, and other records; probable cause affidavits; policy and procedure manuals; and more. This review highlighted that both EPSO and VPPD lack a consistent and detailed process for recording and tracking information about arrests, detentions, and interrogations. More comprehensive documentation is necessary to ensure that officers at both agencies comply with constitutional requirements.<sup>6</sup>

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<sup>5</sup> In addition to these funds, the Mayor may allocate money to certain Mayor-driven projects. For example, last year Mayor Vidrine purchased body-worn cameras for VPPD officers and installed new security cameras on streets throughout Ville Platte. Neither of those initiatives was funded through VPPD's annual budget.

<sup>6</sup> The deficiencies in the agencies' record keeping processes are described in full below.

## FINDINGS

We find reasonable cause to believe that both EPSO and VPPD engage in a pattern or practice of violating the Fourth Amendment by arresting and detaining individuals without probable cause. Moreover, we have serious concerns that these agencies use holds to obtain coerced statements that taint the criminal convictions of the unlawfully detained individuals.

This pattern or practice is widespread and longstanding throughout both agencies. Between January 2012 and December 2014, EPSO—an agency with four detectives that polices a jurisdiction populated by only 33,000 residents—listed “investigative hold” as the sole basis for over 200 arrests. During the same time period, VPPD arrested individuals on investigative holds more than 700 times while policing a jurisdiction of only 7,300 residents. At least 30 of VPPD’s investigative hold arrests were of juveniles.

The investigative hold practice violates the Fourth Amendment to the United States Constitution, which guarantees the right to be free from unreasonable searches and seizures, including arrests. The United States is authorized to address a pattern or practice of Fourth Amendment violations under 42 U.S.C. § 14141, which grants the Department of Justice authority to bring suit for equitable and declaratory relief when a “governmental authority . . . engage[s] in a pattern or practice of conduct by law enforcement officers . . . that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States.” 42 U.S.C. § 14141. A pattern or practice exists where violations are repeated rather than isolated. *Int’l Bd. of Teamsters v. United States*, 431 U.S. 324, 336 n.16 (1977) (noting that the phrase “pattern or practice” “was not intended as a term of art,” but should be interpreted according to its usual meaning “consistent with the understanding of the identical words” used in other federal civil rights statutes).

Here, our review found that EPSO and VPPD officers violate the Fourth Amendment by using investigative holds as a regular part of criminal investigations. This practice subjects individuals to arrest and detention without cause and erodes the community trust that is critical to effective law enforcement in Evangeline Parish and Ville Platte.

### **A. Both Agencies Engage in a Pattern or Practice of Fourth Amendment Violations by Arresting and Detaining Individuals Without Probable Cause**

EPSO and VPPD violate the Fourth Amendment by arresting and detaining individuals without a warrant or probable cause. The Fourth Amendment prohibits “unreasonable searches and seizures” and requires that warrants be based on “probable cause.” U.S. Const. Amend. IV. All significant restraints on liberty must be supported by probable cause, whether or not law enforcement officers call the restraint a formal arrest. *Dunaway v. New York*, 442 U.S. 200, 207-13 (1979) (police detectives violated Fourth Amendment where, lacking probable cause, they instructed officers to “pick up” an individual and “bring him in” for questioning rather than making an “arrest”). Indeed, “there can be little doubt” that the Fourth Amendment’s probable cause requirement applies where suspects are “involuntarily taken to the police station.” *Id.* at 207.

Police may satisfy the probable cause requirement in either of two ways: (1) an officer may obtain a warrant prior to arrest by presenting information of probable cause to a judge; or (2) an officer may determine that probable cause exists in the field. *Gerstein v. Pugh*, 420 U.S. 103, 113-14 (1975). When a suspect is arrested without a warrant a neutral magistrate must verify probable cause as soon as reasonably possible and no later than 48 hours after arrest, absent an emergency or other extraordinary circumstances. *Riverside v. McLaughlin*, 500 U.S. 44, 56-59 (1991). Consistent with constitutional requirements, the Louisiana Code of Criminal Procedure requires probable cause determinations within 48 hours of a warrantless arrest. La. Code Crim. Proc. Ann. art. 230.2 (2013). The investigative hold practices employed by EPSO and VPPD contravene these requirements.

Nor is the investigative hold practice permissible under an exception for holding material witnesses. A material witness may be detained under Louisiana law only if a judge issues a warrant after a showing that the witness is both “essential to the prosecution or defense” and that it is “impracticable” to merely issue a subpoena. La Rev. Stat. Ann. § 15:257 (2013).<sup>7</sup> The Fourth Amendment similarly limits detention of material witnesses to situations in which the government “establish[es] probable cause to believe that (1) the witness’s testimony is material, and (2) it may become impracticable to secure the presence of the witness by subpoena.” *United States v. Awadallah*, 349 F.3d 42, 64 (2d Cir. 2003). In addition, courts have found prior judicial approval of material witness detentions to be of critical importance. *See, e.g., Schneyder v. Smith*, 653 F.3d 313, 328-29 (3d Cir. 2011). The investigative hold practices at EPSO and VPPD thus are not justified under any conception of material witness detentions. The holds are made without a warrant, without any showing that the testimony is essential and that obtaining it via subpoena is impracticable, and without any attempt to obtain prior judicial approval.

EPSO and VPPD officers have used unlawful investigative holds as a regular part of criminal investigations for more than two decades. Most holds operate as follows: when a detective at either agency wants to question someone in connection with an ongoing criminal investigation, the detective instructs a patrol officer to find that individual in the community and bring him or her in for questioning. The patrol officer commands the individual to ride in a patrol vehicle to either the City or Parish jail, where pursuant to the jail’s standard procedures, jail personnel strip-search the individual and place him or her in a holding cell (sometimes referred to as “the bullpen” at the Parish Jail) until a detective is available to conduct questioning. At the City Jail, there are two holding cells; both are equipped with a hard metal bench, and nothing else.<sup>8</sup> Neither holding cell at the City Jail has a mattress, running water, shower, or toilet in the cell.<sup>9</sup> The Parish Jail is similar; the “bullpen” is equipped with only a

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<sup>7</sup> No Louisiana court has recognized a common law power to detain material witnesses without a warrant, but even if such a process were applicable to Louisiana law enforcement, the investigative hold practice used by VPPD and EPSO would violate the Constitution. Courts uniformly consider detentions of material witnesses “seizures” for the purposes of the Fourth Amendment that are subject to the constitutional limitations described herein. *See, e.g., Adams v. Hanson*, 656 F.3d 397, 407 n.6 (6th Cir. 2011).

<sup>8</sup> There are 28 beds at the Ville Platte City Jail; 2 in the holding cells (although, as noted above, those “beds” are merely metal benches without mattresses), and the rest divided between two units, each with double or quadruple bunked cells.

<sup>9</sup> In certain other cases, we heard from VPPD officers that they will call individuals and instruct them to come to the Sheriff’s Office and wait in an officer break room until a VPPD detective can question them. While such

long metal bench, and the walls are made of metal grating. EPSO detectives and deputies refer to the process of detaining a person in the “bullpen” for questioning as “putting them on ice.”

Investigative holds initiated by VPPD often last for 72 hours—and sometimes significantly longer—forcing detainees to spend multiple nights sleeping on a concrete floor or metal bench. Indeed, VPPD’s booking logs indicate that, from 2012-2014, several dozen investigative holds extended for at least a full week. During this time, VPPD exerts control over the detainees’ liberty: The detained person is not permitted to make phone calls to let family or employers know where they are, and have access to bathrooms and showers only when taken into the jail’s general population area.

Similarly, EPSO’s investigative holds often last for three full days. During that time, detainees are forced to sleep on the Parish Jail’s concrete floor. One EPSO deputy reported that he saw someone held without a warrant or a probable cause determination for more than six days. As with VPPD, EPSO also controls the detainee’s liberty. EPSO does not permit detainees who are “on hold” to make phone calls to let family or employers know their whereabouts. Indeed, we were told that certain detectives have threatened EPSO jail officers (referred to as “jailers” in the Parish Jail) with retaliation if the officers allowed detainees to make phone calls. One EPSO jail officer described an incident in which an EPSO detective reprimanded him after the jail officer provided toothpaste and other personal supplies to a person locked in the holding cell.

These investigative holds are not even ostensibly supported by probable cause. Both EPSO and VPPD detectives acknowledged that they use investigative holds where they lack sufficient evidence to make an arrest, but instead have a “hunch” or “feeling” that a person may be involved in criminal activity. One VPPD officer noted that they use investigative holds specifically where the officer needs more time to develop evidence to support a lawful arrest. Similarly, an EPSO detective described using investigative holds when he had “a pretty good feeling” or a “gut instinct” that a certain individual was connected to a crime.

Instead, officers at both agencies admitted that they use the time that a person is “on hold” to develop their case, either by gathering evidence or by convincing the detainee to confess. As one EPSO detective explained, it is easier to “work up” a case and find evidence while the person suspected of committing the crime is in custody and cannot communicate with others. A second EPSO detective explained that he has used investigative holds experimentally, testing whether a crime wave subsides while a particular person is in jail. The detective explained that if the crimes continue during the hold, the presumably innocent person is released. Conversely, if the crimes cease during the detention, the detective investigates the person further. Detectives and officers at VPPD similarly described the hold process as a way to gather information about cases and buy investigators time to develop probable cause before taking a detainee in front of a magistrate. VPPD officers explained that holds assist their investigations by inducing people to talk to investigators and by allowing detectives to gather evidence while the individual they suspect is in custody and cannot communicate with people on the outside. Moreover, both agencies confirmed that they used holds to detain individuals whom they did not

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questioning is not voluntary, this process does not involve the strip-searching and lengthy detention in a holding cell that is a feature of most investigative holds.

suspect of any involvement in criminal activity, but who instead were related to suspects, witnessed crimes, or otherwise might have knowledge of criminal activity.

The willingness of officers in both agencies to arrest and detain individuals who are merely possible witnesses in criminal investigations means that literally anyone in Evangeline Parish or Ville Platte could be arrested and placed “on hold” at any time. For example, one woman told us that VPPD officers detained her and her family in 2014 after a grocery shopping trip during which they may have witnessed an armed robbery and shooting. The woman was on her way home with her groceries when a VPPD officer stopped her. She told the officer that she did not see the robbery and that she had no information about the crime. After she got home and dropped off her groceries, another VPPD officer came to her house and commanded her to come to the police station to answer questions. The woman recounted—and Chief Lartigue confirmed—that the officer took the woman, her boyfriend, and a 16-year old who was staying at their house into custody at the jail. Officers strip-searched the woman, who was menstruating at the time, and forced her to remove her tampon. VPPD officers then placed her in custody overnight—first in a holding cell and then in the Jail’s general population—without access to sanitary products. According to the woman, roughly nine hours later, VPPD detectives removed her from detention to question her about the shooting. The district attorney participated in this interrogation. VPPD officers also held the woman’s boyfriend overnight in a holding cell, and held the juvenile in a separate holding cell for at least seven hours before releasing him to a family member. None of these individuals were suspected of having any connection to the robbery or shooting, yet detectives incarcerated them for significant periods of time before showing them a line up and asking questions about what they may have witnessed. The day after being released, the woman called Chief Lartigue to complain about her treatment. Chief Lartigue responded that the detention was pursuant to department policy.

A second woman credibly recounted a similar experience. She told us that in 2015 VPPD officers called her and instructed her to put her children in her truck and drive to the police station because a detective wanted to question her about an armed robbery. When the woman arrived at the police station, officers took her two children—ages one and five—from her and placed them in a holding area. According to the woman, VPPD detectives refused to let her call a family member to pick up the children and interrogated the five year old outside of the woman’s presence. Officers eventually permitted the woman’s mother to pick up the children but kept the woman in custody. The woman asked VPPD officers if she was under arrest and was told that she was not—but that she could not leave because she was “under investigation.” The woman spent several days in the holding cell, where she slept on the floor and was refused the opportunity to shower. According to the woman, after 72 hours, VPPD brought her directly to the Evangeline Parish Sheriff’s Office where she was booked on charges of armed robbery. The charges against her were eventually dismissed, but not before local media ran a news story reporting that she was charged with the crime. To this day, the woman has no idea why VPPD arrested her in connection with this crime.<sup>10</sup>

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<sup>10</sup> Although VPPD’s insufficient record keeping makes it impossible to confirm this story, it is consistent with VPPD’s acknowledged investigative hold practices.



## **B. EPSO and VPPD’s Use of Investigative Holds Violates Established Law**

The investigative hold practice violates the Fourth Amendment’s protection against unreasonable seizures in two fundamental ways: (1) the holds are not supported by probable cause, *see Dunaway*, 442 U.S. at 207-13 (all significant restraints on liberty require probable cause); and (2) the holds are not subject to judicial review, *see Riverside*, 500 U.S. at 56-59 (When a suspect is arrested without a warrant, probable cause must be verified by a neutral magistrate as soon as possible and no later than 48 hours from arrest absent the government showing an emergency or extraordinary circumstance).

### **1. Investigative Holds Lack Probable Cause**

EPSO and VPPD officers acknowledge that they have used investigative holds where they lack probable cause that the person is or has engaged in criminal activity. This practice contravenes the Fourth Amendment’s bedrock requirement that arrests must be supported by probable cause. *Gerstein*, 420 U.S. at 113-14. The probable cause requirement has “central importance . . . to the protection of a citizen’s privacy” and “has roots that are deep in our history.” *Dunaway*, 442 U.S. at 213 (citing *Henry v. United States*, 361 U.S. 98, 100 (1959)). Indeed, “[h]ostility to seizures based on mere suspicion was a prime motivation for the adoption of the Fourth Amendment.” *Dunaway*, 442 U.S. at 213.

The agencies’ justification that the holds are used primarily to convince people to submit to interrogation does not change the constitutional analysis. If anything, it exacerbates the harm. “[D]etention for custodial interrogation—regardless of its label—intrudes so severely on interests protected by the Fourth Amendment as necessarily to trigger the traditional safeguards against illegal arrest.” *Dunaway*, 442 U.S. at 216; *see also Brown v. Illinois*, 422 U.S. 590, 605 (1975) (detention in a police station without probable cause “for investigation or for questioning” violated the Fourth Amendment). Nor may officers detain individuals for the purpose of keeping them off the streets as they gather evidence to support criminal charges. The Fourth Amendment proscribes extending detentions and delaying probable cause determinations “for the purpose of gathering additional evidence to justify the arrest.” *Riverside*, 500 U.S. at 56; *see also Brown*, 422 U.S. at 602 (station house detention and questioning “in the hope that something might turn up” requires probable cause).

Consequently, investigative holds must meet the Fourth Amendment’s probable cause requirement.<sup>11</sup> Probable cause requires “a probability or substantial chance of criminal activity”

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<sup>11</sup> Officers may make brief investigative stops where they have reasonable suspicion that the stopped individual is involved in criminal activity. *See Terry v. Ohio*, 392 U.S. 1 (1968). *Terry* stops involve only “brief on-the-spot questioning.” *United States v. Hill*, 626 F.2d 429, 435 (5th Cir. 1980). Courts have avoided putting precise limits on *Terry* stop durations, but have found 90-minute detentions unconstitutional. *See United States v. Place*, 462 U.S. 696, 709-10 (1983); *accord United States v. Zavala*, 541 F.3d 562, 579-80 (5th Cir. 2008). *Terry* stops may not resemble a traditional arrest. *Hiibel v. Sixth Judicial District Court*, 542 U.S. 177, 186 (2004). The investigative holds described in this report—which involve detentions in the City or Parish Jail and frequently last for several days—do not fit within the *Terry* exception. *See, e.g., Dunaway*, 442 U.S. at 213 (requiring probable cause where a detective told officers to “pick up [a suspect] and bring him in” for questioning). Accordingly, the Fourth Amendment’s probable cause requirement applies.

and is evaluated by examining “the totality of the circumstances.” *Illinois v. Gates*, 462 U.S. 213, 244 n.13 (1983). It “require[s] . . . the kind of fair probability on which reasonable and prudent people, not legal technicians, act.” *Florida v. Harris*, 133 S. Ct. 1050, 1055 (2013) (internal quotations omitted). EPSO and VPPD’s investigative holds are not premised on this level of justification. Detectives at both agencies explained that a principal benefit of the holds is that they provide a mechanism for detaining people for whom there is not probable cause to arrest. Instead, officers jail people whom they merely believe or “have a hunch” are involved in criminal activity—allowing officers to continue investigating in hopes of finding a basis for a lawful arrest in the future. And in some cases, officers have held witnesses, family members of individuals they suspect of crimes, and others who are not suspected of criminal activity at all. These holds violate the Fourth Amendment. *See, e.g., Henry*, 361 U.S. at 101 (probable cause not satisfied by “common rumor or report, suspicion, or even strong reason to suspect” criminal violations).

## **2. Investigative Holds Are Not Reviewed by a Magistrate**

In addition to lacking probable cause at the outset, the investigative holds violate the Fourth Amendment because, despite there being no obstacles to doing so, there is no opportunity for a judicial officer to assess probable cause within 48 hours of detention. Both the Fourth Amendment and Louisiana law permit law enforcement officers to arrest individuals without a warrant if the arrest is based on probable cause. But individuals arrested in this way are constitutionally entitled to a judicial determination of probable cause as soon as reasonably possible, and no later than 48 hours of their arrest unless the government can justify a delay by showing extraordinary or emergency circumstances. *See, e.g., Riverside v. McLaughlin*, 500 U.S. at 56-59; La. Code Crim. Proc. Ann. art. 230.2 (2013) (requiring probable cause determinations within 48 hours of a warrantless arrest).

Contrary to this requirement, individuals detained on an investigate hold have no opportunity for a magistrate or other judicial officer to review the basis of their detention. Instead, officers hold individuals—frequently for 72 hours and sometimes longer—until they develop sufficient evidence to charge the detainee with a crime or, absent such evidence, they release the detainee from custody. When officers eventually develop sufficient evidence to charge someone during a hold and take them before a magistrate, the magistrate reviews only the basis for the charged offense, not the hold that preceded it. This lack of judicial oversight violates the Fourth Amendment.

### **C. EPSO and VPPD Obtain Incriminating Statements During Unlawful Detentions in Violation of the Constitution**

In addition to finding that VPPD and EPSO violate the Fourth Amendment by arresting and holding individuals without cause, we have serious concerns that both agencies further violate the Constitution by obtaining incriminating information during these unlawful detentions. Based on information gained throughout our investigation, including interviews with EPSO and VPPD officers, the acknowledged purpose of the unconstitutional holds is to obtain incriminating statements that lead to criminal convictions. Officers seek to elicit these statements by arresting individuals without probable cause, detaining them in holding cells, and interrogating them under threat of continued illegal detention. This process violates the Fourth

Amendment. Use of statements compelled during illegal detentions also implicates the Fifth Amendment protection against compelled self-incrimination and the prohibition on the use of involuntary confessions embedded in the Fourteenth Amendment's Due Process Clause.

Due to lack of detailed recordkeeping, we are not able to determine whether or the extent to which this practice has led to coerced statements or false confessions, or whether any coerced statements or confessions have directly resulted in convictions. However, officers at both agencies acknowledged that eliciting information used to obtain convictions is an *intended purpose* of the investigative hold system. Such purposeful deprivation of constitutional protections raises serious concerns. Moreover, there is significant danger that eliciting statements under the threat of continued, secret, indefinite detention results in people providing false information in an effort to end the ordeal, and we have grave concerns that this longstanding coercive practice has led to wrongful convictions based on false information.

As explained above, arresting and detaining individuals without a warrant or probable cause violates the Fourth Amendment. *Supra* at 10-12. Extending these detentions to facilitate interrogations is equally unlawful. *See Dunaway*, 442 U.S. at 216 (“Detention for custodial interrogation—regardless of label—intrudes so severely on interests protected by the Fourth Amendment as necessarily to trigger the safeguards against illegal arrest.”). This constitutional right is enforced by an exclusionary rule which, absent a separate evidentiary basis for admission, forbids use of statements elicited during these interrogations at trial unless the interrogation is separate from the illegal arrest and detention. “It is settled law that a ‘confession obtained through custodial interrogation after an illegal arrest should be excluded unless intervening events break the causal connection between the illegal arrest and the confession so that the confession is sufficiently an act of free will to purge the primary taint.’” *Oregon v. Elstad*, 470 U.S. 298, 306 (1985) (citing *Taylor v. Alabama*, 457 U.S. 687, 690 (1982)); *see also Dunaway*, 442 U.S. at 219 (excluding statement where “[n]o intervening events broke the connection between petitioner’s illegal detention and his confession”). In *Dunaway*, the Supreme Court suppressed statements from a suspect who was arrested without probable cause and taken to police headquarters for questioning. The Court relied upon both the confession’s temporal proximity to the unlawful arrest and the “purposefulness” of the police action, explaining that “the arrest, both in design and in execution, was investigatory.” 442 U.S. at 215 (quoting *Brown*, 442. U.S. at 602).

The same principle applies here, where there is no causal separation between EPSO or VPPD officers’ unlawful arrests and interrogations. Officers explained that a primary goal of the investigative hold practice is to induce people into confessing or providing other information relevant to criminal investigations. While a person is detained on an investigative hold, EPSO and VPPD detectives told us that they ask the person if he or she is “ready to talk.” If a person is not willing to submit to questioning, the detective forces the person to return to EPSO or VPPD’s holding cell for continuing detention without probable cause. Officers explained that many people eventually agree to speak with detectives at some point during these unlawful detentions. Moreover, there is no temporal separation between the illegal arrest and interrogation. Instead, EPSO and VPPD detectives admitted that they interrogate individuals while they are still unlawfully detained, and threaten to extend detention if a person is unwilling to provide officers with information. As these practices are not accurately documented, we cannot determine how

exactly detectives engaged with detainees on a case-by-case basis. Nonetheless, detectives candidly explained that the purpose of the practice was to convince the arrestee to provide information. In short, statements given to EPSO and VPPD detectives “were obtained by exploitation of the illegality of [the] arrest.” *Brown*, 442 U.S. at 600.

Although our investigation did not focus on EPSO’s or VPPD’s interrogation procedures, their practice of obtaining incriminating statements under the threat of continued illegal detention likewise implicates Fifth and Fourteenth Amendment protections. We have serious concerns that these interrogation practices may violate these core constitutional protections, and may result in criminal convictions of innocent people. The Fifth Amendment provides that no person “shall be compelled in any criminal case to be a witness against himself.” U.S. CONST. AM. V. Noting the “compelling pressures” inherent in custodial police interrogation, the Supreme Court established that “in order to combat these pressures and to permit a full opportunity to exercise the privilege against self-incrimination, the accused must be adequately and effectively apprised of his rights and the exercise of those rights must be fully honored.” *Miranda v. Arizona*, 384 U.S. 436, 467 (1966). Any waiver of the privilege against self-incrimination must be voluntary, not the product of coercion. *Id.* Statements obtained in violation of *Miranda* may not be used in the government’s case in chief. *Dickerson v. United States*, 530 U.S. 428, 443-44 (2000). And, regardless of whether a person receives proper *Miranda* warnings during a custodial interrogation, due process requires that inculpatory statements be given voluntarily. *See, e.g., Dickerson* at 444. (“[t]he requirement that *Miranda* warnings be given does not . . . dispense with the [due process] voluntariness inquiry.”). A statement is involuntary where, under the totality of the circumstances, a subject’s “will is overborne by the circumstances surrounding the interrogation.” *Id.* at 434; *see also Schneckloth v. Bustamonte*, 412 U.S. 218, 226 (1973). Under the Due Process Clause of the Fourteenth Amendment, involuntary statements must be excluded from trials entirely. *Mincey v. Arizona*, 437 U.S. 385, 397-98 (1978). Although we did not examine the interrogation practices of these agencies, we are concerned that any statements obtained during these investigative holds may have been involuntary or the result of coercion, thereby invalidating any waivers of rights that were obtained.

#### **D. The Investigative Hold Practice Erodes Community Trust and Inhibits Criminal Investigations**

EPSO and VPPD’s investigative hold practice violates the Constitution and contributes to deep community mistrust and fear of law enforcement. This mistrust inhibits effective law enforcement by discouraging residents from cooperating with criminal investigations. Community members we interviewed frequently expressed a deep-seated distrust of law enforcement officials and the local criminal justice system as a whole—and voiced their distress with EPSO and VPPD’s unconstitutional “investigative hold” processes in particular. Community members likewise spoke about taking plea deals in hopes of avoiding further detention, reflecting our concerns noted above that unlawful detentions result in wrongful criminal convictions. These stories reflect a broad distrust of law enforcement based in part on the practice of investigative holds.

This mistrust diminishes officer safety and impedes information-gathering in criminal investigations that is essential to the functions of law enforcement and the protection of public safety. For example, current and former FBI officials informed us that community distrust in

law enforcement was a significant obstacle to a federal homicide investigation in Ville Platte. Individuals in the community were reluctant to speak with one then-FBI agent, informing the agent that they feared that cooperation would result in detention and questioning pursuant to the investigative hold practice.

**E. Inadequate Policies, Training, Record-Keeping, and Oversight Contribute to EPSO and VPPD’s Investigative Hold Practice**

EPSO and VPPD lack adequate policies, training, data collection, and supervision to ensure that officers comply with constitutional requirements during criminal investigations. These deficiencies perpetuate unconstitutional detention practices by failing to guide, document, and correct officer behavior. This lack of guidance and supervision allowed the unconstitutional investigative hold practice to continue for decades.

**1. EPSO and VPPD lack adequate policies and training**

EPSO and VPPD lack detailed policies or procedures governing how officers make arrests, book detainees in the local jails, or conduct interrogations. The lack of policy guidance results in officer confusion about each agency’s procedures and constitutional requirements. VPPD has a policy manual, but it does not adequately address Fourth Amendment requirements. EPSO, on the other hand, does not have any policy guidance for its deputies and detectives. EPSO deputies and detectives interviewed during our investigation understood the value of having such policies, but asserted that the agency lacked the resources to develop them. The lack of policy guidance results in confusion about the agency’s procedures and constitutional requirements. Several EPSO and VPPD officers told us that they could detain suspects without probable cause as long as those detentions did not exceed 72 hours. One EPSO detective told us that he could detain suspects without probable cause for longer than 72 hours when the detention included a weekend because “weekends don’t count.”

The limited training available to officers exacerbates the lack of detailed policies. After obtaining their initial certification from the state through the Louisiana Peace Officer Standards and Training Council, both EPSO and VPPD officers have limited opportunities for additional education and training, particularly related to the constitutional provisions that guide arrest, detention, and interrogation procedures. Neither agency gives additional training on their policies, presumably because many of their policies are not formally documented. Several current and former detectives from both agencies we interviewed said that they had no such training during their tenures at EPSO or VPPD. Consequently, officers’ only source of information about their agency’s practices and procedures is on-the-job training from more experienced officers. Many of these officers themselves learned about their agency’s detention practices from more senior officers; because both agencies have used investigative holds for decades, several generations of EPSO and VPPD officers have learned to conduct criminal investigations by using this unlawful procedure. New policy and training guidance is necessary to break this cycle.<sup>12</sup>

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<sup>12</sup> VPPD recently held a training for officers using the “True Blue Drew Book” that covered certain legal requirements relevant to Louisiana law enforcement. While this training is commendable, during interviews with

## 2. EPISO and VPPD lack consistent record keeping and accountability systems

Both agencies also lack mechanisms to collect sufficient data to review officer activity and ensure that officers comply with constitutional standards. For years, VPPD has used a paper booking log to make a record of every person brought into the City Jail by VPPD officers. Information recorded in the booking log, however, is extremely limited. The officer records in the log the name of the person booked or simply writes “juvenile” if the detainee is less than 18 years old. The log also includes the basis of the booking, *e.g.*, “arrest for breaking and entering,” “warrant,” etc. When a person is booked on an investigative hold, the officer writes “investigative hold,” “hold for investigation,” or “hold for [name of a detective].” In certain cases, the log contains notes indicating that a person booked on an investigative hold should be kept until a specific date to allow a particular detective to conduct the interview.

Apart from this paper booking log, VPPD does not document or retain any other information or documentation regarding investigative holds. During our investigation, we requested from VPPD “all arrest logs, jail booking forms, or other documentation relating to detention of individuals” at the City Jail. In response, we received scanned copies of the paper booking logs described above and a running list of all individuals booked into the City Jail for 2012-2014. Warrants in support of detention of the individuals listed in the booking log were not provided. We were told that the booking log was the only form of documentation responsive to our request.

EPISO uses a similar paper-based system, consisting of a booking card where deputies record information about each individual brought into the Parish Jail. The booking card contains multiple rows of information about the individual being booked, including the individual’s name, address, phone number, educational background, and race. The card also includes rows for the arresting officer, the booking officer, the reason for arrest, and the date and reason for release. A review of these forms, however, shows that officers do not consistently fill in the information fields on these cards. Nor do officers use consistent terminology. When documenting an investigative hold, certain arresting officers fill out the “reason for arrest” column on the booking card by writing “Investigative Hold,” “Hold for Investigation,” or “Hold for [name of EPISO Detective],” while other officers write “Lodger,” “Lodger: Hold for Investigation,” or “Lodger: [detective name].”<sup>13</sup> Several EPISO employees informed us that many investigative holds are not documented at all. Consequently, the approximately 200 investigative holds identified through EPISO’s booking cards may represent only the tip of the iceberg. However, due to EPISO’s rudimentary data and record-keeping, it is difficult to determine the true extent of the hold practice.

Neither EPISO nor VPPD officers are required to report to anyone the reason for an arrest, and supervisors do not conduct meaningful review to determine whether the arrests are proper.

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Department of Justice officials, officers repeatedly expressed their desire for additional training, and more training is necessary to ensure that officers understand constitutional requirements.

<sup>13</sup> Conversations with EPISO officers revealed that “lodger” is what is written when an individual is not arrested based on a warrant or any particular charges; it appears to be a catch-all used when there is no corresponding part of the Louisiana Criminal Code to document the reason for arrest. All of these phrases are used interchangeably to indicate that the individual is being held only for the purposes of investigative questioning.

Nor do supervisors conduct audits, reviews, or other checks to ensure that arrests are grounded in probable cause. Moreover, the limited information recorded by EPSO and VPPD is not reflected in any agency-wide database, or kept in any other centralized system capable of analysis. Supervisors thus cannot analyze the activities of their officers to identify trends, counsel officers, or correct problems. Consequently, officers at both agencies have used investigative holds for years without meaningful oversight.

EPSO and VPPD's deficient record keeping also inhibited our investigation of the agencies' arrest practices. While it is clear that both agencies commonly use investigative holds in violation of the Fourth Amendment, we were unable to quantify the full scope of constitutional violations. Nor could we reliably assess the impact of the hold practice on particular racial, ethnic, or other demographic groups. EPSO and VPPD must implement effective systems to allow such analysis and ensure that their arrest practices comply with constitutional standards.

**F. EPSO and VPPD's Remedial Measures To Date Are Insufficient To Ensure Constitutional Policing.**

While EPSO and VPPD have taken laudable steps since learning that their investigative hold practices violate the Constitution, additional remedial measures are necessary to ensure that the practice ceases completely and that all law enforcement officers in Evangeline Parish and Ville Platte understand how to conduct criminal investigations consistent with the Constitution.

A former FBI agent first alerted EPSO and VPPD to the unconstitutionality of their hold practices in 2014. Although the FBI agent encouraged both agencies to stop using investigative holds, both agencies continued to employ the practice for many months thereafter. We opened our pattern-or-practice investigation in April 2015, and have been heartened to see that both agencies have since taken steps to eliminate the use of holds as an investigative tool.

For example, VPPD Chief Lartigue acknowledged to us that the investigative hold practice is unconstitutional. Chief Lartigue also told us that the practice is now prohibited in VPPD policy, although VPPD has not promulgated new formal, written policies related to holds and other arrests. Rather, the only documentation of this change is a one-page directive that was posted in the Ville Platte police station. In addition to this directive, Chief Lartigue now requires officers to fill out a "probable cause affidavit" when they are booking someone into the City Jail. The affidavit must be signed by the officer and "notarized" by a second officer. The affidavit then gets attached to a warrant application to the criminal court judges, which may be sent via a recently installed electronic warrant application system.

EPSO leadership followed a similar remedial path. Following notice of our investigation, Sheriff Soileau issued a directive instructing officers not to use holds, and now requires officers to fill out additional paperwork when someone is booked into the Parish Jail, including a "probable cause affidavit" similar to the one used by VPPD.

These steps, however, are not enough to ensure that officers know their constitutional obligations. Neither EPSO nor VPPD have formalized this new system through policies, procedures, and appropriate training. Moreover, the agencies have given their officers only

limited instruction regarding what constitutes probable cause for an arrest. According to Chief Lartigue, after the new directive was issued, VPPD officers participated in a two-hour training during which he discussed the requirement that all suspects arrested without a warrant must be brought before a judge for a probable cause determination within 48 hours of arrest. We applaud this training as a positive step, although there is no indication that officers were tested on the knowledge gained from the session. We are not aware of any similar training being provided to EPSO deputies and detectives. The warden of the Parish Jail informed us that he is creating a new policy manual for the Jail, but it remains unclear what will be included and when it will be complete. EPSO officers still receive no training relating to arrest and detention procedures, nor do EPSO detectives receive any specialized training when they are promoted from patrol or other positions.

Finally, we received a letter from Chief Judge Chuck West on the 13th Judicial District Court in Louisiana, stating that the Court held a meeting with EPSO and VPPD officials during which the Court explained the requirements of the Fourth Amendment of the United States Constitution and Article 5 of the Louisiana State Constitution. This meeting, however, was for leadership of the agencies, rather than formal training for all officers and detectives. As a result of the lack of policy and training guidance for officers, officers and detectives at both agencies continue to express confusion about the legal requirements for making arrests and conducting interrogations.

We commend Sheriff Soileau, Chief Lartigue, and Chief Judge West for taking these important steps. However, additional safeguards are necessary to ensure that all officers in Evangeline Parish and Ville Platte understand their obligations under federal law and that this understanding is part of sustainable, lasting reform. New policies, regular training, and sufficient oversight mechanisms must be developed to ensure lasting reforms that protect the constitutional rights of Evangeline Parish and Ville Platte residents.

## **THE PATH FORWARD**

The findings detailed above show that EPSO and VPPD engage in a pattern or practice of violating the Fourth Amendment to the United States Constitution. We are optimistic that we will be able to continue to work collaboratively with both agencies to forge a court-enforceable agreement that memorializes the reforms necessary to stop this unlawful practice, rebuild community trust, and ensure effective, constitutional policing. Absent such an agreement, the Civil Rights Division has the authority to initiate litigation to compel compliance with the Constitution and federal law.

Reform will require that both agencies institute new policies and procedures, reinforce those policies with training, and develop oversight mechanisms that ensure a sustained commitment to long-term institutional change. These reforms must include the following:

- **Policies:** EPSO and VPPD must develop and implement policies prohibiting use of investigative holds and describing proper detention and interrogation techniques.



- Training for officers, detectives, supervisors, and command staff: EPSO and VPPD must develop and implement effective and meaningful pre-service and in-service training for their officers, including specialized training for detectives.
- Data Collection, Analysis, and Risk Management: EPSO and VPPD must require officers to document the basis for all detentions, the length of those detentions, and their disposition. Moreover, EPSO and VPPD must develop policies and procedures that require regular review of this documentation to identify and correct unconstitutional practices.
- Community Outreach: EPSO and VPPD must rebuild community trust, which is essential for effective law enforcement. To that end, both agencies must engage with and reach out to residents to ensure that they are fairly and effectively providing them with law enforcement services.

Effective policing and constitutional policing are inseparable. We stand ready work with EPSO and VPPD to address the concerns outlined in this letter. We also remain prepared to take prompt, appropriate legal action if either agency chooses to forego collaboration. We hope to work expeditiously to achieve a collaboration resolution of this matter.<sup>14</sup>

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<sup>14</sup> This report is a public document and will be posted on the Civil Rights Division's website.