

Investigation of the Lexington Police Department and the City of Lexington, Mississippi



United States Department of Justice
Civil Rights Division
and
United States Attorney's Office
For the Southern District of Mississippi

September 26, 2024

TABLE OF CONTENTS

EXECUTIVE SUMMARY	1
BACKGROUND	5
FINDINGS	8
I. LPD Consistently Violates People's Rights During Stops, Searches, and Arrests; and Uses Excessive Force	8
A. LPD Aggressively Polices Low-Level Violations	8
B. LPD Makes Stops and Arrests with No Legal Justification.....	12
C. LPD Conducts Searches with No Legal Justification	17
D. LPD Uses Excessive Force in Violation of the Fourth Amendment.....	18
E. LPD Officers Abuse Their Authority by Sexually Harassing Women.....	21
II. After Arrest, LPD Unlawfully Keeps People in Jail.....	23
A. LPD Unlawfully Detains People Who Owe Old Fines	23
B. LPD Unlawfully Sets Unaffordable Monetary Bond Without Considering Arrestees' Individual Circumstances.....	25
C. LPD's "Cash Bond" System Is Illegal Wealth-Based Detention and Coerces Guilty Pleas in Violation of Due Process	27
D. LPD Unlawfully Jails People Without a Prompt Hearing	28
III. LPD Operates Under an Unlawful Financial Conflict of Interest	30
IV. LPD's Enforcement Practices Disproportionately Harm Black People and Are Driven in Part by Intentional Discrimination	32
V. Lexington and LPD's Practices Prevent People from Addressing Constitutional Violations	39
A. LPD Lacks Internal Oversight.....	39
B. LPD Does Not Receive Meaningful Judicial Oversight	41
C. Retaliation Against People Who Challenge LPD	42
CONCLUSION	44

EXECUTIVE SUMMARY

Hours after the Department of Justice announced its investigation of the Lexington Police Department (LPD) on November 8, 2023, officers chased a Black man through a field and tased him nine times. The man began foaming at the mouth. One officer pointed to a Taser probe lodged in the man's hat and said, "Damn, one of my probes hit him in the head." The man, who has a behavioral health disability, had been accused of disturbing a business.

This was not the man's first encounter with LPD. Earlier that year, LPD officers had jailed him for ten days for trespassing; four days for stealing a cup of coffee; and twelve days for stealing packets of sugar. Each time they arrested him, LPD unlawfully refused to release the man until he paid money towards old fines and fees he owed from misdemeanors and traffic tickets. But each arrest added more fines and fees to the ledger. By November 2023, the man—who has no job, no assets, and no bank account—owed more than \$7,500.

In encounter after encounter with the man, LPD violated his rights. But like countless people in Lexington, the man had little recourse. Through a combination of poor leadership, retaliation, and a complete lack of internal accountability, LPD has created a system where officers can relentlessly violate the law.

FINDINGS

The Department of Justice has reasonable cause to believe that the City of Lexington and the Lexington Police Department engage in a pattern or practice of conduct that deprives people of their rights under the Constitution and federal law. Specifically, we find that LPD unlawfully:

- Arrests, jails, and detains people who cannot pay fines or fees, without assessing their ability to pay;
- Uses excessive force;
- Conducts stops, searches, and arrests without probable cause, including jailing people on illegal "investigative holds" and arresting people solely because they owe outstanding fines;
- Imposes money bail without justification or assessment of ability to pay;
- Jails people without prompt access to court;
- Violates the rights of people engaged in free speech and expression, including by retaliating against people who criticize the police;
- Discriminates against Black people; and
- Operates under an unconstitutional conflict of interest because LPD's funding depends on the money it raises through its enforcement.

Lexington is a small town near the Mississippi Delta, with a population of about 1,200 people. During the period covered by our investigation, its police department has had about ten officers, some of whom work part time. LPD made national news in July 2022 when a former officer released a recording of LPD’s Chief of Police, Sam Dobbins, bragging about shooting a Black man he referred to as a “n-----.” After the recording of Dobbins came to light, Lexington’s Board of Aldermen replaced him with Charles Henderson, who is still Chief today. During Dobbins’s year-long tenure, and continuing under Henderson, LPD has pursued an aggressive approach to policing low-level offenses. Officers arrest people for minor infractions like driving without insurance and parking in a wheelchair accessible space. They also make illegal arrests, jailing people for conduct that is not criminal, like using profanity and owing money to the police.

LPD has paired its enforcement strategy with a forceful approach to collecting fines and fees. Officers arrest people who owe outstanding fines and jail them until they pay. They seek warrants demanding that people pay their debts or go to jail. They also generate money for the police simply by arresting people, particularly for minor infractions like loitering or traffic violations. Most charges result in fines, which in turn fund LPD’s increasing budget. Plus, to get out of jail, everyone whom LPD arrests must pay a \$50 processing fee to the police, regardless of whether they can afford to pay it.

As a result, in recent years, LPD’s revenue from fines and fees grew sevenfold. Community members’ debt grew as well. Lexington sits in one of the poorest counties in the nation. Many people cannot afford to pay fines. The current total of outstanding fine debt to the Lexington Police Department is \$1.7 million.

As LPD carries out its aggressive enforcement and debt collection practices, officers routinely violate people’s rights. They make unjustified arrests and conduct illegal searches.

“[T]hey violate your rights. You ain’t got no rights.”

Woman unlawfully arrested by LPD

They retaliate against people who criticize them. They use excessive force. They hold people in custody without promptly bringing them before a court, as the Constitution requires. When they want information from specific people, they detain and jail them on unconstitutional “investigative holds.”

They disproportionately target Black people for arrests, including by arresting Black people who commit traffic offenses while letting white people who commit similar traffic offenses leave without consequences.

In the small town where LPD operates, people often experience many violations in quick succession. In one case, officers illegally searched a woman’s home, illegally arrested her, and sexually harassed her. The woman told us, “[T]hey violate your rights. You ain’t got no rights. You can’t talk. When it comes to them, you have nothing. It’s their word. Don’t even try to open up your mouth to say nothing.”¹

Shortly after we announced our investigation in November 2023, LPD briefly stopped making any arrests. An LPD officer—who later resigned—told us that a supervisor instructed

¹ If not otherwise cited, all quotes in this Report were stated directly to DOJ investigators or on the body-worn camera footage that we reviewed.

officers not to set up checkpoints or arrest people for owing fines until further notice. But less than two weeks later, arrests resumed, and LPD continued its unlawful practices.

During our investigation, in February 2024, we sent a letter to Lexington and LPD alerting them to evidence that officers were arresting and jailing people for outstanding fines without assessing their ability to pay them. We explained that this violates the Constitution.² To their credit, City and LPD leadership expressed willingness to change. Since that time, they appear to have stopped arresting and detaining people for outstanding fines. But, as this Report illustrates, LPD has a persistent pattern or practice of unconstitutional conduct, and additional remedies are necessary to stop it.

Lexington's leadership told us they didn't invent these practices—other departments nearby also arrest and jail people who owe them money. Like many small police departments, LPD is strapped for resources and has not invested in the kinds of internal controls that make up a well-functioning oversight system.³ And because LPD cannot pay competitive wages, the

“I’ve been doing this a long time, [but I’ve] never experienced the brutality that I have in this little town... I’ve never seen stuff like this.”

Professional who works with the court system, describing LPD

department relies on inexperienced, part-time officers who lack certification and training in basic policing skills. These factors make the difficult work of policing even more challenging.

These issues also incentivize LPD to prioritize raising money through fines and fees over public safety.⁴ Indeed, this under-resourced department—under pressure to fund its operations through citations and arrests—routinely violates people's rights.⁵ Meanwhile, people subjected to LPD's misconduct have little recourse. The City lacks any meaningful accountability system, and LPD routinely retaliates against people who criticize the police, both by arresting them and by punishing them with force. Even the court offers little check on the police, since LPD fails to ensure that people are promptly brought before the court after their arrest, and the City fails to consistently provide adequate counsel to poor people accused of crimes.

Lexington and LPD cooperated fully with this investigation. City officials, police leadership, police officers, and members of LPD's staff committed significant time and resources to

² U.S. Dep't of Just., *Letter to the City of Lexington and Lexington Police Department Regarding Fines and Fees* (2024) <https://perma.cc/ZT4V-VHFA>; see also U.S. Dep't of Just., *Dear Colleague Letter on Fines and Fees* 6 (2023), <https://perma.cc/4F4Y-5XMN> [hereinafter *Dear Colleague Letter on Fines and Fees*].

³ Like LPD, nearly half of the nation's 18,000 law enforcement agencies have fewer than 10 officers.

⁴ Cf. C.R. Div., U.S. Dep't of Just., *Investigation of the Ferguson Police Department* 2 (2015), <https://perma.cc/7QR3-BRLD> (“Ferguson's law enforcement practices are shaped by the City's focus on revenue rather than by public safety needs. This emphasis on revenue has compromised the institutional character of Ferguson's police department, contributing to a pattern of unconstitutional policing ...”).

⁵ Consistent with what we saw in Lexington, studies have found that when police departments heavily rely on fines and fees, they are worse at solving serious crimes and more likely to use deadly force. See Rebecca Goldstein et al., *Exploitative Revenues: Law Enforcement and the Quality of Government Service*, URB. AFFS. REV. 1, 27 (2018); Brenden Beck, <https://perma.cc/G26M-G29E>, J. SOC. SCIS. 161 (2023); see also Stephen B. Bright, *The Fear of Too Much Justice* 168-69 (2023) (explaining the potential dangers posed by small, under-resourced police departments incentivized to raise revenue through citations and arrests).

assisting us with our work. We look forward to working constructively with Lexington and LPD to remedy the unlawful conduct we found.

The Supreme Court has repeatedly said, “There can be no equal justice when the kind of [justice] a man gets depends on how much money he has.”⁶ And yet, in Lexington, justice very much depends on who has resources and who does not. LPD’s reliance on fines and fees, aggressive pursuit of low-level arrests, and lack of meaningful accountability have made the Constitution’s guarantees illusory for many of the people who live there.

⁶ *Griffin v. Illinois*, 351 U.S. 12, 19 (1956); see also, e.g., *Williams v. Illinois*, 399 U.S. 235, 241 (1970) (quoting *Griffin* for same).

BACKGROUND

Lexington, Mississippi is a small, rural town near the Mississippi Delta. It sits an hour north of Jackson in the center of Holmes County. The broader Lexington community includes adjacent rural areas like Balance Due, which “got its name from a few [B]lack families who, after they bought the property from a prosperous white farmer, found that whenever they thought they had finished paying for the property, there was always a balance due. This went on for so long everyone said they paid for the land ten times over.”⁷ Today, Lexington is home to about 1,200 people. Approximately 76 percent of them are Black, and 22 percent are white.

Lexington’s history is not unique among the dozens of small towns in the area of the Delta. After the Civil War, Black people in Lexington lived under the demands and threats of Jim Crow-era segregation. It was “an age when [Black] children and teenagers in Lexington were often held in [the] city jail for no reason other than to be ‘taught lessons.’”⁸

This investigation marks the second time the Civil Rights Division of the Department of Justice has acted in the City of Lexington. In 1963, a group of Black residents sought to register to vote at the Lexington courthouse. They were confronted by a “[s]heriff... other county and city officers, and thirty members of the auxiliary police.”⁹ Lexington’s leadership demanded to know who would try to be the first to vote. A local farmer, Hartman Turnbow, stepped forward and proclaimed, “I came here to die to vote. I’m the first.”¹⁰ Not a month later, a group of white men firebombed the Turnbows’ home in the night. The county sheriff then falsely arrested Mr. Turnbow and charged him with the arson of his own home. The Justice Department intervened and the county dropped the charges.

Nearly half a century later, Holmes County is one of the poorest counties in the United States. The median household income in Lexington is roughly \$39,000, or about half the national average. Many residents find jobs at a nearby car assembly plant or plastic manufacturing company. Others work as nursing assistants in care facilities.

Many families live in dilapidated and severely damaged homes. One elected City official explained, “[T]he housing situation is horrific.” There is “a different sort of homelessness You have ten people living in a two-bedroom home.” The local public high school is 99 percent Black, and all students qualify for free or reduced-price lunch. Many community members do not have access to a bank account or a credit card.

In Mississippi, sheriffs have jurisdiction to enforce the law in the counties where they operate. Municipalities are also permitted to establish their own police departments, as Lexington has done. Like many small police departments, LPD does not operate its own jail. Instead, LPD pays the Holmes County Sheriff to house the people LPD arrests at the county

⁷ Chalmers Archer, Jr., *Growing Up Black in Rural Mississippi: Memories of a Family, Heritage of a Place* 13 (1992).

⁸ *Id.* at 125.

⁹ Jeffrey Brian Howell, *The Undiscovered Country: The Civil Rights Movement in Holmes County, Mississippi 1954-1968* (2005), 46.

¹⁰ Oral history recalled by Julian Bond, Skidmore Commencement Remarks, May 16, 2015. Skidmore College, Saratoga Springs, <https://perma.cc/8TN5-DPV5>; see also Hartman Turnbow, SNCC Digital Gateway, <https://perma.cc/9HBF-DHQU>.

jail.¹¹ Currently, LPD has about ten officers.¹² The police force broadly reflects the demographics of Lexington. The current Chief is Charles Henderson. He is Black, as are most of the officers.

Lexington is governed by a mayor and a five-member Board of Aldermen. The current Board of Aldermen is majority Black. The current mayor, Robin McCrory, who has been in office for most of the past two decades, is white. The mayor is responsible for the City's "day-to-day operations." These include financial and personnel management, as well as resolving citizens' complaints. The Board has the power to set policy. It votes on all ordinances and financial decisions. The Board also has the power to hire and fire all City employees, including everyone in the police department.

In July 2021, Lexington's Board of Aldermen appointed Sam Dobbins, who is white, as police chief. A year later, his tenure was cut short when a former LPD officer leaked an audio recording of Dobbins using a racial slur while bragging about shooting someone. In the recording, Dobbins said, "I shot that n----- 119 times, okay?" Dobbins also said that he does not talk to "queers." He claimed that he had killed 13 people in the line of duty. And he boasted to another officer, "I don't give a fuck if you kill a motherfucker in cold blood ... I will articulate to fix the fucking problem, and I'm the only man in the business here smart enough to do it."

Mayor McCrory learned about the recording from an Alderman, who told her, "It's bound to get out." The Mayor wrote a letter to Dobbins suspending him. When the recording made national news, the Board of Aldermen voted 3–2 to terminate him. In explaining the decision to fire Dobbins, both the Mayor and an Alderman described Dobbins's statements as "locker room talk." The problem, the Alderman explained, was that "locker room talk—it can't get out. His got out."

To replace Dobbins, Lexington hired his second in command, Charles Henderson. Chief Henderson took over in July 2022. Multiple civil rights lawsuits are currently pending against the City of Lexington and LPD. Community members have continued to protest and organize against what they call an ongoing "culture of abuse and harassment."

¹¹ As of January 2024, LPD paid the Holmes County Sheriff \$24.90 per day for each LPD arrestee housed in the county jail. In rare circumstances (like when the county jail is full), LPD houses arrestees in jails from neighboring counties.

¹² We observed frequent turnover at LPD, so the number of officers likely fluctuates. Some officers work only part-time.

INVESTIGATION

On November 8, 2023, the Department of Justice opened this investigation. Our investigative team includes career employees from the Department of Justice's Civil Rights Division and the U.S. Attorney's Office for the Southern District of Mississippi. We were assisted by experts with decades of experience in data analysis and police tactics. We met with City and LPD leadership, including the Mayor, an Alderman, the Municipal Court Judge, and LPD's Chief of Police.¹³ We spent significant time with line officers discussing their work, observing them at the police station, and participating in ride-alongs. We also interviewed former LPD officers, Holmes County law enforcement officials, local advocates, and dozens of Lexington residents.

We extensively reviewed LPD's records to learn about its practices. This review included hundreds of arrest reports and municipal court records and hundreds of hours of body-worn camera footage. We watched proceedings at the Lexington Municipal Court and reviewed relevant records from the Holmes County Sheriff's Department and the City of Lexington, including jail records and financial documents.

We thank the city officials, LPD leadership, and rank-and-file officers for cooperating with this investigation. We are particularly grateful to the many members of the Lexington community who have met with us to share their experiences, often despite their fears of reprisal.

¹³ We offered to meet with all of Lexington's elected officials and anyone else the City believed may have relevant information.

FINDINGS

We have reasonable cause to believe that LPD and the City of Lexington engage in a pattern or practice of conduct that violates the Constitution and federal law. The people of Lexington often do not experience these constitutional violations as isolated incidents. Instead, Lexington and LPD violate people's rights at every stage of their interactions with them—during initial encounters with the police, when police detain and arrest them, and even after the person is in jail.

We begin this Report where most people in Lexington first encounter LPD: when officers stop them; search them or their property; and place them under arrest. During these interactions, LPD officers routinely disregard constitutional rules—particularly the limits on when police can restrict a person's freedom and the prohibition on excessive force.

This Report then explains how LPD's violations continue after they have people in custody. After arresting someone, LPD requires them to purchase their release by paying fines, fees, and money bail, without regard for what the person can afford. A person's freedom therefore depends on how much money they have. LPD also denies the people in its custody prompt access to court, which insulates LPD's violations from review.

Next, we address the structural problem that underlies LPD's unlawful conduct: LPD depends on the revenue it raises from fines and fees. As a result, police in Lexington are incentivized to make enforcement decisions based on revenue rather than the public good.

We next explain how LPD discriminates against Black people, subjecting them to greater scrutiny and harsher punishments than white people receive.

Finally, we address factors that fuel LPD's misconduct, including officers' retaliation against those who criticize the police and failures in accountability.

I. LPD Consistently Violates People's Rights During Stops, Searches, and Arrests, and Uses Excessive Force

LPD aggressively polices low-level crimes and traffic offenses. As they do so, they repeatedly violate people's rights. They make unlawful stops and arrests, including for conduct that is not criminal, like owing money to the police and using profanity. They search people and their property without justification. They repeatedly use excessive force. And while committing these constitutional violations, officers cross other professional lines as well, particularly by sexually harassing women while in uniform.

This misconduct has driven a wedge between the police and the community they have sworn to serve. "They are supposed to serve and protect and that isn't what they are doing," one woman told us. "They are terrorizing the citizens of Lexington, Mississippi."

A. LPD Aggressively Polices Low-Level Violations

In July 2021, LPD launched an aggressive approach to enforcement that ultimately gave rise to endemic constitutional violations. The number of citations that LPD issued more than quadrupled. And instead of giving a warning or issuing citations for many low-level violations and traffic offenses, LPD made arrests. Officers arrested anyone they caught driving without a license. They arrested people for crimes like playing loud music and improper parking. LPD

arrested and jailed one man for four days because he bought coffee at a gas station, then refilled his coffee without paying for a second cup.

**“She’s supposed to be arrested... .
So you need to take her ass to jail”**

LPD supervisor ordering an officer to arrest a woman for parking in a wheelchair accessible space.

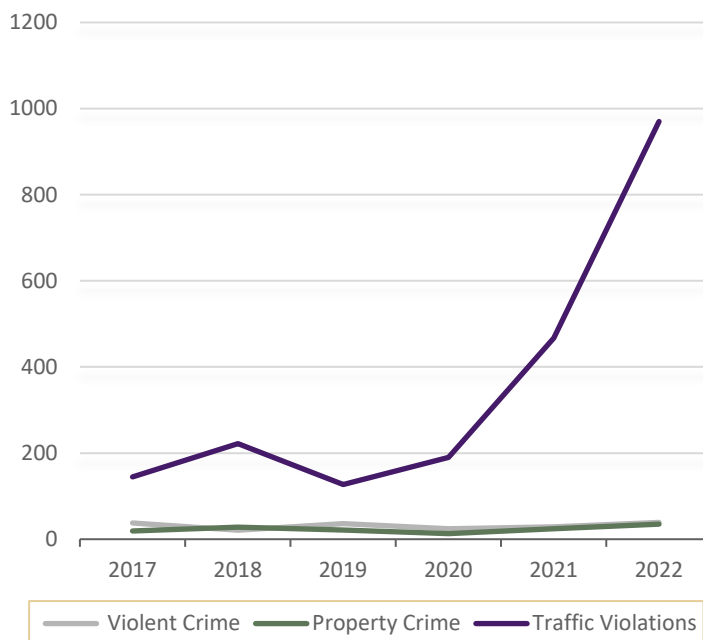
LPD also adopted enforcement strategies to maximize arrests. In particular, LPD erected frequent checkpoints, where officers checked every car on the road for any violations of the law. During some of these checkpoints, LPD enforced a quota on officers: whoever failed to write at least 4 tickets in an 8-hour period would not receive full pay.

Arrests skyrocketed. In 2019, LPD made 70 arrests. But LPD arrested 375 people in 2022 and 294 in 2023.¹⁴ Over the past two years, LPD has made nearly one arrest for every four people in town. That is more than ten times the per capita arrest rate for Mississippi as a whole.¹⁵

Even after changes in leadership, LPD supervisors have continued to enforce the department’s aggressive new approach. For example, in January 2024, three LPD officers, including a supervisor, responded to the Dollar General for a car improperly parked in an accessible space (reserved for people with disabilities). An officer initially planned to let the woman go with a ticket. But the supervisor told him, “She’s supposed to be arrested ... So you need to take her ass to jail.” The officer agreed: “Gotta start cracking down on these improperly parked vehicles.” They put the woman in handcuffs, brought her to the police station, and chained her to a bench until she paid LPD money to secure her release.

Even when not subject to official quotas, officers understand that their pay—and even their jobs—depend on making low-level arrests. While arresting a man for driving without a license, one officer explained, “If we don’t arrest you, we get days at home [without pay]. I can’t afford no days at home.” The man was taking someone to the doctor after a major surgery. But the officer said he would be fired if he

LPD Citations and Arrests



¹⁴ Citations and arrests dropped when litigation was filed against LPD in August 2022, but still remained higher than they were before Dobbins and Henderson.

¹⁵ Mississippi’s per capita arrest rate is 2.27 per 100 people.

gave the man a break. “[T]his being the City of Lexington, when you don’t have a driver’s license, you get arrested,” the officer explained. “So the driver must go to jail.”

To carry out arrests for low-level crimes, LPD uses resources and tactics that most police departments reserve for serious offenses. For example, in July 2023, LPD officers broke down a 63-year-old Black man’s door to arrest him for calling a woman a “bitch” in a public place. On direct orders from the police chief, an LPD officer used a baton to smash in the man’s back door, then entered his home with his gun drawn. As the man ran out of his front door in fear, an LPD supervisor shouted, “Get him! Tase him!” The man fell while running and injured his leg. Officers handcuffed him on the ground. Then, according to trial testimony, the officers took him to the hospital, and then brought him back to the police station in a wheelchair. The Lexington Municipal Court fined him for disorderly conduct.

LPD officers also carry out unnecessary arrests with excessive force. In one case, while officers were clearing the parking lot outside a closed bar, a supervisor spotted a man with a cup and called out: “Open container! Get him!” When approached, the man dumped out his drink. But the officer grabbed him anyway, slammed him against a car, and, with the help of two other officers, tased the man six times.

In another case, while attempting to arrest a man for having a tinted windshield, officers followed the man’s car to his house, forced their way into his home, and tased him for fifteen seconds—an unjustified use of force. When the officers demanded to come inside, a woman in the house asked, “You got a warrant to come in here?”

But without presenting a warrant or any other justification to enter the home, the supervisor told the woman to “move out of the way,” pushed past her, and fired his Taser at the man. The officer shocked the man for five seconds—the length of time electrical current will run before the Taser automatically shuts off. But the officer pulled the Taser’s trigger two more times to shock the man for another ten seconds. The woman asked, “Why you all trying to arrest him,” and the first officer shouted, “I stopped him for a window tint, and I tried to catch up with him!” “This shit is ridiculous,” the man said.

“Open container! Get him!”

LPD Supervisor before officers tased a man six times for having an open container of alcohol in the parking lot of a bar.

Even as both citations and arrests skyrocketed, the number of citations and arrests that LPD made for violent offenses barely changed at all. Likewise, citations and arrests for property crimes, like burglary, remained the same.

“You are in the hole, and you ain’t never getting out.”

LPD’s aggressive enforcement approach is also an effective way to raise money: Every arrest that LPD makes generates funds for the police. This happens in several different ways.

First, everyone that LPD arrests must pay a \$50 processing fee to the police. Unless the Chief of Police authorizes an exception, people who cannot afford to pay the processing fee must wait in jail until they come up with the money.

Second, LPD makes money from the charges themselves. The City of Lexington operates its own municipal court, which has jurisdiction over both violations of Lexington’s municipal code and state misdemeanor offenses committed within Lexington’s boundaries. People convicted in Lexington’s municipal court can be sentenced to jail, a fine, or both. However, as Lexington’s municipal judge explained, “For the most part, we really just fine people.” By his estimation, “well over 90 percent” of people who are convicted end up with a fine.

Third, LPD uses arrests as an opportunity to collect the debt people owe from unpaid fines. When LPD arrests a person, they check to see whether they owe any outstanding fines from old convictions and traffic tickets. If they do, LPD will not release them until they pay.¹⁶



Lexington uses the money that LPD collects—from both fines and processing fees—to fund the police department. Therefore, the department profits from its aggressive enforcement strategy. In 2022, after LPD adopted its expansive arrest policy, Lexington’s revenue from fines increased more than sevenfold—from \$30,000 per year to over \$240,000. In 2023, Lexington collected more than \$220,000 from fines, which made up nearly a quarter (23 percent) of LPD’s budget.

But Lexington is a poor town in a poor county. Many people who live there cannot afford to meet their basic needs and cannot afford to pay a fine of any amount.¹⁷ And where fines are imposed without regard to people’s ability to pay them, the inevitable effect is that fines punish poor people more harshly. For example, a person fined for two of Lexington’s most common offenses—driving without a license and no proof of liability insurance and charged the \$50 processing fee—would owe almost \$800. For a person who works full time at Mississippi’s minimum wage of \$7.25 an hour, that amount is nearly three quarters of their monthly salary.

Faced with fines they cannot afford, many people in Lexington pay fines bit by bit or not at all. LPD’s enforcement strategy has put hundreds of people in debt to the police. In a town of about 1,200 people, the total sum of outstanding fines is more than \$1.7 million.

¹⁶ See *infra* at 23.

¹⁷ As the Justice Department has noted, “When a person already cannot afford a basic need, such as housing, a fine or fee of any amount can be excessive.” Dear Colleague Letter on Fines and Fees, *supra* note 2, at 5.

For the people of Lexington, the result is a cycle of arrests, payments, and endless debt. As one man explained:

You go to court, and you got to pay them everything. And if you don't have the money, they set you on a payment plan. They know you didn't do nothing wrong, but they know [they] can get you to pay something. So then you got caught in the system. They will get you for it again, and now you are in the hole, and you ain't never getting out.

B. LPD Makes Stops and Arrests with No Legal Justification

The vast majority of the arrests that LPD makes are unnecessary. Many of them are also illegal. LPD officers unlawfully arrest people who cannot afford to pay their fines. They stop and arrest people for using profanity, in violation of the First Amendment right to freedom of speech. And, although arrests must be justified by probable cause that the person committed a crime, LPD officers regularly stop and arrest people for conduct that does not violate the law.

1. LPD Illegally Stops and Arrests People Who Owe Outstanding Fines

It is not a crime to owe money you cannot afford to pay. Nevertheless, LPD officers stop and arrest people who owe outstanding fines. Indeed, in the reports for some warrantless arrests, LPD lists the old fines the person owes as the sole criminal charge.

Charges	Back Fines \$1,257.25
Bond	

Excerpt from March 2023 Arrest Report

This violates the Fourth Amendment. A person's debt to the police does not supply reasonable suspicion for a stop or probable cause for an arrest. In addition, along with other practices LPD has adopted to collect fines and fees, arrests for unpaid fines also violate the Fourteenth Amendment. Arresting a person for owing money without any assessment of whether they can afford to pay it violates the Constitution.¹⁸

LPD also makes illegal arrests through “bench warrants,” which authorize an officer to arrest a person who owes money for old fines. Without presenting or even gathering any evidence about the person's ability to pay, officers can ask the municipal clerk to create a “bench warrant” for a person who owes fines, and the clerk will send it to the municipal judge to sign. The LPD-run municipal court does not consider a person's ability to pay before issuing a bench warrant.

As of January 2024, LPD had on file at least 980 open bench warrants based on unpaid fines and fees, signed by a municipal judge. The warrants were issued to at least 652 unique individuals—equivalent to more than half of Lexington's population. At any time, LPD officers could arrest anyone with an open warrant and jail them until they paid their outstanding fines.

And LPD does arrest them. Indeed, in a small town with so many open arrest warrants, going into town for any reason can mean going to jail. For example, in March 2023, officers

¹⁸ See *Bearden v. Georgia*, 461 U.S. 660, 672–73 (1990).

“spotted [a man] at the tire shop who was known to owe old fines to the Lexington Police Department,” and arrested him on a bench warrant for old fines. There was no other basis for stopping or arresting him other than his debt. Arrests like these are illegal. Law enforcement officers violate the Fourth Amendment when they execute warrants that are manifestly invalid, even when the warrant was authorized by a court.¹⁹

The mission to collect old fines is so pervasive that officers use nearly every interaction with the public to check and see what people may owe. In July 2022, a woman came to the police station as a witness to give a statement in a murder investigation. LPD arrested her for old fines. In September 2023, an officer handcuffed a passenger from a traffic stop and brought her to the police station so that he could determine whether she owed them anything (she did not). In December 2022, an arrested man’s father arrived to bring his car home; LPD found that he owed old fines and threatened to arrest him unless he paid.

2. LPD Illegally Stops and Arrests People for Using Profanity

Since November 2022, LPD officers have arrested 20 people for public profanity. One young man was arrested for muttering to himself, “Got me fucked up, man,” as he climbed into the back seat of a friend’s car. An officer walked up, told the young man he was under arrest, and started handcuffing him. The man looked confused, and another officer told him, “You cussed right in front of us.” The man paid \$140 in cash to stay out of jail.

Yelling obscenities at someone, including a police officer, is protected by the First Amendment.²⁰ Laws prohibiting public profanity are unconstitutional, and it is illegal to enforce them.²¹

Nevertheless, Lexington has an active ordinance, passed by its Board of Aldermen in 1963, that makes it unlawful to “curse, insult, deride, ridicule or use abusive language towards a member of the Police Department of the City of Lexington.” In September 2022, the ACLU of Mississippi warned Lexington’s town leadership that their profanity ordinance was unconstitutional. But the City chose to keep enforcing it.

Before me, the undersigned, Municipal Court Clerk of the City of Lexington , Mississippi, _____ makes affidavit on information and belief that _____ on or about the <u>17th</u> day of <u>December</u> , <u>2022</u> , in the City of <u>Lexington</u> , <u>Mississippi</u> , County aforesaid, did <u>willfully and unlawfully use profanity while on Amigo parking</u> <u>lot a public place in the presence of two or more persons by</u> <u>saying "I dont give a fuck" in the City Limits of Lexington MS</u> <u>39095.</u> _____ _____ Profanity, Etc. in a public place [97-29-47]

Officers made public profanity arrests even as people expressly referenced their right to free speech. A man was arrested for swearing after following officers’ orders to step back while they searched a car parked near his. He walked back to the sidewalk, out of the way, and said, “I’m good. I’m on public motherfucking ground.” Two officers surrounded him and said, “No more

¹⁹ *Groh v. Ramirez*, 540 U.S. 551, 553–56 (2004); see also *Malley v. Briggs*, 475 U.S. 335 (1986) (holding that an officer can be held liable for submitting an arrest warrant application that a reasonably well-trained officer would know does not establish probable cause).

²⁰ *City of Houston v. Hill*, 482 U.S. 451, 461 (1987).

²¹ *Lewis v. New Orleans*, 415 U.S. 130, 132–34 (1974).

cussing.” The man responded, “I know my law. People can cuss. I’ve got freedom of speech.” An officer pulled out his Taser and said, “You want to go to jail?” “You’re not gonna tase me,” the man replied. “Come on, I’m trying to get in my car. What the hell.” As the officers arrested him for public profanity, one of them shouted, “Take him to the county [jail]. Take him straight to the fucking county.”

3. LPD Illegally Stops People Without Reasonable Suspicion and Arrests People Without Probable Cause

The Fourth Amendment prohibits police from arresting anyone without probable cause to believe that the person committed a crime. But LPD arrests people for conduct that does not meet the elements of the charged offense.

For example, in June 2023, a Black man ran into the police station through a side door to escape a man who was trying to assault him. “He was going to get your ass,” an LPD supervisor said. “I promise you, if you hadn’t started running back here, he was going to get you.” The supervisor told the Chief that the man would have been beaten up if he had not entered the station through the side door. The Chief instructed him to charge the man with disorderly conduct anyway. In the police report, an LPD officer inaccurately stated that the two men were trying to “get at each other.”

LPD also stops people for conduct that is manifestly not criminal—even though the Fourth Amendment requires that stops be justified by reasonable suspicion of a crime. For example, during a ride-along with a DOJ investigator, an LPD officer stopped a car because it had one broken tail-light (the headlights and other tail-light were working). But Mississippi law only requires one tail-light, so there was no legal violation to justify the stop. The officer inaccurately stated in the arrest report that the car was “driving without ta[il]-lights.” This case was not unique: we found multiple other cases from recent years where LPD conducted stops for the same invalid reason.

Even when LPD has a basis to make a stop or an arrest, officers regularly bring inflated charges or add additional charges unsupported by the law. For example, after finding “one ounce” of marijuana in a man’s car, LPD charged him with felony possession of a controlled substance. But an ounce is not enough marijuana to qualify for a felony charge. In Mississippi, one ounce of marijuana possession is a misdemeanor with a maximum fine of \$250.

These mistakes matter. Whenever LPD charges someone with a felony, that person must wait in jail for a bond hearing.²² Waiting in jail can mean missing work and childcare responsibilities. Plus, as one woman explained, going to jail can “ruin” your reputation and put your “life in snowball.” “When people hear of you going to jail, they will remember you going to jail,” she said. The man who was falsely charged with felony marijuana possession spent four days in jail. Once he posted bond on the charges and paid LPD \$318 in old fines, LPD let him go.

LPD benefits from inflating charges, whether they are valid or not. Every charge generates a separate fine.²³ Thus, the more charges LPD brings, the more money LPD gets. And since

²² See *infra* at 23.

²³ See *infra* at 23-25.

many people pay the fines for their charges directly to the police instead of litigating in court, even baseless charges can bring in cash.²⁴

For example, after the man running from his attacker entered the police station, the Chief not only ordered officers to baselessly charge the man with disorderly conduct, but also directed that he pay “cash bond” to get out of jail. In Lexington, “cash bond” means that the person pays the fines associated with the charges at the police station. It also amounts to a guilty plea; when a person pays the fine up front, a guilty plea is entered in the case.²⁵ After two days in jail, the man paid the disorderly conduct fine in full, plus the processing fee. This meant no court would ever examine his case.

Ultimately, LPD officers aim to charge people for as many crimes as they can, often without regard to the evidence and the law. We frequently saw officers on body-worn camera brainstorming additional charges they could add to an arrest. In one case, while arresting a man for marijuana possession, an LPD supervisor suggested a man had committed another crime by carrying Ibuprofen pills with him. And after arresting the man who came through the police station side door, an LPD supervisor suggested adding a charge for disturbing a business. “You could do a business too, because this [the police department] is a business,” the supervisor said. “We’re not a business,” an officer replied, “Walmart’s a business.” The supervisor countered, “Do we collect money here?”

Suspended Drivers’ Licenses: Debt on Top of Debt

Until January 2017, Mississippi suspended people’s driver’s licenses when they did not pay court-imposed fines and fees, without considering whether the person could afford to pay them. Imposing certain serious adverse consequences, including automatic driver’s license suspensions for failure to pay fines and fees without considering people’s ability to pay them, violates the Constitution.

In 2017, Mississippi ended driver’s license suspension for court debt and agreed to reinstate licenses that were suspended for old fines and fees. But this work appears to be incomplete. We saw LPD arrest people for driving with licenses that were suspended because they could not afford to pay fines. These arrests are not illegal, but they build upon a statewide policy that punished the poor for their poverty. The people whose licenses Mississippi suspended for fine debt now accrue even more fines for driving without a license. The new arrests add more fines and fees to the ledger. In Lexington, the standard fine for driving with a suspended license is \$491—plus LPD’s processing fee, and, frequently, another fee to retrieve the towed car.

4. LPD Illegally Detains People on “Investigative Holds”

One category of LPD’s baseless arrests deserves special mention: The “investigative hold.” When an LPD officer has a degree of suspicion about someone—but not probable cause to arrest them for a crime—LPD detains that person in jail for up to 72 hours to investigate.

²⁴ See *infra* at 26.

²⁵ See *infra* at 26 (explaining “cash bond” system). As we explain below, people who pay cash bond can still technically challenge their cases in court. If they win, they must then petition the Board of Alderman for their fine payment to be reimbursed. This almost never happens.

This is illegal. Detaining a person in jail is an arrest, and arrests must be justified by probable cause. Nevertheless, LPD illegally holds people at the police station and in jail for “investigation” without even alleging that there is probable cause for arrest.

For example, in June 2023, an LPD officer spotted a Black man in a deli who was “wanted for question[ing]” about a burglary. Without charging the man for any crime, the officer handcuffed him and took him to the county jail. Once the man had been processed at the jail and changed into an orange jumpsuit, an LPD supervisor took him to an interrogation room and questioned him about the burglary for approximately half an hour. The man denied involvement in the burglary, and he was released later that day with no burglary charges.

While making these illegal arrests, officers claim—against all evidence—that they are not making arrests at all. For example, in one case that we reviewed, officers denied that they were making an arrest even as they handcuffed a woman, placed her in the back of a patrol car, and brought her to the police station for questioning:

Woman: So, I’m under arrest?

Officer: No, no, no ... you’re not under arrest, just being detained at this time. A lot of people think, ‘Oh, I’m being detained!’ But detained don’t mean you’re in no serious trouble or nothing like that.

Throughout this conversation, the woman remained handcuffed. After interrogating her, LPD brought the woman to jail, still without any basis for an arrest.

Investigative detentions also create additional opportunities to violate people’s rights. An LPD supervisor told us that, because the detentions are not treated as formal arrests, officers need not afford the people they detain for investigation with the protections the Constitution requires for arrests, like the opportunity to bail out or a prompt appearance before a judge. In his view, he said, this can make an investigative hold better than an actual arrest because it allows police to seize a person and jail them without any legal protections or court oversight.

LPD also fails to consistently document when it arrests people on investigative holds, which shields the practice from public view. Although sometimes LPD makes a record of investigative holds in arrest reports, we also saw body-worn camera footage from the past year where officers placed people on “investigative holds,” but did not document it at all.

Arresting a person on an “investigative hold” without probable cause is unconstitutional.²⁶ As the Supreme Court put it, “Nothing is more clear than that the Fourth Amendment was meant to prevent wholesale intrusions upon the personal security of our citizenry, whether these intrusions be termed ‘arrests’ or ‘investigatory detentions.’”²⁷

²⁶ Some jurisdictions (but not Mississippi) allow for the arrest of “material witnesses” in narrow circumstances that are not applicable here. See, e.g., *Ashcroft v. Al-Kidd*, 563 U.S. 731 (2011) (discussing the federal material witness statute).

²⁷ *Dunaway v. New York*, 442 U.S. 200, 214–15 (1979); see also U.S. Dep’t of Just., *Investigation of the Ville Platte Police Department and Evangeline Parish Sheriff’s Office* 5 (2016), <https://perma.cc/JG5C-CLAE> (2016), (finding constitutional violations where law enforcement arrested and jailed people on investigative holds without probable cause).

“Who do we call? They are the law.”

In February 2023, officers arrested a Black woman on an “investigative hold.” LPD did not accuse the woman of any crime. Nevertheless, officers handcuffed her and brought her to jail, where she remained for the next five days. While the woman was in LPD’s custody, officers interrogated her about her boyfriend, who was a suspect in a murder investigation.

Officers also arrested and jailed the woman’s boyfriend on an “investigative hold.” After interrogating him, officers obtained a no-knock warrant to search the home that he shared with the woman. In the warrant application, officers stated that he confessed to shooting a gun and selling drugs. In body-worn camera video from his interrogation at the police station, he denied both.

The search did not yield evidence to charge anyone with murder. But officers did find about an ounce of marijuana and a bottle of pills they believed were ecstasy. They also found something else: the woman had running water, even though they believed she had not paid her water bill. Chief Henderson threatened to charge her with felony theft and federal racketeering for using the water. “And every gallon that’s been used, it’s gonna be charged,” the Chief said. “If it’s over so much, you’re gonna be charged with a felony, and you gonna be sitting in jail for a long time.” She could avoid these charges, he told her, if she could get her boyfriend to talk.

After the woman waited for two days in jail, LPD baselessly charged her with felony drug trafficking for the small amount of drugs found in her home. She bonded out five days later. Neither the woman nor her boyfriend was ever charged in connection with the murder.

The woman understands that LPD violated her rights. But she told us she feels helpless to prevent it from happening again:

We didn’t know what to do. Who do we call? They are the law. They could just come shoot us and say we were reaching for the gun. They can do anything to stop the truth from coming out. I am terrified of that. LPD terrifies me ... I am terrified. I don’t come out of the house when I see them. I do not. I do not. I do not come out of my house.

C. LPD Conducts Searches with No Legal Justification

LPD’s stops and arrests are often accompanied by illegal searches. To search a person, a car, or a home, officers need a warrant or legal justification.²⁸ Absent a few exceptions, officers need either probable cause to believe they will find evidence of a crime or reasonable suspicion that a person might have a weapon.²⁹ But LPD officers routinely conduct searches without any justification.

LPD officers sometimes misrepresent facts to justify a baseless search. In one example, described above, a court approved a search warrant for a man’s home based on an officer’s affidavit that the man had confessed to several crimes. But video of the interview shows the

²⁸ *United States v. Karo*, 468 U.S. 705, 717 (1984).

²⁹ *Arizona v. Gant*, 556 U.S. 332, 343 (2009).

man denied the accusations. In many cases we reviewed, officers gave no explanation for the search in the arrest report, and none was apparent from body-worn camera footage. For example, during an arrest for playing loud music at a gas station, officers illegally searched a man's car but came up empty-handed. The officers did not write any explanation for the stop, search, or arrest, which includes only the list of charges: loud music, no driver's license, and no liability insurance. We reviewed the officers' body-worn camera videos for possible justifications. We found none.

LPD officers also conduct broad searches under the guise of making an "inventory." When police lawfully seize property—such as when a car is towed after the driver's arrest—officers can conduct an inventory search "to ensure [the property] is harmless, to secure valuable items ... and to protect against false claims of loss or damage."³⁰ But, as the Supreme Court has warned, an inventory search has to follow a standard protocol; officers cannot rummage around looking for evidence under the guise of conducting an inventory.³¹ Yet that is precisely what LPD officers do. Officers use "inventory searches" to search any car they tow for evidence of crimes—not to actually make an inventory of valuables. Indeed, LPD officers could not describe any consistent approach to inventory searches, and LPD has no policy that governs inventory searches except to, as a supervisor put it, "check everything in that vehicle." When asked for examples of search inventories, LPD could not show us any.

Police cannot automatically search a car whenever they arrest the driver. They still need probable cause to believe that the car contains evidence of a crime. But we frequently saw officers arrest people for minor traffic violations—crimes that don't involve physical evidence, like running a stop sign—and then reflexively search the car. And although officers are justified in searching a car for weapons when the arrestee could access the car, LPD officers regularly search cars after a person is securely in custody.³²

In one case, for example, an officer stopped a man for running a stop sign and searched his car without explanation. The man admitted he did not have a license, and the officer ordered him out of the car, handcuffed him, and placed him in his patrol car. Officers allowed the man's brother to drive the car home. There could not have been evidence of running a stop sign or not having a license inside the car. There was no reason to think the car contained any other criminal evidence. And there was no valid safety justification for the search, since the man was handcuffed and locked in the back of the officer's car. Nevertheless, the officer searched the man's car (he found nothing).

D. LPD Uses Excessive Force in Violation of the Fourth Amendment

As arrests rose in Lexington, so did the amount of force officers used.³³ From 2019 to 2023, the number of times LPD officers used force increased tenfold.

³⁰ *Whren v. United States*, 517 U.S. 806, 811 n.1 (1996).

³¹ *Id.* at 811.

³² *Arizona v. Gant*, 556 U.S. 332, 343 (2009).

³³ By design, revenue-motivated policing leads to more arrests. Studies show this strategy also leads to increased use of force during arrests. There is a rise in how often force is used, and in the severity of force used. Beck, *supra* note 5, at 3.

To balance the twin goals of public safety and civil rights, the Constitution carefully limits when an officer may use force.³⁴ The amount of force an officer may use is tied to the dangerousness of the situation and the seriousness of the crime. And regardless of how serious the crime at issue, officers may not hit, kick, or tase someone who is slow to follow orders but is not a threat.

LPD officers—from the newest to the most senior—use force that violates the Constitution. We reviewed body-worn camera video of every incident with reported force from November 2022 through January 2024. We also reviewed every arrest report from this period and found incidents where officers used force but did not report it. In all the incidents we reviewed, we never saw LPD use force against a white person. We only saw LPD use force against Black people.

LPD uses excessive force against people who are accused of minor crimes and people who are not resisting. LPD also regularly uses force as punishment for any number of perceived slights or when people do not immediately follow orders—even when the orders are confusing or impossible to follow.³⁵ In some cases, LPD does all of these things at once. For example, while arresting a Black man for “abusive language,” LPD Chief Charles Henderson pressed his Taser directly over the man’s heart and fired—a potentially lethal use of force—because the man put his broken hand behind his back too slowly. Family members called LPD because a teen had started a fight and broken the man’s hand. The man yelled at the teen and at the officers, who decided to arrest him. The Chief arrived and told the man to put his hands behind his back. Two officers began handcuffing him, and the man flinched—but did not physically resist—as an officer grabbed his broken hand. The Chief walked closer, pressed the Taser to the man’s chest—directly over his heart—and said, “I’m gonna tell you again. Put your hands behind your back.” “He got my hand,” the man said, reflexively pulling his broken hand back. The Chief pushed the Taser’s trigger, sending an electrical current that caused the man to collapse unconscious.

While the man lay unconscious on the floor, the officers finished handcuffing him. Family members cried, “You need to get a Medevac!” They were right—the Taser manufacturer warns that firing a Taser near the heart may cause “cardiac capture,” which can result in heart attack and death. But the Chief refused to call paramedics. Instead, he yelled at the family, “You don’t run the police department,” and ordered an officer to take the man to jail. Twenty minutes later, another officer tased the man again—while he was compliant and sitting in the backseat of the officer’s patrol car—because he tried to make a call on his cell phone.

LPD officers routinely fired Taser darts while dangerously close to a person, once hitting a Black 18-year-old in his cheek and lodging a probe in his jaw. Officers tried to yank the probe out but had to take the teen to the hospital because it would not come loose.

Officers use Tasers to repeatedly stun people. One Black man was tased eight times while being held down by three officers. On another occasion, three different officers used their Tasers like cattle prods and stunned a Black woman six times to make her move more quickly. Officers tased people already in custody, including while they were handcuffed and sitting in a

³⁴ Force is excessive if it is more than a reasonable officer would use in a similar situation, faced with the same facts and circumstances. *Graham v. Connor*, 490 U.S. 386, 396–97 (1989).

³⁵ It is unlawful to use force as punishment. *See Kingsley v. Hendrickson*, 576 U.S. 389, 397 (2015).

patrol car. Officers also bypassed the Taser's built-in safety features to shock people for prolonged periods of time. Officers often used the Taser to punish people. When one Black man ran from police, an officer told his supervisor he was going to "bust his ass up with this Taser," and made good on his promise by repeatedly tasing the man when he caught him. Shocking a person multiple times or for an extended time is extremely dangerous and risks serious injury.

Instead of correcting officers who use excessive force or setting an appropriate example, supervisors also use force without justification. With the help of the Chief, officers used a Taser to drive stun an unarmed Black man 17 times. Officers initially saw the man walking with a large rifle under his coat. But when police stopped him, the man tossed the rifle away and held up his hands. Officers used force to handcuff the man, who needed assistance to walk. When officers sat him in the back of a patrol car, he had difficulty getting his feet inside. The Chief walked up to the car, slapped the man's leg, and said, "Put your feet in the car." The man did not respond and seemed unable to move. The Chief punched the man while yelling, "Move your foot." Another officer opened the opposite car door and yelled, "Get in this car!" Instead of pulling the man into the car, or helping him put his foot inside, the Chief turned to an officer and said, "Let me see that," and took another officer's Taser. He then used the Taser to drive stun the man. Another officer pulled out his Taser and shocked the man from inside the car. The Chief tased the man four more times in the leg, chest, and stomach while the other officer also tased the man repeatedly from the opposite side.

When officers arrived at the county jail, they continued to drive stun the man, who was moaning and had vomit on his face. Officers opened the car door and told him to get out. The man started to move towards the door but jerked back when he saw a Taser. An officer tased him, and he pulled his legs back into the car. Opening the opposite door, an officer drive stunned the man three more times. Officers finally pulled the man—who was barely able to move—from the car, laid him on the ground, and then carried him into the jail. Only 26 minutes had elapsed from the first to the last of these 17 drive stuns, leaving the man covered in his own vomit and unable to speak or walk.

We observed LPD officers use excessive force and then brag about it. After kicking an unarmed Black man so hard that he wet himself, one officer told the dispatcher, "I didn't give two fucks about his civil rights." The man was accused of threatening his family with a gun, a serious offense. LPD officers appropriately held the man at gun point until they were certain his hands were empty. Switching to a Taser, the closest officer then yanked the man from his doorway and yelled, "Get down!" The man got down on his hands and knees. The officer again yelled, "Get down," and the man said, "I'm down!" Two seconds later, the officer kicked the man and hit him in the back with his Taser. Kicking and hitting an unarmed and compliant man is unconstitutional excessive force, even if the man was accused of a serious and potentially dangerous crime.³⁶

LPD officers also use unreasonable force after car or foot pursuits. An officer beat a Black man who ran from the police station while still handcuffed. LPD officers had arrested him five times in the previous year for minor infractions. On this occasion, officers stopped him for parking in a fire lane outside a grocery store and arrested him for driving with a suspended license. Handcuffed in the station, the man slipped out the back door and hid in a nearby

³⁶ *Darden v. City of Fort Worth, Texas*, 880 F.3d 722, 732 (5th Cir. 2018).

neighborhood. The first officer to find the man hit him in the face with a gun, breaking his nose. The second officer who arrived asked him, “Why you run?” The man answered, “Scared.” Then he told the officer, “That man stomped me man. He hit me with that damn gun in my mouth.” The first officer yelled at the man: “Stupid motherfucker. Always doing stupid shit. That’s what you get! Now run and watch. I’ll pop your ass again. Fucking thieving ass n-----.”

E. LPD Officers Abuse Their Authority by Sexually Harassing Women

Just as LPD officers flout constitutional limits with their conduct, they cross professional boundaries in other ways as well—particularly when interacting with women. From the outset of our investigation, we heard reports that multiple male LPD officers routinely engage in sexual harassment. These reports came not only from women who alleged that they experienced this misconduct, but from people who witnessed it as well. Four current and former LPD officers also reported that they had directly witnessed officers sexually harassing women while in uniform. The accounts of the sexual harassment were credible and consistent. All of the women we interviewed who reported sexual harassment were Black.

In many of these accounts, LPD officers expressed sexual interest in women during stops and arrests or when women came to the police station to report crimes. Several women who had rejected officers’ advances told us that the officers then repeatedly followed behind them in their police cars. In one case, a Black woman gave a white LPD officer her number so that he could tell her when her boyfriend was being released from jail. The officer did tell her, but he also texted her that she was “the finest thing in Lexington.” “[E]rase this text,” he added.

The woman told us that, when she got the text, she felt she could not rebuff the officer’s overture because she feared he might retaliate against her boyfriend, who was still in LPD’s custody. “I was scared they was going to take him to jail because there’s a lot of coercion on the force, a lot of power abuse,” she said. “I thought they would take it out on him because they had him in custody.”

One Black woman told us that officers unlawfully arrested her on an “investigative hold” and held her in jail for nearly a week without access to court; LPD’s records confirmed both the prolonged detention and the illegal arrest. While she was in custody, she said, an LPD officer and a member of LPD leadership retrieved her from the jail in the department’s gray Charger, supposedly to interrogate her. Instead, one of them tried to coerce her into sexual activity. As she recalls, he told her, “The only way to get past this [is] to give me what I want.” The woman felt powerless and afraid:

I was terrified ... [He] was asking for sex. There was no music and it was quiet. I was scared and nervous. I was shackled. I was scared because I was thinking, ‘What if?’ ... I can’t defend myself... . [Y]ou can’t do anything. It’s your word against the law. What if I say something? What if I try to report it to someone and I don’t get justice, and then they are the law?

The woman told the officers that she was menstruating, and they took her back to jail.

The woman’s account is credible; records we reviewed were consistent with the details in her story. She is also not alone. In a state court case, a different woman testified under oath that the same individual from LPD retaliated against her for rejecting his sexual advances.

Because police officers exercise authority over others and frequently work with vulnerable populations, the policing profession may create opportunities for sexual misconduct. Police departments must therefore be vigilant and proactive against those who might misuse their positions.

But at LPD, nothing happens when officers cross the line. For example, one LPD supervisor told us that an officer took a woman's criminal complaint and got her phone number for romantic purposes in the process. Although the supervisor claimed that this sort of conduct is "not tolerated," there is no evidence that LPD reprimanded or disciplined the officer. When asked why women might be willing to give officers their numbers, the supervisor said, "Maybe they just like the uniform."

Ultimately, LPD's behavior leaves women in Lexington feeling vulnerable and unsafe. Indeed, the most common refrain we heard during our interviews with women who lived in Lexington and its surroundings was that they avoided coming to town and even leaving their homes for fear of encountering the police. One woman told us that when she comes to town, she ducks down in the back of friends' cars so that officers do not see her. Another woman, who told us officers had sexually harassed her, was so frightened of LPD officers that she repeatedly ran from police when she saw them, which resulted in charges for evading them. On one occasion, she ran from them into an abandoned house. While officers screamed her name outside, she hid from them in a snake-infested tub. "I don't mess around in Lexington," another woman told us. "If I am coming to town, I am going to get what I have to get, and then I am coming home."

One woman experienced a litany of unlawful interactions with LPD that upended her life and prompted her to move out of Mississippi. "I can't afford to pay another bond," she told us. She no longer has confidence that the system will be fair. "I didn't understand the system, but trust me, I do now," she said. "One little incident with a police officer can ruin your whole damn life. You can be very innocent, and it will still be like you're guilty."

"One little incident with a police officer can ruin your whole damn life."

Woman who left Mississippi to escape LPD harassment

II. After Arrest, LPD Unlawfully Keeps People in Jail

After arresting people, LPD continues to violate people's rights by requiring them to pay for their release without first assessing their ability to pay; by setting money bail without the justification the Constitution requires; and by limiting their access to courts. As described above, when LPD arrests someone, they must pay a \$50 processing fee to get out. If the person owes old fines, they have to pay all or part of those fines, too. After clearing those hurdles, the person has another price to pay: The person must "bond out" on the new charges for which they were arrested.

In Lexington, "bonding out" can refer to two different things, although both involve paying money in exchange for release. If the person plans to challenge their case in court, they can pay

money bail. The person deposits the sum of money with the court, and when the person appears for trial, the court returns the money. In Lexington, many people hire a bondsperson, who posts the money in exchange for a fee (usually 10% of the money bail amount). This can make challenging a case in court expensive. If a person is found guilty, they will likely have to pay a fine on the charges in addition to the fee they paid to the bondsperson. And although the law allows courts to impose money bail in appropriate circumstances, LPD imposes it automatically, regardless of whether it is legally justified.

Alternatively, the arrested person can pay all or part of the new fines associated with their arrest directly to



LPD in order to get out of jail. People who pay all or part of their new fines almost never appear in court. Instead, LPD enters a guilty plea on the charges, and the person has a criminal conviction on their record. LPD calls this method of payment "cash bond."

At every step in its pay-based release process, LPD violates the law by detaining people without a valid justification—and does so with little challenge or oversight. This is possible in part because of another constitutional violation that LPD routinely commits after making arrests: The failure to promptly bring people who are in jail before a judge. Instead of providing the protections the Constitution guarantees to people whose freedom is at stake, LPD ignores the rules.

A. LPD Unlawfully Detains People Who Owe Old Fines

Whenever LPD arrests someone, officers will not release them until they pay all or some portion of the old fines they owe. And because so many people owe old fines, outstanding fines

Woman

“I need to go home today. I[’ve] got an autistic kid.”

Officer

“You got some money?”

play a role in many of LPD’s arrests. In our review of a random sample of arrests from 2022 and 2023, a third of the people who LPD arrested had to pay old fines to secure their release. Every one of them was Black.

The Constitution prohibits jailing a person for nonpayment without first assessing whether the person can afford to pay.³⁷ But LPD does nothing to

determine what a person can afford before holding them in jail for unpaid fines. Indeed, even when people who LPD arrests insist that they cannot pay, officers send a clear message: Pay down your old fines or stay in jail until you do.

For example, in July 2023, an officer told a 60-year-old Black woman that she would need to pay \$90 for an old fine to get out of jail. “Don’t do that,” the woman begged. “I need to go home today. I got an autistic kid.” The officer responded, “You got some money?” “I ain’t got no money!” the woman said. The officer was unmoved. “You better find some money, or you’re going to jail.”

As a result, old fines regularly convert minor offenses into days or weeks in jail. For example, in October 2023, a man was arrested for petit larceny. The man had paid \$5 for gas but pumped \$20 worth into his car. An officer told the man, “You ain’t getting out until you pay at least \$300 [on your old fines].” The next court date was two weeks away. “I’m gonna be in [jail] until [then],” the man said. “I ain’t got the money.” “Be in there, then,” the officer replied. He was—the man spent the next two weeks in jail after being accused of stealing \$15 worth of gas.

Another man arrested for trespassing spent 10 days in jail until he paid enough to get out. Five days after his arrest, the man paid \$200 toward an old fine. That wasn’t good enough. LPD jailed him for five more days until he paid the \$50 processing fee.

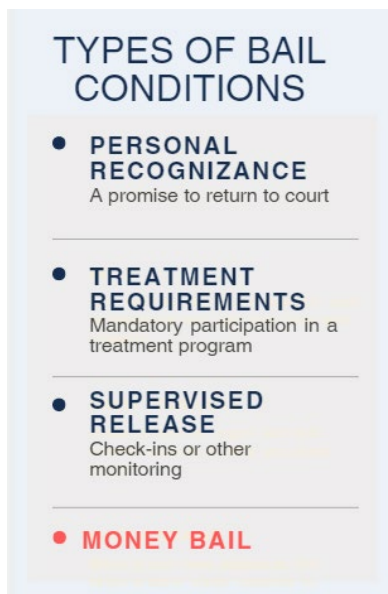
Charges:	<u>Trespassing</u>
EXPLANATION OF RELEASE	
<u>man paid \$200 towards old fines and plus \$50 processing fee. Can be released.</u>	

³⁷ *Bearden*, 461 U.S. at 672-73. An ability-to-pay analysis must be sufficient to prevent unlawful wealth-based detentions under *Bearden*. See Dear Colleague Letter on Fines and Fees *supra* note 5, at 6–7. The key question for the ability-to-pay analysis whether the individual has sufficient income and financial resources to pay the fine at issue while still meeting basic needs like housing, food, medical care, and childcare. *Id.* at 7.

Sometimes, LPD releases people who pay only part—and in a handful of cases, none—of their old fines. When this happens, the person’s debt remains open, and LPD can—and often does—jail them for it again. For example, LPD arrested one man three times in four months, twice for misdemeanors, and once simply because of the outstanding fines he owed. Each time, LPD released him only after he paid down a portion of his outstanding fines. And each time, LPD charged him a new processing fee. In total, to avoid jail after those arrests, the man paid nearly \$1,300 to LPD. He still owes \$1,759 in old fines.

Officers’ discretion to lower or eliminate the payments necessary for release also gives them leverage to pressure arrestees for cooperation.³⁸ In one case, an LPD officer tried to use a man’s fine-based detention to extract a confession to felony burglary. After arresting the man for trespassing and detaining him for owing an old fine, the officer came to the jail. He proceeded to interrogate the man about an unrelated burglary, urging him to confess. The man said he was innocent. But he needed to get out of jail so that he would not lose his job. The officer said he could “work with him” on the old fine only if he confessed. The officer continued, “If you had told me the truth about the situation,” referring to the burglary, “then we could ... probably work something out with the fine.” The man still did not confess. “I can probably come up with some money, man,” he said. “I’m gonna have to beg.” He remained in jail until two days later, when he paid \$500 toward his old fines.

B. LPD Unlawfully Sets Unaffordable Monetary Bond Without Considering Arrestees’ Individual Circumstances



People who have been arrested and are awaiting trial are presumed innocent.³⁹ But waiting for trial in jail takes an enormous toll. People who are jailed risk losing their jobs, their housing, and their parental rights. The Constitution therefore demands that people who are arrested remain free before trial unless there is no other way to secure the person’s appearance at trial or to protect the public from danger. As the Supreme Court explained, “liberty is the norm, and detention prior to trial ... is the carefully limited exception.”⁴⁰

This is why most people who are arrested are entitled to bail—a set of conditions that allows a person to remain free while they await trial. When setting bail, a court can impose only the conditions “necessary to reasonably assure [the] defendant’s presence at trial.”⁴¹

Many bail conditions have nothing to do with money, and

³⁸ The Supreme Court in *Timbs v. Indiana* noted that unaffordable fines create the potential for coercion and abuse: “For good reason, the protection against excessive fines has been a constant shield throughout Anglo-American history: Exorbitant tolls undermine other constitutional liberties. Excessive fines can be used, for example, to retaliate against or chill the speech of political enemies...” 586 U.S. 146, 153–54 (2019).

³⁹ *Pugh v. Rainwater*, 572 F.2d 1053, 1056 (5th Cir. 1978); see also *United States v. Salerno*, 481 U.S. 739, 755–68 (1987) (Marshall, J., dissenting).

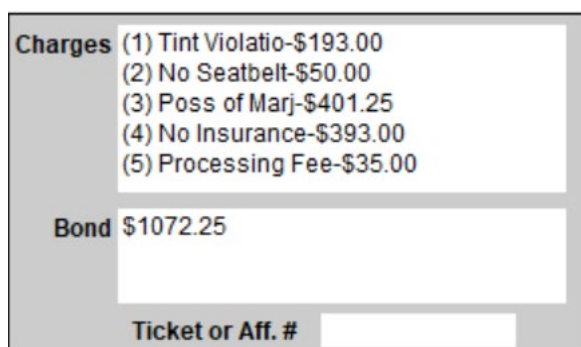
⁴⁰ *Salerno*, 481 U.S. at 755.

⁴¹ *Rainwater*, 572 F.2d at 1057.

often the only condition is a promise to return for court. In some cases, courts require participation in treatment or another program. But sometimes, to ensure that a person will come to court for trial, the court sets money bail, also known as a bond, and the person must deposit money with the court to get out of jail. The law allows courts to set monetary conditions of release as long as the court finds, based on the person's individual circumstances, that it is necessary to ensure that they will come back to court for their trial.

If the person charged cannot afford the money bail amount, it is functionally an order to stay in jail. Thus, a court cannot set a bond that makes freedom unaffordable unless it has determined that there are no other alternatives (like supervised release) that can secure the person's appearance in court and prevent them from committing more crimes.⁴² Otherwise, just as it is unlawful to jail a person for owing money without considering whether they can afford to pay it, the Fourteenth Amendment forbids holding a person in jail solely because they cannot afford to purchase their release.

Lexington follows none of this law. When LPD arrests a person for a misdemeanor or municipal code violation, LPD automatically sets a money bail amount at the police station, without considering whether it is necessary in any particular case. The money bail amount is set at the same rate for everyone, regardless of their circumstances. At the police station, LPD keeps a list of the fine amounts that people would have to pay for each charge if convicted.



The screenshot shows a digital display with a grey background. On the left, the word "Charges" is written in bold. To its right, a list of five charges is displayed: (1) Tint Violatio-\$193.00, (2) No Seatbelt-\$50.00, (3) Poss of Marj-\$401.25, (4) No Insurance-\$393.00, and (5) Processing Fee-\$35.00. Below this list, the word "Bond" is written in bold, followed by the amount "\$1072.25". At the bottom of the screen, the text "Ticket or Aff. #" is visible next to a white rectangular input field.

Charges
(1) Tint Violatio-\$193.00
(2) No Seatbelt-\$50.00
(3) Poss of Marj-\$401.25
(4) No Insurance-\$393.00
(5) Processing Fee-\$35.00

Bond \$1072.25

Ticket or Aff. #

LPD uses the fine amount on the list as the money bail amount. If there are multiple charges, LPD calculates the bail amount by adding all the fine amounts for those charges together.

In the vast majority of misdemeanor cases, LPD's bail determination is the only one the person ever receives. The court generally only addresses a misdemeanor arrestee's bail amount if the arrested person is still in jail when the date arrives for one of the municipal court's two monthly sittings, which could take place days or weeks after arrest.⁴³

This automated approach is antithetical to the individualized decision-making the Constitution requires for setting bail. And it entirely ignores the constitutional requirement to consider whether money bail is affordable. Indeed, when asked what LPD does when arrestees cannot pay bond, an LPD supervisor said, "We don't determine whether they can pay... . If they say they can't pay, then we call someone, family or friends, to see if they can make a payment."

As a result, people arrested in Lexington are regularly jailed on money bail they cannot pay. After hearing his bond amount, one man told an officer, "I ain't got no money. I ain't got no

⁴² See *Rainwater*, 572 F.2d at 1056 & n. 5; Brief for the U.S. as Amicus Curiae in Support of Plaintiffs-Appellants/Cross-Appellees on the Issue Addressed Herein at 19, *Daves v. Dallas Cnty.*, 22 F.4th 522 (5th Cir. 2022) (No. 18-11368), <https://perma.cc/G9QP-MNAP>; see also, e.g., *United States v. Leathers*, 412 F.2d 169, 171 (D.C. Cir. 1969) (per curiam) ("[T]he setting of bond unreachable because of its amount would be tantamount to setting no conditions at all.").

⁴³ Even then, based on the bail hearings that we observed, the municipal court does not consider the person's ability to pay the bail amount or whether money bail is necessary to ensure the person's presence in court and the safety of the community.

money. I ain't got no money. So what I got to do about that, since I ain't got no money?" The officer responded, "You gon' be in jail, man. Till you bond out."

Ultimately, this means that who stays in jail before trial and who walks free has nothing to do with public safety. A dangerous person will go free if he can pay. And someone arrested on a low-level offense will stay in jail if he cannot.

In one case, LPD arrested a man for aggravated assault, burglary, and armed robbery, among other charges. When police tried to apprehend his car, he rammed a police car in an attempt to escape and ran several cars off the road, including a school bus full of children. But when money bail was set, he paid it, and was released from LPD custody the next day.

"The payment itself is an admission of guilt."

LPD supervisor, explaining the cash bond system to DOJ investigators

Meanwhile, a man who could not afford to purchase his release was jailed for nearly two weeks for stealing packets of sugar from a gas station. LPD set money bail at \$1,248.50. Earlier that year, the man told LPD that he had no income or financial resources. He has a behavioral health disability and is the sole caretaker for his minor child. But he remained in jail for 12 days.

C. LPD's "Cash Bond" System Is Illegal Wealth-Based Detention and Coerces Guilty Pleas in Violation of Due Process

The other way to "bond out" of jail in Lexington is to pay "cash bond" directly to LPD. Using the same list of prices it applies to set money bail, LPD generates a sum total of money the person would owe if convicted. To get out of jail, a person can pay that amount in full or start a payment plan to pay it a little at a time. People who use "cash bond" to start a payment plan can be released once they pay the first installment, which is normally set at \$150. Because money bail cannot be paid in installments, "cash bond" is often the only option for people who cannot afford the set money bail amount. In a random sample of arrests reviewed by DOJ investigators, nearly half of the arrestees paid cash bond to LPD.

"Cash bond" in Lexington is not really a "bond" at all. Actual money bond is returned after the person appears for trial, but a person in Lexington who pays "cash bond" never gets it back; they are simply paying the fine for the charge instead of challenging it in court. And opting for cash bond has consequences. Once the person's court date passes, Lexington enters a guilty plea for the person on their charges.

Because the "cash bond" system demands payment in exchange for release—without assessing what a person can afford—it violates the Fourteenth Amendment's prohibition on wealth-based detention.

As implemented by LPD, the "cash bond" system also violates due process because it generates guilty pleas that are not knowing and voluntary, as the Constitution requires.⁴⁴ LPD frequently fails to explain that paying "cash bond" or starting a payment plan is equivalent to pleading guilty. Nor does LPD take precautions to ensure that arrestees understand that they

⁴⁴ *United States v. Pearson*, 910 F.2d 221, 223 (5th Cir. 1990).

are pleading guilty and waiving their rights, like asking them to sign a written waiver and plea. From LPD's perspective, there is no need. As LPD's second-in-command explained it, "The payment itself is an admission of guilt."

Instead, LPD advertises "cash bond" to the people it arrests as a way to avoid paying a bondsperson's fee and to avoid missing work and going to court. As a result, many people who pay cash bond to LPD do not understand that they are pleading guilty. "They didn't tell me nothing about going to no court," explained one man, who unknowingly pled guilty by paying his fine for driving with a suspended license. "They just told me to pay the fine and get it done."

The cash bond system is also coercive. For people who cannot afford money bail, a payment plan that allows them to pay in installments is the only option for getting out of jail. But the only way to enter into a payment plan is by agreeing to cash bond. Thus, for many people, the decision between paying money bail or paying LPD's cash bond is a false choice.

For example, in February 2023, LPD arrested a 69-year-old man for driving with a suspended license. The license had been suspended because of other fines that he owed, even though Mississippi had stopped suspending licenses for this reason. After officers handcuffed him, he told them he had no money.

Officer: You have some money for to get out?

Man: I don't have none for getting out. No job. Nothing. Because, like I said, I am retired, and man, it's so hard on me. I have to pay my light bill, my gas bill, and everything else, you know? And like I'm saying, I'm working on trying to get my driver's license back, but it's gon' cost me \$5,000 ... I'm working on it, but it's hard.

Money bail was set at \$1,039. The man could not even afford to pay 10% of that to a bondsperson. He told the officer he had \$10 in his pocket. The officer took the \$10, started him on a payment plan, and let him go. The man did not know that he was pleading guilty.

D. LPD Unlawfully Jails People Without a Prompt Hearing

While erecting unlawful financial barriers to getting out of jail, LPD also delays arrestees' access to court. When a police officer arrests a person without a warrant, that officer's judgment is the only basis for keeping the person in jail. But as the Supreme Court explained, the consequences of jail can be enormous: "Pretrial confinement may imperil the suspect's job, interrupt his source of income, and impair his family relationships."⁴⁵ It can also burden arrested people's family members and children. "Heaping these consequences on an accused" and then delaying "access to the justice system is patently unfair in a society where guilt is not presumed."⁴⁶

The Fourth Amendment therefore requires that people who are arrested without a warrant are brought to court "promptly after arrest" for a "fair and reliable determination of probable

⁴⁵ *Gerstein v. Pugh*, 420 U.S. 103, 114 (1975).

⁴⁶ *Jauch v. Choctaw Cnty.*, 874 F.3d 425, 434 (5th Cir. 2017).

cause.” Absent a “bona fide emergency or other extraordinary circumstance,” this court hearing must occur within 48 hours of arrest.⁴⁷

Despite these requirements, the people LPD arrests can wait in jail for days or weeks before they are brought to court. Lexington’s municipal court, which handles all misdemeanors and violations of the municipal code, is held twice each month: One session for taking pleas and another for trials. Outside of these two court dates, there is normally no opportunity for anyone accused of a misdemeanor or municipal code violation in Lexington to be heard by a judge. For people who can pay for their release, this is not a problem. They simply pay and then appear on their assigned court date. But for people who cannot afford to pay, it means they must wait in jail until LPD takes them to court or they scrape together enough money for LPD to set them free.

Because of this, people accused of minor crimes in Lexington are regularly jailed solely based on LPD officers’ word for much longer than the Constitution allows. In the past two years, for example, people have been jailed without access to court for: 14 days for allegedly being drunk in public; 13 days for allegedly possessing less than an ounce of marijuana; 11 days for allegedly driving without a license; and 12 days for allegedly trespassing and petit larceny (stealing sugar packets).

LPD and the Lexington Municipal Court should know that this is a problem. Consistent with the Constitution’s requirements, in 2003, the Lexington Municipal Court issued an order requiring that anyone arrested for a misdemeanor without a warrant be brought before the Court within 48 hours for a probable cause determination. Still, LPD has no apparent process to ensure that people receive prompt court hearings. When we showed the 2003 order letter to the municipal clerk, she told us she had never seen it.

People who LPD arrests for felonies also wait in jail without access to court. When LPD arrests people for felonies, a Lexington Municipal Judge decides whether to grant money bail in a hearing that is conducted by phone or Zoom from the jail. LPD’s stated policy is to schedule these hearings within 48 hours of arrest, but it regularly happens later than that, sometimes four or five days after arrest. In one conversation observed by DOJ investigators, an officer told a person he had arrested, “I’m gonna do my best to get you a bond within 48 hours. If the judge don’t do his job, that’s not my fault, and you can stay in there until Monday or whatever.” Monday was five days away.

⁴⁷ *Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 57 (1991); see also *Buckenberger v. Reed*, 342 F. App’x 58, 63 (5th Cir. 2009) (“The failure to bring [an arrested person] before a magistrate within forty-eight hours to determine if probable cause existed is a violation of [his] Fourth Amendment rights.”).

III. LPD Operates Under an Unlawful Financial Conflict of Interest

Because LPD benefits financially from the fines it raises, they have every incentive to continue to ramp up arrests while ignoring the complaints they generate. Members of the Lexington community therefore express little faith that LPD's practices can change. That concern is legitimate: we have reasonable cause to believe that LPD's dependence on the revenue it generates from fines and fees creates a conflict of interest that violates the Due Process Clause of the Fourteenth Amendment.

The Due Process Clause requires police to be impartial. When officers enforce the law, they must not be influenced by improper financial incentives.⁴⁸ In particular, a conflict of interest "can arise when a police department is funded based on the amounts of penalties it collected, or when a large amount of the penalty funds go[] to the police department."⁴⁹

That is precisely how LPD functions. The City uses the fines collected by LPD to fund the police department. As the City Clerk told us, "That's how [the police] operate: From their fines."

Moreover, LPD's budget is not fixed from year to year. It increases when LPD collects more money.⁵⁰ As the Mayor told us, collecting fines and fees increases revenue, and "anything that increases revenue would increase your ability to buy more things and hire more [people] ... It would be used for the police department."

Indeed, as LPD collected more fines, the department's budget increased. In 2021, when the amount of fines that LPD collected doubled, the money the City gave the police department increased by nearly \$100,000 from \$662,925 to \$757,895. In 2022, LPD collected \$240,983 in fines and fees, more than tripling the amount from 2021. That year, City disbursed even more money to LPD—\$774,772—the highest sum in at least six years, constituting 39.8% of the City's expenditures for government activities.

Lexington has also increased the police department's budget when LPD brought in more fines and fees than expected. In its initial budget for 2023, Lexington anticipated that LPD would collect \$150,000 in fines. The City set LPD's budget at its highest sum yet: \$784,412. But when LPD brought in more fines and fees than expected (\$225,000), Lexington increased LPD's projected budget to \$965,130.

Programs that financially benefit law enforcement institutions are not automatically unconstitutional. Instead, whether the financial interest violates due process is "a matter of

⁴⁸ See *Tumey v. Ohio*, 273 U.S. 510, 523 (1927) (holding that due process requires impartial decisionmakers who are not compromised by conflicts of interest); *Marshall v. Jerrico*, 446 U.S. 238, 250 (1980) (explaining that prosecutors and law enforcement officers can violate due process when they act under conflicts of interest that may influence their enforcement decisions).

⁴⁹ *Coleman v. Town of Brookside*, 663 F. Supp. 3d 1261, 1272 (N.D. Ala. 2023) (quotations omitted); see also *Flora v. Sw. Iowa Narcotics Enforcement Task Force*, 292 F. Supp. 3d 875, 903 (S.D. Iowa 2018) (explaining that a police cannot be impartial when they "stand to profit economically from vigorous enforcement"); accord Statement of Interest of the U.S. (Doc. 56) at 10–12, 13–14, *Coleman v. Town of Brookside*, 637 F. Supp. 3d 1290 (N.D. Ala. 2022) (No. 2:22-cv-00423-RDP), <https://perma.cc/VG4S-V87W>. (No. 2:22-cv-00423-RDP), <https://perma.cc/ZK2N-GKSQ>.

⁵⁰ See *Brucker v. City of Doraville*, 38 F. 4th 876, 888 (11th Cir. 2022) (considering whether the department's funding "is based on projected expenses" or "the amount it collects from penalties" in determining whether it operates under a conflict of interest); see also *Flora*, 292 F. Supp. 3d at 904 (finding a conflict of interest where there was no limit on how much forfeiture income could be added to the police and prosecutor's budgets).

degree.”⁵¹ An unlawful conflict of interest exists when “the police department [is] financially dependent on the maintenance of a high level of penalties.”⁵²

In Lexington, as police brought in more fines and fees, LPD’s budget became increasingly dependent on that revenue. In 2019, LPD collected \$32,671 in fines and fees; this amount constituted only 5% of LPD’s funds. In 2020, LPD collected a similar amount (\$34,408), and again, this comprised only 5% of the money that the City allocated to LPD. In 2021, when LPD collected more than twice as many fines, the fines comprised nearly 10% of LPD’s budget. And by 2022, when LPD’s fine revenue skyrocketed, fines comprised nearly a third of the police department’s funds (31.1%). That is a “sizeable enough” portion of LPD’s budget to “make a meaningful difference” in LPD’s resources.

LPD is not only the recipient of the money it generates; LPD’s leadership and its officers also make the decisions that determine how much money LPD can collect. They decide when to make arrests and issue citations, as well as how many charges to bring in each case—almost all of which result in fines.⁵³ They decide when to carry out aggressive enforcement actions, like checkpoints, where officers can make a high number of arrests in quick succession. When a person owes outstanding fines to LPD, LPD decides whether and when to arrest them and how much of their debt they must pay before they can get out of jail. LPD also decides when to require people to pay cash bond directly to the department instead of hiring a bondsperson to get out of jail. LPD’s arrangement where their funding depends on how they enforce the law creates an unlawful conflict of interest that violates due process.⁵⁴

In addition to the police department’s financial interest in collecting fines and fees, individual officers have a personal interest in making citations and arrests. During some of LPD’s checkpoints, LPD has imposed a quota for citations and arrests—those who do not cite and arrest enough people will not receive full pay. When “the police officers’ compensation is ... tied to the citations they issue,” the resulting conflict of interest violates due process.⁵⁵

Members of the Lexington community see the connection between LPD’s enforcement decisions and the money that LPD brings in through fines and fees. This damages community trust. One woman who works in the court system explained, “They are trying to fund the police department on the backs of poor Black folks.” Another man accurately described how LPD’s aggressive traffic enforcement works to its advantage. They make money on traffic tickets, he told us, and the checkpoints are a “money maker.” Calling LPD “thieves with badges,” the man added, “How many police can you pay with a DUI?” The Holmes County Sheriff suggested the same; in testimony for a lawsuit against LPD, Sheriff William March testified that he believes LPD uses roadblocks for “[f]inancial reasons.”

⁵¹ *Coleman*, 663 F. Supp. 3d at 1272 (N.D. Ala. 2023) at 1272 (quoting *Brucker v. City of Doraville*, 38 F.4th 876, 886-87 (11th Cir. 2022)).

⁵² *Coleman*, 663 F. Supp. 3d at 1272 (quoting *Brucker*, 38 F. 4th at 886-87).

⁵³ See *supra* at 11 (explaining how arrests generate money for LPD).

⁵⁴ *Caliste v. Cantrell*, 937 F.3d 525, 532 (5th Cir. 2019) (finding a conflict where a judge had a “dual role” as the person who set the bond fees and the recipient of them); *Flora*, 292 F. Supp. At 875 (finding evidence of a conflict where the supervisor of the police task force that received forfeiture funds was also the person who decided whether a forfeiture was permissible under state law).

⁵⁵ *Coleman*, 663 F. Supp. 3d at 1272 (quotations omitted).

IV. LPD's Enforcement Practices Disproportionately Harm Black People and Are Driven in Part by Intentional Discrimination

Black people in Lexington bear the brunt of LPD's actions. When LPD began to increase its revenue through aggressive low-level and often illegal arrests, racial disparities in arrests sharply increased. In other words, LPD not only made dramatically more arrests under its new enforcement strategy; LPD made more arrests of Black people compared to white people than it had before. As a result, Black people have literally paid the price of LPD's efforts to raise funds. Since July 2021, LPD has collected more than a half a million dollars in fines and fees. About 94 percent of it was paid by Black people. Of the fines and fees paid by residents of Lexington (excluding those paid by people from other towns), about 98% was paid by Black people.

We have reasonable cause to believe that these disparities stem from intentional discrimination.⁵⁶ We found that LPD deliberately targets Black people when carrying out its low-level enforcement strategy. This violates the Equal Protection Clause of the Fourteenth Amendment.⁵⁷ In addition, both because LPD intentionally discriminates and because LPD's enforcement approach disproportionately impacts Black people without a substantial, legitimate, non-discriminatory justification, it also violates Title VI and the Safe Streets Act, statutes that prohibit police practices that have an unjustified disparate impact based on race.

Although we found that LPD's discriminatory pattern of enforcement began under Chief Dobbins, it continued under his successor. City leadership had dismissed this possibility, arguing to us that LPD's new Chief could not be discriminating based on race because he himself is Black. This misunderstands the law. Intentional discrimination can occur even when decision-makers do not harbor racist animosity or views.⁵⁸ It matters only that the conduct at issue targeted people, at least in part, because of their race.⁵⁹ As a former LPD officer explained, because Black people in Lexington have fewer resources to combat injustices, LPD may target Black people simply because they believe they are more likely to get away with it.

"Boy"

In July 2022, LPD Chief Sam Dobbins was fired after a former officer leaked a recording of him bragging that he "shot [a] n----- 119 times." But the leaked recording was not the first time the Mayor and the Board of Alderman had heard concerns that Dobbins used demeaning language about Black people. An Alderman told us he repeatedly chastised Dobbins for calling

⁵⁶ *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 266 (1977) ("The impact of the official action whether it 'bears more heavily on one race than another,' may provide an important starting point [toward demonstrating intentional race discrimination]"); see Dear Colleague Letter on Fines and Fees *supra* note 5, at 3 ("[E]fforts to collect fines and fees that have a discriminatory effect on members of a particular race—yielding, for example, racially disproportionate stops and citations—may constitute evidence that, in combination with other evidence, could support a finding of intentional discrimination.).

⁵⁷ *Washington v. Davis*, 426 U.S. 229, 239-40 (1976) (holding that an Equal Protection violation can occur when a law or policy is motivated, at least in part, by a discriminatory purpose); C.R. Div., U.S. Dep't of Just., *supra* note 4, at 6 (finding that "[t]he confluence of policing to raise revenue and racial bias ... has resulted in practices that not only violate the Constitution and cause direct harm to the individuals whose rights are violated, but also undermine community trust, especially among many African Americans.").

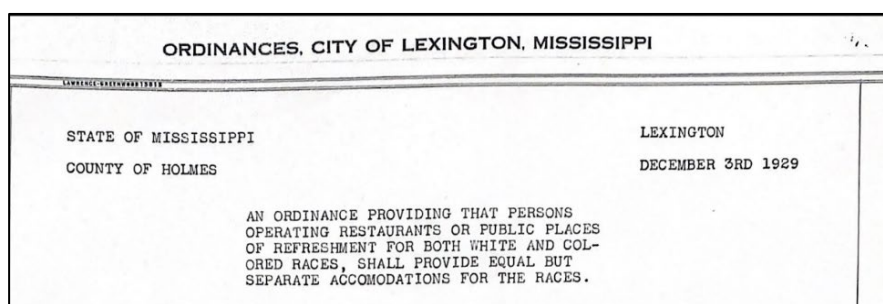
⁵⁸ *North Carolina State Conf. of NAACP v. McCrory*, 831 F.3d 204, 233 (4th Cir. 2016).

⁵⁹ *Arlington Heights*, 429 U.S. at 266–67.

Black men “boy” and explained that this was a derogatory term.⁶⁰ “But citizens told him it constantly kept happening. The Alderman said he discussed the issue with the Mayor, but they took no action against the Chief.”⁶¹

While Dobbins was Chief, the Alderman also suspected that race infected his law enforcement tactics. He told us that in some situations, he believed that Dobbins stopped Black people when he would not have stopped a white person. Citizens filed complaints that LPD’s practices under Dobbins were targeting Black people. Nevertheless, Dobbins remained Chief until the recording of him was made public.

Dobbins’s conduct did not occur in a vacuum. Lexington has a long history of race discrimination, and the remnants of the City’s segregationist past are still prevalent in the predominantly Black town.⁶² A monument to the Confederacy stands in the town square. And although Lexington’s Board of Aldermen conducted a review of the City’s local laws as recently as 2022, an ordinance that mandates the segregation of Black people remains on the books.



“The problem was gone.”

After firing Dobbins, Lexington did not consider whether his enforcement decisions had harmed Black people and brushed off residents’ requests to address the issue. After the tape’s release, community members presented a list of demands to the Board of Alderman. One of the demands was to prohibit police officers from using racial slurs. Another was to re-open and investigate any complaints filed against Dobbins and to conduct a review of the cases he handled at LPD. The Board their entire list of demands.

We asked both the Mayor and one of the Aldermen if they considered investigating whether Dobbins’s practices were tainted by racism or disproportionately harmed Black people. They did not. “He was gone, so there wasn’t any need to look back,” the Mayor told us. “The problem was gone.”

Although Lexington did not analyze the impact of Dobbins’s practices, we did. We found a statistically significant increase in racial disparities that started in July 2021, when Dobbins

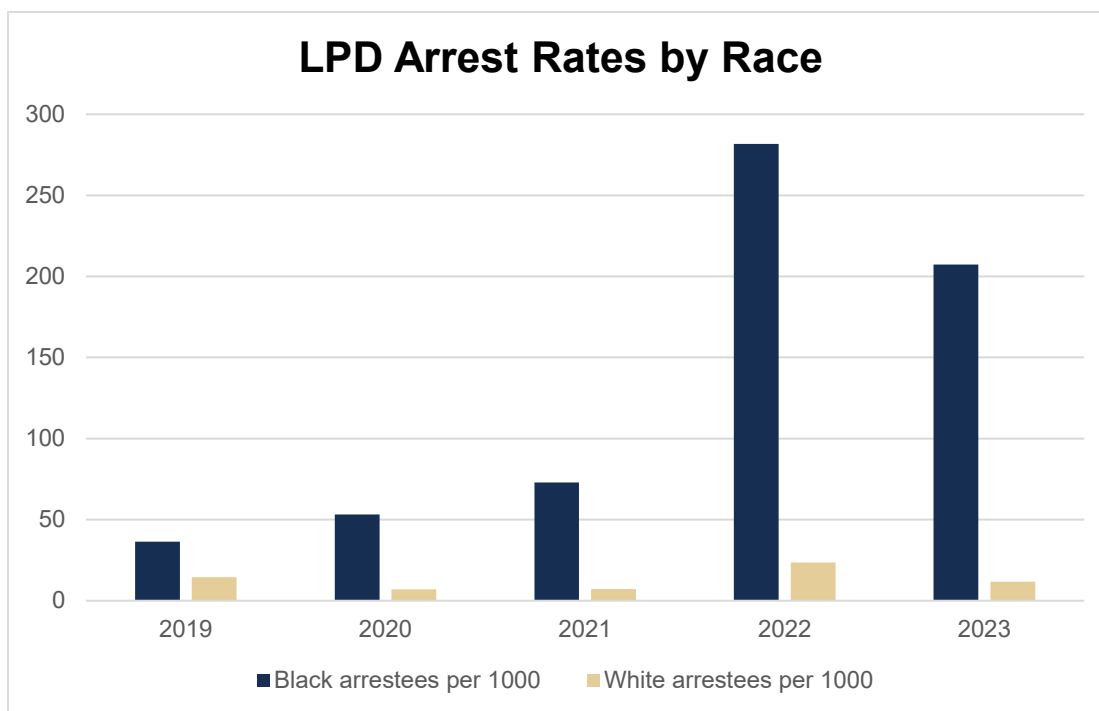
⁶⁰ See *Ash v. Tyson Foods, Inc.*, 546 U.S. 454 (2006) (per curiam) (finding that a supervisor’s use of the term “boy” for Black employees could show discriminatory animus).

⁶¹ Two Black former LPD officers reported that Dobbins called them “boy” as well.

⁶² See *McCrary*, 831 F.3d at 223 (explaining that courts must consider the government’s “history of race discrimination” when assessing whether it intentionally discriminated based on race).

launched his low-level enforcement strategy. These disparities grew even more severe under Chief Henderson. After LPD's strategy changed in July 2021, the odds that a person LPD cited was Black increased by 27%, and the odds that a person LPD arrested was Black increased by 125%.

To illustrate this increase in disparities another way,⁶³ in 2019, Black people were 2.5 times more likely to be arrested by LPD than white people. But by 2022, Black people were 12 times more likely to be arrested, and in 2023, well after Dobbins's departure, Black people were 17.6 times more likely to be arrested by LPD than white people were.⁶⁴



When we asked Lexington leadership why racial disparities in LPD's arrests are so severe, the Mayor told us there are "families that, you know, are involved more in crime. Here it's mostly Black." She added, "In Tennessee, it might be mostly white." The evidence does not support her explanation. Instead, the increase in disparities is closely tied to how LPD purports to enforce the law. LPD dramatically increased arrests for low-level offenses and makes significantly more arrests for these types of crimes than neighboring jurisdictions of similar sizes do.⁶⁵ And when

⁶³ In addition to calculating the odds that a given person who LPD arrested was Black, we also calculated LPD's per capita arrest rates for Black and white people for 2019 through 2023.

⁶⁴ Because a meaningful portion of people LPD arrests are not from Lexington, we also calculated the changes in per capita arrest rates using countywide population data to ensure that this was not skewing the data. Calculations based on the countywide population numbers also showed an increase in racial disparities.

⁶⁵ *Cf. Arlington Heights*, 429 U.S. at 268 (explaining that departures from normal procedures can evidence discriminatory intent).

Discretionary Arrests

Although police are empowered to make arrests whenever someone violates the criminal law—even for minor infractions—in practice, both police departments and individual officers make decisions about when to make arrests, when to issue tickets, and when to warn people and let them go. When the crime is serious, like murder, officers make arrests in nearly every case where there is evidence to support an arrest. But for minor infractions, like jaywalking, officers can usually choose whether to make an arrest or not.

Although police discretion is important so law enforcement can respond to a community's needs, the Constitution and federal law prohibit officers from making these minor, highly discretionary arrests in a racially discriminatory manner.

making these low-level arrests, LPD focused its so-called law enforcement on Black people. These two choices drove up both the overall arrest rate and the racial disparities.

To start, LPD dramatically increased its arrests for traffic offenses, particularly arrests of Black people.⁶⁶ LPD went from arresting only three people for traffic offenses in 2017 to 102 people in 2022 and 79 in 2023. Within Holmes County, such high arrest rates for traffic violations appear to be unusual. In 2022, LPD jailed nearly four times as many people for traffic violations as five neighboring jurisdictions, plus the Holmes County Sheriff's Office, combined.⁶⁷ And while carrying out the unusual decision to aggressively arrest for traffic offenses, LPD primarily arrested people who were Black. Although white people comprise about a fifth of Lexington's population, in 2022 and 2023, LPD arrested only four white people for traffic offenses—about two percent of the traffic arrests.

We also found that LPD treats Black people who are accused of traffic violations differently from white people who are accused of traffic

violations. Compared to white people, LPD is much more likely to arrest Black people who commit traffic laws instead of merely citing them. LPD arrested Black people instead of citing them 16.4% of the time, but arrested white people instead of citing them only 2.9% of the time.⁶⁸ This analysis of LPD's arrest and citation records may under-estimate the difference between how LPD treats Black drivers versus white drivers. LPD does not keep track of every stop that officers make, but only those stops that result in citations or arrests. Thus, our analysis of citations and arrest records excludes the drivers that LPD simply let go.

To better understand LPD officers' interactions with people of different races, we also reviewed body-worn camera footage of all of LPD's stops – including those where officers did not cite or arrest anyone. For this analysis, we reviewed all available body-worn camera

⁶⁶ Using LPD's own data, we counted cases where the sole charges were traffic violations. If, for example, officers found drugs in the car or the driver resisted commands and police added a charge for that, we did not include the arrest in our analysis. We also did not count arrests for driving under the influence (DUI) as traffic offenses.

⁶⁷ All police departments in Holmes County jail the people they arrest at the county jail unless they release the person without taking them to jail. We therefore made this calculation using county jail records that document the arrestees that various police departments within Holmes County held at the jail.

⁶⁸ This difference is highly statistically significant, which means it is very unlikely that it occurred by chance. See, e.g., *Arnold v. Barbers Hill Indep. Sch. Dist.*, 479 F. Supp. 3d 511 (S.D. Tex. 2020) (disproportionate enforcement of a policy against a particular group is evidence of discriminatory intent).

footage from a randomly selected sample of 61 days between November 2022 and November 2023.

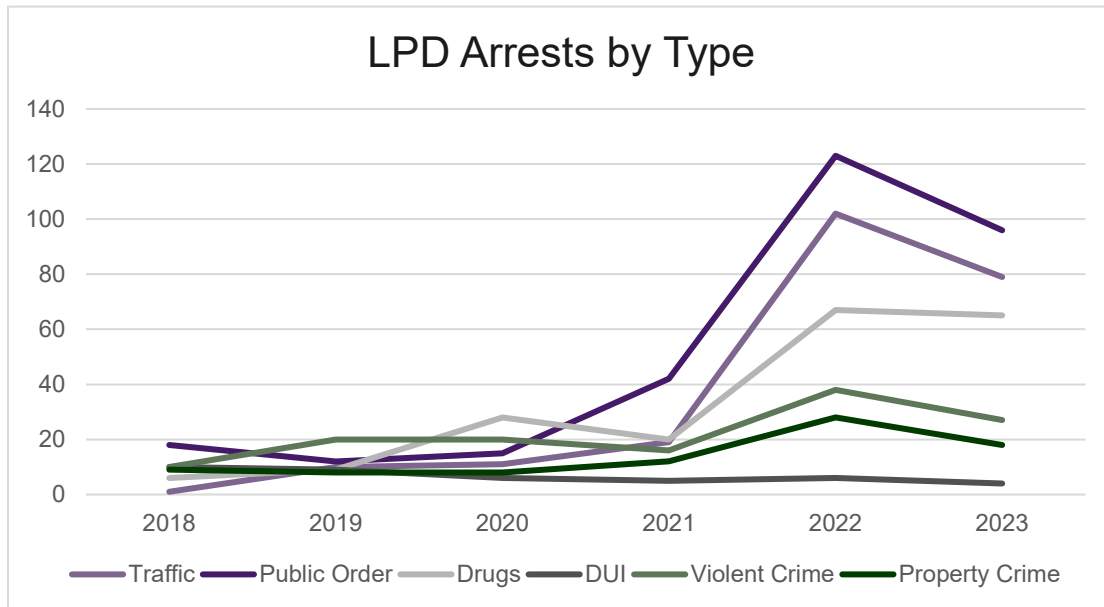
Again, we found striking differences in how LPD officers treat Black people compared to white people, particularly with respect to vehicle stops. In our sample, we found and reviewed body-worn camera footage from 205 vehicle stops. Although more than 20% of Lexington's population is white, white people constituted only about 11.7% of the vehicle stops (24 of the 205 stops). In each of those 24 stops of white drivers, LPD claimed that the person had violated traffic laws, yet cited only four of them, and arrested only one (DUI). We found 181 stops of Black drivers in our sample (about 88%). LPD made citations or arrests in nearly half of them (45.8%). Of the 43 Black drivers LPD arrested, more than half of the arrests (53.4%) were solely for traffic offenses.

This pattern—arresting Black people for traffic offenses while citing white people or letting them go—is consistent with former LPD officers' accounts. One former officer told us that he regularly saw LPD let white people leave without a ticket after a stop. But LPD “never did that for people who were Black. They would arrest the person and take their car.” From his perspective, the extreme disparities in traffic arrests make no sense without discrimination at play. “Come on, man,” he said, “Tail light out, no driver's license, weed in the car—Black people aren't the only ones.”

We also found other statistically significant differences in how LPD treated Black drivers compared to white drivers. When LPD officers stopped Black drivers, they required the driver to get out of the car nearly one third of the time (28.3% of stops). They required white drivers to get out of the car in 8.3% of stops. LPD searched Black people or their property in nearly one fifth of stops (18.8%). But in our entire sample, LPD never searched a white person, their vehicle, or their property.

Another reason LPD's arrests increased was the proliferation of charges for violations of public order, like loitering or having an open container in public. Public order arrests jumped from 18 arrests in 2018 to 123 arrests in 2022 and 96 arrests in 2023. As with arrests for traffic offenses, LPD jailed people for these types of offenses much more frequently than other jurisdictions in Holmes County.⁶⁹ And like traffic offenses, the overwhelming majority—98 percent—of the people LPD arrested for public order offenses in 2022 and 2023 were Black.

⁶⁹ In 2022, LPD jailed more people for public order offenses than five neighboring jurisdictions and the Holmes County Sheriff's Office, combined.



An Alderman suggested that the disparities in arrests for public order offenses were fueled by the overlap between race and poverty in Lexington. He said Black people were more likely to have crowded homes and thus spend more time (for example) drinking in public. If the Alderman’s account is true, it is notable that LPD chose to drastically increase enforcement that would significantly impact Black people.

Arrests for drug offenses (overwhelmingly for possession)⁷⁰ were another key source of the increase in LPD’s arrests. In 2022 and 2023, about 95% percent of the people LPD arrested for drug possession were Black. But it is extremely unlikely that Black people comprised 95% of people who had drugs in their possession in Lexington. White people in Holmes County have nearly double the mortality rate from substance use as Black people do.

Moreover, the drug offenses that LPD targeted were not the offenses that Lexington’s leadership told us were the most urgent. In an interview, the Mayor credited Dobbins’s approach for helping to address crimes connected with drug addiction, particularly pain pills. And indeed, Lexington has struggled during the opioid epidemic. But the types of LPD’s drug arrests that increased after July 2021 were for possessing small amounts of marijuana—not opioids.⁷¹

Lexington’s leadership expressed skepticism that discrimination could be a problem because the current Chief and most of the police force are Black. But, under the law, decision-makers can intentionally discriminate even when they do not “harbor racial hatred or animosity toward any minority group.”⁷² So long as a practice targets a group at least in part because of

⁷⁰ About 98% of LPD’s drug-related arrests during 2022 and 2023 were for drug possession, not sale or intent to distribute.

⁷¹ See *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 216 (2023) (finding intentional discrimination where the practices at issue were not a logical means of serving their purported purpose).

⁷² *McCrary*, 831 F.3d at 204.

their race—whether or not decision-makers harbor any animus—it violates the Fourteenth Amendment.⁷³

When we asked one former LPD officer, who is Black, about the disparities in LPD’s arrests, he said that LPD targets Black people because most Black people in Lexington lack resources to challenge the police’s authority. White people, on the other hand, are more likely to have both resources and connections that insulate them from law enforcement. The former officer said, “[LPD is] more focused on Black people because it is easier for them to be abused, rights to be taken, stripped, dulled down.” Treating Black people differently because officers assume they have fewer resources to challenge the police is intentional discrimination that violates the Fourteenth Amendment, regardless of whether any decisionmakers harbor racist views.⁷⁴

We saw this in practice. For example, officers stopped a white woman for disregarding a yield sign and speeding. She immediately argued with the officer, protesting “What do you mean failure to yield? The whole road is blocked off!” This officer began to write her a ticket, but his partner suggested they give her a warning. “No,” the first officer replied, “Cause then we’ll be racist.” But the woman made a phone call, and soon after, the officers received a message from the dispatcher: “We’ve been advised to inform you to stand down.” Soon afterwards, the dispatcher called again, instructing the officers to leave the traffic stop for a “disturbance” at the market. One of the officers then sprinted out of the patrol car, handed the white woman her license, and said, “It’s your lucky day. Slow it down for me.” The white woman left with only the warning. When the officers arrived at the market to respond to the “disturbance,” the officers arrested a Black man for public profanity.

In another case, officers arrived at a gas station to find a white man passed out and slumped over in the front seat of a running truck. While searching the man and his truck, officers found three loaded guns, a BB gun, fake marijuana, illegally-obtained Adderall, a knife, and an open container of alcohol. Dispatch told them that one of the guns and the truck was stolen. But after officers arrested the man and brought him back to the police station, he told them that his father-in-law was Lexington’s (now former) municipal court judge. Ultimately, the man pled guilty to possession of drug paraphernalia, a misdemeanor. There is no record of him paying anything to LPD for these charges.

The outcome was different two months earlier, when LPD officers found a Black teenager sleeping in his car. Officers searched the car and found what they believed was marijuana. They charged the teen with possession of marijuana, plus loitering for sleeping in his car. He paid \$335 to get out of jail. He still owes \$610.50 on the charges.

⁷³ *Arlington Heights*, 429 U.S. at 266 (not requiring racial animus for intentional discrimination); see also *McCrary*, 831 F.3d (finding no racial animus in North Carolina legislature’s gerrymandering yet concluding North Carolina’s statute unconstitutionally discriminated on the basis of race).

⁷⁴ *Cf. McCrary*, 831 F.3d (finding intentional discrimination when Black people were targeted because of their political preferences).

V. Lexington and LPD's Practices Prevent People from Addressing Constitutional Violations

People in Lexington have few meaningful opportunities to address violations of their rights. When people complain, Lexington's leadership ignores the complaints, and LPD punishes the complainers. People in Lexington told us that LPD operates with impunity—an impression its current Chief cultivates himself. In body-worn camera footage we reviewed, the Chief of Police told a detained woman, "I can make a call from here to the governor's office and get some people's boots on the ground." The community believes him. "A police car can run this city," one man said.

Even if LPD had been receptive, the department was not equipped to manage the dramatic increase in arrests, fines, and court appearances, and thus had little chance of ensuring accountability for issues like problematic arrests and use of force. The Lexington Municipal Court, which hears the vast majority of cases that stem from LPD's arrests, also provides little check on the police. The Mayor told us that the court itself is part of the police department. Plus, many people who appear there lack access to counsel who could vindicate their rights. These issues perpetuate the patterns of constitutional violations we found.

A. LPD Lacks Internal Oversight

LPD does not have the necessary training, organization, policies, or supervision to ensure it stays within constitutional limits. Its storage and record-keeping are haphazard and insufficient. Officers are poorly trained. And supervisors fail to hold officers—or themselves—accountable for violating people's rights.

LPD suffers from frequent officer turn-over and often staffs open positions with people who have received little, if any, police training.⁷⁵ A supervisor told us that officers need a short course on Tasers before they can carry one. But officers are allowed to patrol without any training on firearms or when it is lawful to use of force. Officers are expected to learn on the job from supervisors and other trained officers. But, as explained above, supervisors often do not follow constitutional requirements.

LPD also does not keep track of crucial facts that supervisors need to evaluate whether officers are following the law. An officer's right to stop a person, make an arrest, search an area, or use force all depend on the specific facts of the encounter. But LPD does not ensure that its officers record many of these facts. In one arrest report, the sole basis for the stop was: "I observed the suspect driving eastbound." Driving is not a crime. Still, officers chased the man and used excessive force to arrest him.

Sometimes, incidents where officers violated people's rights were not documented at all. For example, we found videos of Chief Henderson pulling a young teen out of his patrol car and handcuffing him. The Chief then grabbed the teen by his neck and shoved him into the car door, slamming his head into the door frame. Another video shows the teen handcuffed in the police

⁷⁵ Mississippi requires newly hired full-time officers to attend a training academy within the first year. Part-time officers have two years to complete the academy.

station later with a swollen eye where his head hit the car. But there is no record of the teen's arrest or the Chief's use of force. We do not even know the young boy's name.

LPD supervisors do not ensure officers are following LPD policies about use of force or ensure officers are staying within constitutional limits. LPD officers are supposed to describe the force they use in their arrest reports, but in some of the reports we reviewed officers did not mention the force they used. Other times, officers failed to document serious injuries, like when a person was left unconscious. In some reports, what officers described conflicted with the body-worn camera videos. One officer reported tasing a man twice while trying to arrest him, but videos show two officers tased the man 17 times. We found incidents in our review of body-worn camera videos where officers used force, but kept no record of the encounter. And we found Taser logs with multiple drive stuns, but no corresponding report or video exists for the incident. Ultimately, we found no evidence that any LPD officer has been disciplined for using excessive force. A supervisor responsible for overseeing patrol officers told us he had never seen an officer use excessive force.

Lexington's city leadership rarely holds officers accountable for constitutional violations. The Board of Aldermen fired one officer because, among other reasons, he "pulled his weapon on an 18-year-old" and "had an altercation with a man who had pending fines"—but the Board rehired him two years later. Neither the mayor nor the Board acted on complaints against LPD officers alleging racial discrimination, sexual harassment, excessive force, arrests without cause, or handcuffing a six-year-old boy. Records show that one LPD officer resigned rather than be fired for refusing to wash a patrol car, but serious complaints filed against LPD officers rarely result in discipline for anyone involved.



The condition of LPD's police station reflects this lax approach to accountability. While conducting our investigation, we found a pile of handguns sitting on top of a file cabinet next to loaded magazines. We encountered spare bullets lying next to a computer and in a box of timesheets. In one office, we found seized guns stacked in the corner. When asked who owned the guns and whether a judge had ordered them forfeited to LPD, a supervisor

did not know. He rummaged through a filing cabinet but could find receipts for only some of the guns. He told us some people had relinquished their guns when they paid their fines to avoid having to return to court. The City frequently received complaints from residents about their weapons being seized. But there was no system to track whether the guns' owners had abandoned the guns or if a judge had ruled on whether owners had forfeited their rights to the guns. As a result, LPD told us they were unable to either sell the weapons or return them.

LPD's haphazard methods are not limited to guns. We found a paper bag labeled "EVIDENCE" sitting on top of a file cabinet in a common area where officers and arrestees could access or tamper with it. The unsecured evidence in the bag included, among other things, a butcher knife. When we returned a week later, the bag was still there.

B. LPD Does Not Receive Meaningful Judicial Oversight

The court system is designed to serve as another check against police misconduct. When neutral courts discover that police violate defendants' rights, the court can exclude the illegally collected evidence or dismiss the case. But in Lexington, the municipal court is part of the police department, not a neutral entity. Defendants are frequently unable to access an attorney who could alert the court to a person's violated rights. And LPD consistently convinces people to "avoid court" by signing payment plans or paying cash bond without explaining that paying the fee to avoid jail also prevents a judge from reviewing the officers' misconduct.

LPD's budget includes the budget for the Lexington Municipal Court. The Municipal Court clerk's office is inside the police station, and the clerk's direct supervisor is the Chief of Police. The municipal judge—who decides what fines to give for people who come to court—is paid out of the police department's budget.

"If you don't have a lawyer, you can't say nothing. Especially if you're right."

Man convicted in Lexington Municipal Court without counsel

Blending the police department and the court makes it difficult for people to air their grievances against the police. We observed Municipal Court operations over several months. One man who appeared in court told the judge that he "felt threatened for my life by the officers." The judge never addressed the issue. In another case, a woman appeared in court on a

careless driving charge and told the judge that officers had no legal reason to stop her, harassed her, and then refused to call an ambulance while her child was having an asthma attack. The judge said nothing about the woman's concerns and set a date for her trial. When the woman appeared for trial, the judge said he had "spoke[n] with the arresting officer" outside of court. Instead of addressing the officer's conduct, the judge dismissed the woman's charges as long as she didn't commit any other crimes in Lexington for six months. The woman relented, but the judge never reviewed the officers' conduct.

The people LPD arrests also frequently lack access to an attorney who could bring LPD's violations to light, which enables LPD's misconduct to continue. For people accused of crimes, access to counsel is critical to protect all other rights during the criminal process.⁷⁶ As the Supreme Court explained, "Of all the rights than an accused person has, the right to be represented by counsel is by far the most pervasive, for it affects his ability to assert any other rights he may have."

⁷⁶ See, e.g., Statement of Interest of the U.S., *Hurrell-Harring v. State*, 81 A.D.3d 69 (2011) (No. 8866-07), <https://perma.cc/8NM6-4YRU>.

Nevertheless, since opening our investigation, we have seen people LPD has arrested face serious consequences with no lawyer to represent them. People arrested for felonies in Lexington have no counsel at their bail hearings, which means no one is there to point out serious legal errors.⁷⁷ For example, in a bail hearing we observed, the judge denied bond based on a misunderstanding of the law and without considering the man's individual circumstances. Because the man had no lawyer, there was no one to speak for him. As is typical in Lexington, the man's hearing lasted fewer than five minutes. In contrast, another man was fortunate that a public defender—in court for a later trial—observed his bond hearing for felony drug possession and told the judge that officers had improperly charged the man. The judge took the time to read the statute and confirmed that officers had mischarged the man. "I've got some good news," the judge said. "I'm going to down grade the felony to a misdemeanor."

We have also seen criminal defendants enter guilty pleas and argue their cases at the Lexington Municipal Court with no attorney present. One man explained, "If you don't have no money, no attorney. You have to take their deal and cry." The man had been arrested for disorderly conduct. When we reviewed the body-worn camera video, we saw that the man was not disorderly. The man approached officers who had stopped his son to make sure he wasn't being harassed. When officers asked the man to back away, he did. But officers used excessive force to arrest the man anyway. Without an attorney, he had little recourse. He had no advocate to present his case at trial, and the court found him guilty based on the LPD officer's account.

C. Retaliation Against People Who Challenge LPD

Thwarted in their attempts to address LPD's misconduct, the people of Lexington have taken up watch over their family and neighbors. We often saw people pull over to observe how officers were treating someone they had stopped. But when the people of Lexington try to protect their constitutional rights by keeping a close eye on officers, LPD threatens them with force or arrest.

An LPD officer told a woman who filmed officers slam a man against a car she would be charged with hindering an investigation if she didn't back away. Filming police officers is protected by the First Amendment.⁷⁸ One officer pointed his gun at bystanders who watched another officer tase a man. "If you come anywhere near the front of this car," the officer yelled to the onlookers, "you will go to jail."

Officers make good on their threats. A civil rights attorney was arrested for "failure to obey" while filming officers at a checkpoint. The next day, the arresting officer told someone, "I wrote more tickets for that lawyer the other night; that's because she had diarrhea of the mouth, y'all. Didn't know when to shut up." On another occasion, an officer knocked the phone out of a man's hand as officers approached his suicidal brother with their guns drawn. When officers arrived at the man's house, he had asked them for a warrant. Ignoring him, the officers pushed past and tried to arrest the man's brother. The interaction triggered a mental health crisis for the brother, who climbed out a window and held a gun to his own head. Filming from about 25 feet away, the man watched four officers close in on his brother. One officer saw the man filming,

⁷⁷ Bail hearings in Mississippi can have significant consequences because, among other reasons, under state law, people can wait months to years in jail based on the initial bail determination, which makes counsel especially valuable. Courts have not recognized a categorical right to counsel at bond hearings.

⁷⁸ *Turner v. Driver*, 848 F.3d 678, 688 (5th Cir. 2017).

approached with his Taser drawn, and batted the phone out of the man's hand. He pushed the man onto the ground and arrested him for obstruction.

Officers arrested and threatened to tase a father whose son was being held by police on the side of the road. The father approached the officers and asked, "What'd he do?" The officers told him to back up. The father said, "Y'all can play with me, but not—not my kid." But he obeyed the officer and turned to walk across the street where others were watching his son's arrest. One of the officers followed him and told him to put his hands on the hood of the car. "For what?" The officer pulled out his Taser and yelled, "I'm not going to tell you again. Put your hands on that fucking car, now! You want to fucking be a bad ass?" The man yelled to people standing across the street, "Record this!" As officers cuffed the father, he said, "That's my son, I just come to check on him."

LPD also punished people for trying to spread the word about LPD misconduct. An officer sprayed a handcuffed teenager with chemical irritant because he suggested his family might file a lawsuit against the officer. Officers threatened one man with more charges when family arrived at the police station to see if he was okay. "Now your people are out there taking pictures of us," one officer said. "If I see a picture of me on Facebook, I'm putting charges on you." LPD jailed a woman twice without access to court, apparently in retaliation for criticizing an officer on Facebook. The woman told us that she commented on a post criticizing an LPD officer for making what she believed was an illegal stop. After this, she said, the officer told her that if he caught her around Lexington, she would regret it. Soon afterwards, LPD officers stopped her outside of a fast-food restaurant, claiming they had old warrants for her arrest, including a warrant for \$1,107 in old fines. Body-worn camera footage shows that, after putting the woman in handcuffs, an LPD supervisor said, "Let's see if she gon' put that one on Facebook." The officers fist bumped. The woman, who was pregnant at the time, was jailed for five days without access to court.

CONCLUSION

LPD's unconstitutional conduct deeply harms the Lexington community, especially those who are most vulnerable. One person told us that Lexington "ain't nothing but a trap." Many people described how driving to work or picking up their kids from school feels like a high-stakes gamble on their liberty and financial security. People repeatedly told us that they were afraid to leave their homes. We spoke to multiple people who moved away from Lexington because they feared the police.

Even so, people came forward to assist us with our investigation, and many expressed hope that things can change. Meanwhile, the City of Lexington and LPD cooperated with our investigation and took action when we raised concerns about wealth-based detention. These Findings are intended to help LPD, the City of Lexington, and the community understand the scope of the problem and the reforms that will be needed to address it. The United States expects to work constructively with Lexington and LPD on the path forward.

RECOMMENDED REMEDIAL MEASURES

We commend the City and LPD for agreeing to make necessary reforms. The remedial measures we recommend below provide a foundation for changes that the City and LPD must make to improve public safety, build the trust of people in Lexington, and comply with the Constitution and federal law.

Stops, Searches, Arrests, Use of Force, and Discrimination

1. Ensure that officers who make stops, searches, and arrests and who are authorized to use force receive clear direction and sufficient training, management, and supervision to consistently comply with constitutional standards;
2. Ensure that officers are held accountable for inappropriate or unlawful conduct by improving record-keeping; establishing protocols for reviewing and assessing officer conduct; and ensuring accountability for complying with policies, laws, and constitutional requirements.
3. Implement policies, training, and practices to ensure detentions and arrests are lawful and that they comply with constitutional requirements.
4. Ensure that officers do not make arrests on warrants that were not lawfully requested or issued;
5. Develop and implement a protocol to review reports and conduct by any officer authorized to use force; verify that use of force conforms to policies and the Constitution; and take appropriate corrective action when officers do not meet these standards.
6. Develop and implement a protocol to accept, review, and investigate allegations of misconduct; ensure transparency; and prevent retaliation.
7. Implement policies, training, and practices to ensure that the City and LPD do not unlawfully discriminate against Black people in its enforcement practices, including during stops, searches, citations, arrests, and uses of force.

Fines and Fees, Pre-Trial Detention, and Plea Agreements

1. Implement policies, training, and practices to ensure that the City and LPD do not arrest or otherwise cause anyone to be jailed or detained for non-payment of a sum of money absent constitutionally appropriate consideration of an arrestee's ability to pay and alternatives to detention.
2. Create and implement a process to assess ability-to-pay fines, fees, and money bail that complies with constitutional standards, which includes clearing debt obligations that would be unlawful to enforce. A person may be deemed able to pay only if the person can pay the amount at issue without sacrificing basic needs.
3. Implement policies, training, and practices to ensure that money bail is set only when constitutionally permissible.
4. Ensure that each person who is jailed receives prompt access to court and that bail hearings conform to state and constitutional requirements.
5. Implement policies, training, and practices to ensure that guilty pleas are knowing, intelligent, and voluntary.
6. Implement policies, training, and practices to ensure that LPD does not operate under an unlawful financial conflict of interest and to remedy outstanding fine debt imposed under an unlawful conflict of interest.