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December 28, 2018

By Hand Delivery and ECF

The Honorable Kathryn L. Quaintance
Hennepin County District Court Judge
Hennepin County Courthouse
300 South 6th Street
Minneapolis, MN 55487

Re: City of Minneapolis' Comments regarding Proposed Order Allowing Access to a Squad Car by Defense in the matter of *State of Minnesota v. Mohamed Noor*, 27-CR-18-6859

Dear Judge Quaintance,

I write regarding the proposed access to a Minneapolis squad car by the defense in the State v. Noor case. The City of Minneapolis does not object to making a squad car available for examination.

However, the City does have a number of concerns about the Defendant's proposed order that the Minneapolis Police Department received late yesterday. The City was not served with the motion and only received a copy of the attached, unsigned proposed order via email. The City understands that no Order has been issued by the Court at this time, and the City appreciates that that the Court at a hearing yesterday indicated that the City should be heard on this issue. The City requests that the following matters be considered.

First, the City objects to any destructive testing being conducted on an MPD squad car. The Order indicates that the defense seeks access to "allow testing and analysis" of an MPD squad car. The specific nature of the proposed "testing and analysis" is not identified. An MPD squad car is depreciable property owned by the City and, accordingly, the City objects to any destructive testing that would cause damage to or alteration of the squad car, or result in any possible costs, expenses, repairs, or loss of use of the squad car.

Second, the City objects to the Order's specification that the squad car will be provided to and kept under the control of the particular Minneapolis Police Officers identified by the Defendant in the proposed order, Sgt. David Garman and/or Dean Milner. The City respectfully requests that the MPD be permitted to select appropriate representatives to assist in providing access to the squad car, with due regard to overtime and other scheduling concerns. The City has tentatively identified a Deputy Chief and Lieutenant available and appropriate to assist with this

The Honorable Kathryn L. Quaintance

December 28, 2018

Page 2

matter who should remain in control of the vehicle the entire time. The City further objects to any person, other than an MPD employee, driving the squad car.

Third, the defense must defend and indemnify the City for any damage or liability as a result of the access, use or examination of the squad car.

Fourth, the City requests that the Order prohibit the defense (defense expert, defense counsel, and defense investigator) from interviewing, questioning or otherwise seeking information unrelated to the squad car from the MPD representatives in attendance at the inspection.

Fifth, the City respectfully requests that the Court remove from the Order, the sentence stating Deputy Chief Fors “informed Counsel that the City does not object to this request.” As noted above, the City has several objections to the proposed Order and defense’s request. For the clarification of the Court, the City notes that Deputy Chief Fors merely informed defense counsel that the City would comply with an order from this Court, if one is granted.

Thank you for the time and consideration given to the City’s comments. If the Court would like any additional information or clarification, please feel free to contact me at (612) 673-2192.

Respectfully submitted,

s/ Erik E. Nilsson

Erik E. Nilsson
Deputy City Attorney

Enc.

cc: All counsel of record (via e-filing)

Attachment – Proposed order received December 27, 2018

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

State of Minnesota,

Plaintiff,
Vs.

**ORDER ALLOWING ACCESS TO A
SQUAD CAR BY DEFENSE**

Mohamed Mohamed Noor,

Defendant

Court File No.: 27-CR-18-6859

Defendant Mohamed Noor, by and through his attorneys, has moved this Court for an order directing the City of Minneapolis to allow the Defense access to a squad to allow the defense to independently gather information, make measurements and allow testing and analysis. The Court is informed that Minneapolis Deputy Chief Erick Fors has been consulted by Counsel and informed Counsel that the City does not object to this request.

IT IS NOW ordered that the City of Minneapolis shall allow the defense access to a squad car to perform independent tests on December 28, 2018. The squad car will be provided to and kept under the control of Minneapolis Police Officers Sgt. David Garmin and/or Dean Milner. The squad will be allowed to be examined and used in the area of Minneapolis Police Department's 5th Precinct between the hours of 6:00 PM and 11:00 PM on December 28, 2018. Present will be a potential defense expert, Mr. Noor's attorneys and defense investigator William O'Keefe.

The City of Minneapolis is given until Noon on December 28, 2018 to object to this Order.

Dated: _____

The Honorable Kathryn Quaintance
JUDGE OF DISTRICT COURT