

# OFFICE OF THE MAYOR

October 5, 2023

Mayor Andrew Gilich  
Office of the Mayor  
P.O. Box 429  
Biloxi, MS 39533



Over the past several months, the City of Mobile has noticed an influx of homeless individuals and an increased number of police calls associated with that ever-increasing number. After initiating an investigation, which included interviews, it has come to our attention that the City of Biloxi\Biloxi Police Department is engaging in a pattern and practice of behavior that is quite troubling. Based upon what we have ascertained, the Biloxi Police Department, utilizing uniformed police officers and city vehicles, is transporting homeless individuals from Biloxi, MS. to Mobile, AL. Furthermore, the techniques utilized to coerce the individuals to travel range from intimidation and fear to fraud and deception.

Interviews with multiple homeless individuals have revealed a consistent pattern regarding the circumstances surrounding their arrival in Mobile. The majority of interviewees provide a general description of events, which are all quite similar. By these accounts, it begins with a confrontation with Biloxi Police. During the exchange, the officer, while in uniform and acting under his apparent authority, implies to the homeless individual that they are in violation of one or more criminal statutes. The officer further explains the City of Biloxi does not have adequate social services programs to assist the homeless. At that point, the officer insinuates the individual has a choice of either going to jail or being transported to Mobile, AL. Although an actual threat of arrest is never articulated, the clear connotation of the exchange leaves the homeless individual with no alternative but to be transported to Mobile or the possibility they may be arrested. Once the homeless individual agrees to go to Mobile, the officer transports them in their city vehicle.

Another common method is under the promise of assistance. The officer approaches the homeless individual and makes an offer to help. For example, the officer might say, "When you are ready to get your life in order, I can get you help." Once the individual agrees or requests the offered assistance, they are placed in a police vehicle, driven to Mobile and dropped off in close proximity to a homeless shelter. During one interview, the individual said the transporting officer was bragging to a co-worker that he had transported over 50 people to Mobile.

The last documented occurrence of this took place on September 26, 2023. During the interview with the homeless individual, he provided the date, approximate time and location where he was dropped off. Enclosed, please find a photograph of a Biloxi patrol

car, which was found to be in the vicinity at the same time the homeless individual claims to be dropped off. We found additional pictures of this same police car exiting I-10 from the Eastbound direction and returning to I-10 Westbound approximately 10 minutes later. At this point, we have not sought to access the license plate readers for additional supporting evidence.

It has long been accepted that the freedom to travel, as well as the freedom to stay in a location, city, or state, is constitutionally protected. The courts have found that a direct restriction of a person's desire to stay in one location or travel to another is a violation of their constitutional rights. Furthermore, Title 18 U.S.C. Section 242 makes it a crime for a person acting under color of law to willfully deprive a person of a right or privilege protected by the Constitution or laws of the United States. For the purpose of Section 242, acts under "color of law" include acts not only done by federal, state, or **local officials** within their lawful authority, but also acts done beyond the bounds of that official's lawful authority, if the acts are done while the official is purporting to or **pretending to act in the performance of his/her official duties**. Persons acting under color of law within the meaning of this statute include police officers. It is not necessary that the crime be motivated by animus toward the race, color, religion, sex, handicap, familial status, or national origin of the victim. Moreover, there may be additional federal statutes that cover said actions, such as 42 U.S.C. Section 1983 and 18 U.S.C. Section 1201.

If the City of Biloxi is engaging in such a practice as described, the City of Mobile formally and respectfully requests the City of Biloxi to cease and desist from transporting, providing transportation, arranging for transportation, or generally allowing for the movement of homeless persons from Biloxi, Ms. to Mobile, Al. If you fail to refrain from such a pattern and practice, the City of Mobile will be forced to seek alternative actions, including the notification of the Department of Justice and the Federal Bureau of Investigation.

If you would like to discuss this further, please feel free to call me.

Sincerely,

A handwritten signature in blue ink, appearing to read 'J. Barber', is written over a light blue horizontal line.

James H. Barber  
Chief of Staff  
251-208-5849

CC: John Miller, Chief of Police



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