

IN THE MATTER OF THE
CITY OF DAMASCUS OF
THE STATE OF ARKANSAS
COMPLIANCE WITH
THE “ARKANSAS SPEED TRAP
LAW” A.C.A. § 12-8-402 ET SEQ

20th JUDICIAL DISTRICT PROSECUTING ATTORNEY
FINDINGS RELATED TO THE INQUIRY INTO WHETHER THE CITY OF DAMASCUS OF
THE STATE OF ARKANSAS HAS ABUSED ITS POLICE POWER PURSUANT TO THE
“ARKANSAS SPEED TRAP LAW”

1. The State of Arkansas has prohibited the Abuse of Police Power by municipalities of the second class or incorporated towns through the exercise of police power to enforce criminal and traffic laws for the principal purpose of raising revenue for the municipality and not for the purpose of public safety. *A.C.A. § 12-8-402 et seq*
2. It shall be presumed that the affected municipality is abusing police power upon a finding that:

The amount of revenue produced by fines and costs from traffic offenses that are misdemeanors or violations of state law or local ordinance for which citations are written by the police department of the affected municipality occurring on the affected highways exceeds thirty percent (30%) of the affected municipality's total expenditures, less capital expenditures and debt service, in the preceding year. *A.C.A. § 12-8-403(b)(1)*
3. The authority to initiate an “Inquiry to Determine Abuse” pursuant to A.C.A § 12-8-402 et seq is vested in the “prosecuting attorney of any judicial district in which an affected municipality is located.” *A.C.A. § 12-8-403(a)(1)* That upon request by the prosecuting attorney the Arkansas State Police is authorized to investigate and determine whether any municipality is abusing police power. *A.C.A. § 12-8-403(a)(1)* That upon completion of the investigation, the Arkansas State Police shall forward all information to the prosecuting attorney of the affected municipality and that upon receipt of the information, the prosecuting attorney will make a determination as to whether the municipality has abused its police power. *A.C.A. § 12-8-404(a)(1)*
4. The City of Damascus is located wholly within the 20th Judicial District of the State of Arkansas with its city limits resting in both Van Buren and Faulkner Counties and is an Incorporated Town or City of the Second Class.
5. Pursuant to his authority in *A.C.A. § 12-8-403(a)(1)*, the 20th Judicial District Prosecuting Attorney requested that the Arkansas State Police conduct an investigation into whether the City of Damascus had abused its police power through the exercise of police power to enforce criminal and traffic laws for the principal purpose of raising revenue for the municipality and not for the purpose of public safety. See Exhibit A, *Letter to Arkansas State Police*, attached hereto and incorporated by reference herein.
6. The Arkansas State Police, with the assistance of the Arkansas Division of Legislative Audit, conducted an investigation resulting in the procurement and analysis of documentation concerning revenues from misdemeanor traffic offenses that are violations of state law or local

ordinance written by the City of Damascus Police Department as compared to the previous year's expenditures, less capital expenditures and debt service, for 2013-2014 period and 2014-2015 period.

7. The 2013-2014 and 2014-2015 documentation was analyzed in three ways by the Arkansas Division of Legislative Audit and the Arkansas State Police. See Exhibit B, *Analysis 1 Comparison of Fines and Costs Revenue to 30% of City's Expenditures*, Exhibit C, *Analysis 2 Comparison of Fines and Costs Revenue to 30% of City's Expenditures* and Exhibit D, *Analysis 3 Comparison of Fines and Costs Revenue to 30% of City's Expenditures*, attached hereto and incorporated by reference herein. The findings following the summary are in red.

ANALYSIS 1

**2013 City Expenditures less Capital Expenditures, Debt Service including the Water Department
LESS Depreciation compared to 2014 Revenue from Fines and Costs**

2013 Total Expenditures.....	\$930,658.00
30% of City Adjusted Expenditures.....	\$279,197.00
2014 Revenue from Fines and Cost.....	\$388,761.00
Amount of Fines/Costs Over	
30% of City Adjusted Expenditures.....	\$109,564.00

Finding: As a result of the foregoing 2013-2014 analysis, the City of Damascus generated revenue from fines and costs in excess of the 30% of City Adjusted Expenditures threshold of \$279,197.00 by \$109,564.00. Therefore, the City of Damascus is presumed to be in violation of A.C.A. § 12-8-402 et seq under this analysis.

**2014 City Expenditures less Capital Expenditures, Debt Service including the Water Department
LESS Depreciation compared to 2015 Revenue from Fines and Costs**

2014 Total Expenditures.....	\$1,138,036.00
30% of City Adjusted Expenditures.....	\$341,411.00
2015 Revenue from Fines and Cost.....	\$450,121.00
Amount of Fines/Costs Over	
30% of City Adjusted Expenditures.....	\$108,710.00

Finding: As a result of the foregoing 2014-2015 analysis, the City of Damascus generated revenue from fines and costs in excess of the 30% of City Adjusted Expenditures threshold of \$341,411.00 by \$108,710.00. Therefore, the City of Damascus is presumed to be in violation of A.C.A. § 12-8-402 et seq under this analysis.

ANALYSIS 2

2013 City Expenditures less Capital Expenditures, Debt Service including the Water Department AND Depreciation compared to 2014 Revenue from Fines and Costs

2013 Total Expenditures.....	\$1,032,539.00
30% of City Adjusted Expenditures.....	\$309,762.00
2014 Revenue from Fines and Cost.....	\$388,761.00

Amount of Fines/Costs Over	
30% of City Adjusted Expenditures.....	\$78,999.00

Finding: As a result of the foregoing 2013-2014 analysis, the City of Damascus generated revenue from fines and costs in excess of the 30% of City Adjusted Expenditures threshold of \$309,762.00 by \$78,999.00. Therefore, the City of Damascus is presumed to be in violation of A.C.A. § 12-8-402 et seq under this analysis.

2014 City Expenditures less Capital Expenditures, Debt Service including the Water Department AND Depreciation compared to 2015 Revenue from Fines and Costs

2014 Total Expenditures.....	\$1,240,950.00
30% of City Adjusted Expenditures.....	\$372,285.00
2015 Revenue from Fines and Cost.....	\$450,121.00

Amount of Fines/Costs Over	
30% of City Adjusted Expenditures.....	\$77,836.00

Finding: As a result of the foregoing 2014-2015 analysis, the City of Damascus generated revenue from fines and costs in excess of the 30% of City Adjusted Expenditures threshold of \$372,285.00 by \$77,836.00. Therefore, the City of Damascus is presumed to be in violation of A.C.A. § 12-8-402 et seq under this analysis.

ANALYSIS 3

2013 City Expenditures less Capital Expenditures, Debt Service Excluding the Water Department compared to 2014 Revenue from Fines and Costs

(The Division of Legislative Audit excluded the Water Department expenditures in this analysis due to the fact that the Water Department is a business type activity of the City of Damascus organized to provide utility services with the operating revenue generated from user fees. It is audited separate and apart from the city by Connor & Sartain, CPA's.)

2013 Total Expenditures.....	\$329,830.00
30% of City Adjusted Expenditures.....	\$98,949.00
2014 Revenue from Fines and Cost.....	\$388,761.00

Amount of Fines/Costs **Over**
 30% of City Adjusted Expenditures.....\$289,812.00

Finding: As a result of the foregoing 2013-2014 analysis, the City of Damascus generated revenue from fines and costs in excess of the 30% of City Adjusted Expenditures threshold of \$98,949.00 by \$289,812.00. Therefore, the City of Damascus is presumed to be in violation of A.C.A. § 12-8-402 et seq under this analysis.

2014 City Expenditures less Capital Expenditures, Debt Service Excluding the Water Department compared to 2015 Revenue from Fines and Costs

2014 Total Expenditures.....\$505,575.00
 30% of City Adjusted Expenditures.....\$151,673.00
 2015 Revenue from Fines and Cost.....\$450,121.00

Amount of Fines/Costs **Over**
 30% of City Adjusted Expenditures.....\$298,449.00

Finding: As a result of the foregoing 2014-2015 analysis, the City of Damascus generated revenue from fines and costs in excess of the 30% of City Adjusted Expenditures threshold of \$151,673.00 by \$298,449.00 Therefore, the City of Damascus is presumed to be in violation of A.C.A. § 12-8-402 et seq under this analysis.

8. As a result of each 2013-2014 and 2014-2015 analysis by the Arkansas Division of Legislative Audit and the Arkansas State Police, it is clear that the City of Damascus generated revenue from fines and costs in excess of the 30% of City's Adjusted Expenditures and is presumed to be in violation of the "Arkansas Speed Trap Law" found at A.C.A. § 12-8-402 et seq. The City of Damascus Police Department is hereby found to have abused its police power through the enforcement of criminal and traffic laws for the principal purpose of raising revenue for the municipality and not for the purpose of public safety and is subject to the sanctions provided by law.
9. The City of Damascus shall have 30 days to respond to this finding in writing to the 20th Judicial District Prosecuting Attorney. If no written response is provided within 30 days, or if the response is ineffective in altering the findings provided herein, sanctions will be administered that are consistent with A.C.A. § 12-8-404.



 Cody Hiland
 20th Judicial District
 Prosecuting Attorney
 2-22-17

 DATE



CODY HILAND
PROSECUTING ATTORNEY
TWENTIETH JUDICIAL DISTRICT

PHONE (501) 450-4927
FAX (501) 450-7607

POST OFFICE BOX 550
FAULKNER COUNTY COURTHOUSE
CONWAY, ARKANSAS 72033

June 20, 2016

VIA U.S. MAIL AND FACSIMILE

(501) 618-8859

Colonel William Bryant
Arkansas State Police
1 State Police Plaza Dr.
Little Rock, AR 72209-4822

RE: Request for Inquiry
City of Damascus

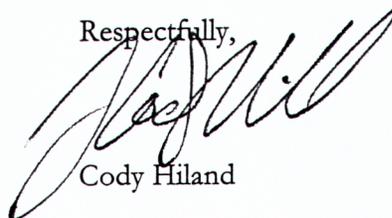
Dear Col. Byrant:

The Arkansas Speed Trap Law provides that the prosecuting attorney of any judicial district may request that the "Director of the Department of Arkansas State Police investigate and determine whether any municipality is abusing police power" relative to the issuance of traffic citations.

As Prosecuting Attorney for the 20th Judicial District, please consider this correspondence my formal request for an Arkansas State Police investigation pursuant to A.C.A. § 12-8-403 relative to allegations that the City of Damascus is in violation of the Arkansas "Speed Trap" law. This request is made in response to citizen complaints and a communicated desire by the City of Damascus to have a definitive determination made on whether they are in compliance with state law.

If you have any questions or need additional information, please contact my office.

Respectfully,



Cody Hiland

JCH:sm
Encl: none

cc: City of Damascus

City of Damascus
 Comparison of Fines and Cost Revenue to 30% of City's Expenditures
 ANALYSIS 1



	2013				2014			
	Note 1		Note 2 *		Note 1		Note 2 *	
	General Fund	Special Revenue Funds	Water Department	Totals	General Fund	Special Revenue Funds	Water Department	Totals
Total Expenditures								
General government	48,040			48,040	57,789			57,789
Law enforcement	297,121			297,121	333,491			333,491
Highways and streets		6,820		6,820		115,876		115,876
Public safety	31,641			31,641	22,231			22,231
Recreation and culture	10,067	1,198		11,265	11,276	445		11,721
Debt service	7,872			7,872	21,539			21,539
Water Operations			702,709	702,709			735,375	735,375
Total Expenditures	394,741	8,018	702,709	1,105,468	446,326	116,321	735,375	1,298,022
Less:								
Capital Expenditures	65,057			65,057	35,533			35,533
Debt Service	7,872			7,872	21,539			21,539
Depreciation			101,881	101,881			102,914	102,914
Adjusted Total Expenditures	321,812	8,018	600,828	930,658	389,254	116,321	632,461	1,138,036
30 % of City Adjusted Expenditures	279,197				341,411			
Revenue From Fines and Costs								
2014 Financial and Compliance Report	388,761	Note 1		2015	450,121	Note 3		
Amount of Fines/Costs Over 30% of Expenditures	109,564				108,710			

ANALYSIS 1:

* Includes Water Department expenditures in the 30% calculation reduced by Water Department's depreciation expense-a noncash expense.

* The Water Department is abusiness-type activity of the City organized to provide utility services. The Water Department's operating revenue is generated from user fees.

Note 1: Information obtained from Financial and Compliance Report for 2013 and 2014 prepared by Arkansas Legislative Audit

Note 2: Information obtained from the Water Department Audit Reports for 2013 and 2014 prepared by Conner & Sartain, CPAs

Note 3: Financial and Compliance Report for 2015 has not been completed; Amounts obtained from preliminary report

Results of Calculations:

We obtained the City's expenditures and adjusted for items stated in Ark. Code. Ann. 12-8-403. We calculated 30% of the adjusted expenditures for the calendar years 2013 and 2014 (see line 29). We obtained fine and costs revenue from two sources (see Notes 1 and 3). **2014 Revenue from fines and costs exceeded 30% of 2013 adjusted expenditures and 2015 Revenue from fines and costs exceeded 30% of 2014 adjusted expenditures.**



City of Damascus
Comparison of Fines and Cost Revenue to 30% of City's Expenditures
ANALYSIS 2

	2013				2014			
	Note 1		Note 2 *		Note 1		Note 2 *	
	General Fund	Special Revenue Funds	Water Department	Totals	General Fund	Special Revenue Funds	Water Department	Totals
Total Expenditures								
General government	48,040			48,040	57,789			57,789
Law enforcement	297,121			297,121	333,491			333,491
Highways and streets		6,820		6,820		115,876		115,876
Public safety	31,641			31,641	22,231			22,231
Recreation and culture	10,067	1,198		11,265	11,276	445		11,721
Debt service	7,872			7,872	21,539			21,539
Water Operations			702,709	702,709			735,375	735,375
Total Expenditures	394,741	8,018	702,709	1,105,468	446,326	116,321	735,375	1,298,022
Less:								
Capital Expenditures	65,057			65,057	35,533			35,533
Debt Service	7,872			7,872	21,539			21,539
Adjusted Total Expenditures	321,812	8,018	702,709	1,032,539	389,254	116,321	735,375	1,240,950
30 % of City Adjusted Expenditures	309,762				372,285			
Revenue From Fines and Costs								
2014 Financial and Compliance Report	388,761	Note 1			2015	450,121	Note 3	
Amount of Fines/Costs Over 30% of Expenditures	78,999				77,836			

ANALYSIS 2

* Includes Water Department expenses in the 30% calculation including depreciation expense, a non-cash expense

*The Water Department is a business-type activity of the City organized to provide utility services. The Water Department's operating revenue is generated from user fees.

Note 1: Information obtained from Financial and Compliance Report for 2013 and 2014 prepared by Arkansas Legislative Audit

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City of Damascus
 Comparison of Fines and Cost Revenue to 30% of City's Expenditures
 ANALYSIS 3

	2013			2014		
	Note 1		Totals	Note 1		Totals
	General Fund	Special Revenue Funds		General Fund	Special Revenue Funds	
Total Expenditures						
General government	48,040		48,040	57,789		57,789
Law enforcement	297,121		297,121	333,491		333,491
Highways and streets		6,820	6,820		115,876	115,876
Public safety	31,641		31,641	22,231		22,231
Recreation and culture	10,067	1,198	11,265	11,276	445	11,721
Debt service	7,872		7,872	21,539		21,539
Water Operations			-			-
Total Expenditures	394,741	8,018	402,759	446,326	116,321	562,647
Less:						
Capital Expenditures	65,057		65,057	35,533		35,533
Debt Service	7,872		7,872	21,539		21,539
Depreciation			-			-
Adjusted Total Expenditures	321,812	8,018	329,830	389,254	116,321	505,575
30 % of City Adjusted Expenditures	98,949			151,673		
Revenue From Fines and Costs						
2014 Financial and Compliance Report	388,761	Note 1	2015	450,121	Note 3	
Amount of Fines/Costs Over 30% of Expenditures	289,812			298,449		

ANALYSIS 3:

Includes ONLY City funds Not Water Department

- Note 1: Information obtained from Financial and Compliance Report for 2013 and 2014 prepared by Arkansas Legislative Audit
- Note 2: Information obtained from the Water Department Audit Reports for 2013 and 2014 prepared by Conner & Sartain, CPAs
- Note 3: Financial and Compliance Report for 2015 has not been completed; Amounts obtained from preliminary report

Results of Calculations:

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