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Shreveport City Council
505 Travis Street
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Via e-mail to: Willie.Bradford@shreveportla.gov; LeVette.Fuller@shreveportla.gov;
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Dear Members of the Council:

PO Box 56157
New Orleans, LA 70156
504-522-0617
laaclu.org

We write in support of efforts to repeal the city ordinance that criminalizes the way people wear their clothing. The law has constitutional problems in three ways: on its face, as applied, and because it is vague and overbroad.

Alanah Odoms Hebert
Executive Director

First, and most disturbingly, as applied. According to reliable news accounts, the ordinance has been applied in an extremely racially discriminatory manner. Over ninety-five percent of the hundreds of people charged were African-American.¹ The law is clearly being used in a blatantly racially discriminatory manner that makes the City vulnerable to suit.

Katie Schwartzmann
Legal Director

There is no legitimate need for this law beyond racially motivated animus. If the concern of the Council is indecent exposure, laws prohibiting same already exist. The Louisiana Criminal Code, LSA RS 14:106 (A)(1) prohibits "Exposure of the genitals, pubic hair, anus, vulva, or female breast nipples in any public place or place open to the public view, or in any prison or jail, with the intent of arousing sexual desire or which appeals to prurient interest or is patently offensive." Existing law therefore already addresses the problem of indecent exposure.

Second, on its face, the ordinance suffers from the problem of violations of the First and Fourteenth Amendments to the U.S. Constitution, which protect the rights of freedom of speech and expression. As far back as 1891, the U.S. Supreme Court stated, "The right to one's person may be said to be a right of complete immunity; to be let alone." *Union Pacific Railway Co. v Botsford*, 141 U.S. 250, 251 (1891).

This right was further explained by Justice Marshall in a dissent in *Kelley v. Johnson*: "To my mind, the right in one's personal appearance is inextricably bound up with the historically recognized right of every individual to the possession and control of his own person, and, perhaps even more fundamentally, with the right to be let alone, the most comprehensive of rights and the right most valued by civilized men.. In an increasingly

¹ Sara Macneil, "Black men make up 96 percent of sagging arrests in Shreveport," Shreveport Times, June 2, 2019. Online at: <https://www.shreveporttimes.com/story/news/2019/06/02/black-men-make-up-96-percent-sagging-arrests-shreveport/1285063001/>

crowded society in which it is already extremely difficult to maintain one's identity and personal integrity, it would be distressing, to say the least, if the government could regulate our personal appearance unconfined by any constitutional strictures whatsoever.” 425 U.S. 238, 253 (1976) (internal quotations and citations omitted.)

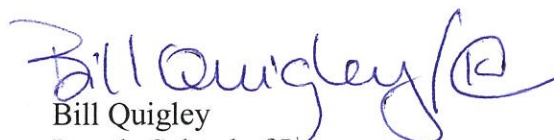
Likewise, state courts have also found that infringements on what people wear or the way they wear it are constitutionally defective. For example, the Supreme Court of Alaska has ruled: “We hold that under article I, section 1 of the Alaska constitution's affirmative grant to all persons of the natural right to ‘liberty,’ students attending public educational institutions in Alaska possess a constitutional right to wear their hair in accordance with their personal tastes. In reaching this conclusion, we are cognizant of the fact that the term ‘liberty’ is an elusive concept, incapable of definitive, comprehensive explication. Yet at the core of this concept is the notion of total personal immunity from governmental control: the right ‘to be let alone.’” *Breese v. Smith*, 501 P.2d 159. (Supreme Court of Alaska. September 11, 1972).

Third, the ordinance is also unconstitutionally vague and overbroad. It makes a criminal of everyone whose pants are not high enough to suit the arbitrary standards of law enforcement, and it criminalizes protected conduct. The average person has no way of discerning whether his pants violate the criminal code, which violates one of our most cherished national values--that of basic due process of law.

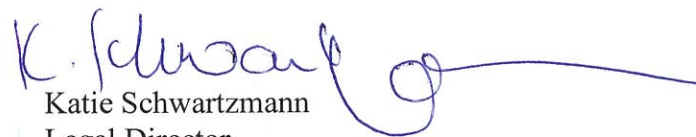
Government has a rightful role in protecting the safety of its residents. Its residents have the right to a clear, lawful, and enforceable set of ordinances, and to have their taxes spent on legitimate governmental activities. The government does not belong in the business of telling people what to wear. Nor does it have the right to use clothing as a pretext to engage in otherwise unlawful stops of innocent people, especially when it is being enforced in a blatantly racially discriminatory manner.

We urge you to protect the constitutional and civil rights of all and repeal this ordinance.

Sincerely,



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