



September 23, 2024

To: Mayor Abe Herman, City of Grand Junction, CO - abeh@gjcity.org
Interim City Manager Andrea Phillips - citymanager@gjcity.org
City Attorney John Shaver - johns@gjcity.org

cc: Members, Grand Junction City Council - council@gjcity.org
Sheriff Todd Rowell, Mesa County, CO - todd.rowell@mesacounty.us
Chief Matt Smith, Grand Junction Police Dept. - matts@gjcity.org

Re: Illegal Practices in Grand Junction Municipal Court

We write to urge the City of Grand Junction to end blatantly unconstitutional and harmful practices occurring in the City's court. As detailed herein, Grand Junction Municipal Court Judge Tammy Eret persistently and illegally denies court-appointed counsel to incarcerated people, coerces uncounseled guilty pleas, and often imposes lengthy, uncounseled, illegal jail sentences. Based on the consistency of Judge Eret's practices, it is likely that all or the vast majority of people convicted by Judge Eret were convicted and sentenced in violation of the Colorado and United States Constitutions.¹

In order to begin to right the egregious wrongs occurring in Grand Junction Municipal Court, the City must take immediate steps to (1) release all individuals currently jailed on a municipal charge; (2) review all convictions imposed by Judge Eret and reverse all uncounseled convictions; (3) quash all municipal warrants issued by Judge Eret and (4) end all municipal arrests unless and until all constitutional rights, including the right to counsel, are fully restored in the Grand Junction Municipal Court. Failure to take these actions will result in more illegal convictions, arrests and incarceration.

¹ Colorado Freedom Fund (CFF) began researching Judge Eret's practices after receiving multiple complaints of the court illegally denying right to counsel for indigent defendants and imposing unconscionably long sentences for minor municipal violations directly related to extreme poverty. We confirmed these reports were true and discovered more illegal practices by reviewing municipal court records and audio of arraignments held in August 2024, as well as by speaking with individuals with direct knowledge of Judge Eret's practices.

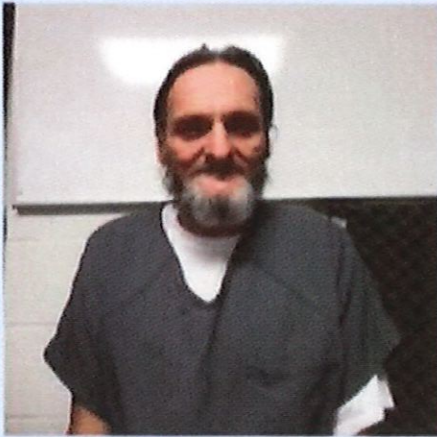
Following is a summary of the most egregious violations evident from review of Judge Eret's August in-custody docket.

1. **No lawyers for poor people in jail.** The Sixth Amendment of the United States Constitution, as well as Article II, Section 16 of the Colorado Constitution, and Colorado state law at C.R.S. § 13-10-114.5,² require city-appointed counsel for in-custody municipal defendants who face possible jail sentences at all critical stages in the legal proceeding, including bond setting, pleas, and sentencing. Yet, Judge Eret openly runs her in-custody docket without lawyers - no city attorney and no counsel for indigent defendants. She regularly sets bond, accepts guilty pleas, and sentences people to jail without defendants having any access to an attorney, in direct violation of the law.
2. **Coerced, uncounseled guilty pleas.** Unless a defendant asks for a lawyer, Judge Eret routinely does not inform the accused of their right to be represented by appointed counsel during their in-custody appearance. When a defendant affirmatively asks for a lawyer, Judge Eret most often says "We don't have a public defender in this courtroom" and sometimes adds that the person can apply for a lawyer when they get out of jail. Judge Eret then typically offers that the person could be done with their case if they plead guilty and take care of the case with "just you and I" (meaning without counsel present). To sweeten the deal, Judge Eret also often commits to sentencing the defendant to credit for time served if the defendant pleads guilty, explaining the defendant will be free immediately after sentencing. Faced with a choice between exercising their right to counsel by pleading not guilty, then trying to post bond and apply for a lawyer only to come back to court at a later time, versus pleading guilty without a lawyer but with guaranteed immediate freedom, almost all defendants in the August docket days we reviewed unsurprisingly chose to plead guilty. These coerced, uncounseled guilty pleas violate the defendants' constitutional and statutory right to counsel and their right to only enter pleas that are knowing and voluntary.
3. **Uncounseled, illegal jail sentences.** After accepting uncounseled, coerced guilty pleas, Judge Eret often sentences defendants (again without access to counsel) to jail (direct or suspended), in violation of the constitutional right to counsel.

² C.R.S. § 13-10-114.5 was enacted by [HB16-1309, Right to Counsel in Municipal Court](#) (1309), and mandates counsel for all in-custody defendants at first appearance. The law was intended to end the then widespread municipal practice of municipal defendants pleading guilty without counsel just to get out of jail. See [ACLU Fact Sheet - HB16-1309](#). In response to 1309, municipal courts across Colorado began either providing counsel for all in-custody defendants or ending municipal arrests.

4. **Violations of 48-hour hearing requirement.** Colorado law requires all municipal courts to bring every municipal arrestee before a judge for a hearing within 48 hours of arrest or have them released from jail on a personal recognizance bond. C.R.S. § 13-10-111.5. Judge Eret, however, schedules in-custody dockets at most two days per week, on Tuesday and Thursday. This docket schedule *inevitably* results in pretrial arrestees remaining in jail waiting to see a judge well beyond the 48 hour lawful limit. Making matters worse, Judge Eret sometimes cancels one of the two docket days, leaving incarcerated defendants only one opportunity per week to see a judge. In order to comply with the law, municipalities that choose to arrest people on municipal offenses must hold an in-custody docket at least four times per week, including at least one docket on Saturday or Sunday.
5. **No consideration of competency.** The United States and Colorado Constitutions prohibit conviction of defendants with a mental health condition or developmental disability that prevents the person from understanding the charges against them or assisting in their own defense. Additionally, Colorado law requires municipal courts to dismiss charges whenever a defendant is incompetent to proceed. C.R.S. § 16-8.5-116.5 (13). Judge Eret appears to ignore competency as a legal issue in her courtroom. Even when a person shows obvious signs of potential incompetence, she unconstitutionally proceeds to plea and sentencing. For example, on August 6, 2024, Judge Eret accepted a guilty plea from an incarcerated, unhoused, actively delusional woman charged with two counts of trespass for allegedly sleeping outside. Despite strong indications that the accused may have been incapable of making a knowing and intelligent plea, Judge Eret did not appoint counsel at the hearing. Instead, the Judge Eret effectively coerced a guilty plea on a promise of freedom and sentenced the woman without even superficially inquiring into her competence.
6. **Cruel and disproportionate sentences.** Judge Eret imposes jail sentences that vastly exceed what is allowed in state court for the most minor infractions. These sentences are cruel, disproportionate to the crime, and likely violate Equal Protection and preemption principles. In state court, the maximum sentence for most of the charges heard in Grand Junction's Municipal Court is 10 days. Yet, it is not uncommon for Judge Eret to impose 30, 60 or 90 day sentences for petty theft.

***Homeless & Hungry - Jailed
9 Months for Petty Theft.***



August 15, 2024 In Custody Appearance:

Judge Eret: *Why are you back here today?*

Mr. Schroeder: *I mean, you gave me 9 months on 2 petty thefts.*

Judge Eret: *I did.*

Mr. Schroeder: *It's a really long sentence.*

Judge Eret: *Well, I don't think it's long.*

David Schroeder is an unhoused Grand Junction resident currently serving a **9 month jail sentence** in Mesa County Jail for 2 petty theft charges - for taking a small amount of food and a dog harness.

Under state law, the maximum total penalty for these crimes is **20 days**—10 days per count. Mr. Schroeder asked for an attorney, but he was denied access to counsel. Judge Eret coerced an illegal, uncounseled guilty plea from Mr. Schroeder and then imposed an illegal, uncounseled jail sentence.

Judge Eret's violations of the law are serious, persistent, and cause substantial harm to community members. The victims of these violations are overwhelmingly unhoused Grand Junction residents, many of whom are currently serving or have served illegal municipal jail sentences at county taxpayer expense, and who likely have illegal convictions on their record. The court's practices set unhoused people up for failure. After nearly every court appearance, Judge Eret sets the defendant's next court appearance (what she calls a "check-in"), within a week or two, even for defendants who are post-conviction. The unhoused people who appear before Judge Eret repeatedly explain they find making court appearances extraordinarily difficult, because they lack a phone or transportation, or their day is occupied with the struggle for survival. Judge Eret's excessive, unnecessary, and uncounseled check-ins invite repeat missed court appearances. And, at each missed court appearance, Judge Eret issues an arrest warrant, resulting in repeat jail stays for a simple missed court date. For people who are post-conviction, Judge Eret sometimes relies on these missed court appearances to justify imposition of a lengthy suspended jail sentence. **All of these practices make Grand Junction Municipal Court an endless revolving door to Mesa County Jail, repeating a devastating cycle of incarceration without connecting people to services, all at county taxpayer expense.**

Every problem identified in this letter would have been less likely to occur with appointed counsel in the courtroom. Particularly in the absence of appointed counsel, it falls upon the City of Grand Junction, including the City Attorney, to immediately pursue justice for the many people subject to the illegal convictions and sentences imposed by Judge Eret. **Mr. Schroeder and others like him currently illegally jailed on municipal charges, both pre-trial and post-conviction, must be immediately brought before a replacement municipal judge to be released, their charges dismissed/convictions vacated and records sealed.**

To avoid further constitutional violations, Grand Junction also must cease arresting people for municipal offenses unless and until the municipal court can adjudicate them in compliance with the law.³ As evidenced by her blatantly illegal court practices, it is clear Judge Eret is unfit to restore constitutionality and the rule of law in the Grand Junction Municipal Court.

We are available to answer any questions. We look forward to seeing Grand Junction quickly rectify the violations of law its City Court is currently committing.

Sincerely,



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³ Municipalities, including Grand Junction, are not required to arrest, prosecute or jail anyone for municipal offenses. Given the necessary cost of constitutional criminal prosecutions, some municipalities leave criminal prosecutions to the state court system.