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Transforming the Minneapolis Police Department to Conform with the Rule of Law: Reform or Abolition

James Roth

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**TRANSFORMING THE MINNEAPOLIS POLICE DEPARTMENT
TO CONFORM WITH THE RULE OF LAW:
REFORM OR ABOLITION**

James Roth¹

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The City of Minneapolis (the “City”) is located on traditional, ancestral, and contemporary lands of Indigenous people. It resides on Dakota land ceded in the Treaties of 1837 and 1851. We acknowledge that this place has a complex and layered history. The University of Minnesota Institute for Advanced Study (IAS) is a center that works to educate the campus and community about this land and our relationships with it and each other.² The IAS is committed to ongoing efforts to recognize, support, and advocate for American Indian Nations and peoples.³

I. INTRODUCTION

For decades, there have been issues of excessive and inappropriate use of force by Minneapolis Police Officers, particularly toward Black, Indigenous, and People of Color (BIPOC).⁴ In May of 2020, George Floyd, a Black man, and Derek Chauvin, a white police officer with the Minneapolis Police Department (MPD), captured worldwide attention.⁵ A young woman passing by Cup Foods on Lake Street used her cell phone to record Chauvin kneeling on Floyd’s neck for nearly nine minutes, killing Floyd.⁶ Floyd’s last words were “I can’t breathe.”⁷ Some call it the spark that ignited the bonfire; some call it the “Great Awakening.”⁸ Protests followed in all fifty states and many countries around the world.⁹ Minneapolis has

² *IAS Land Agreement*, INST. FOR ADVANCED STUDY (2021), <https://ias.umn.edu/about/ias-land-acknowledgement> [<https://perma.cc/K6JC-C3KV>].

³ *Id.*

⁴ Ricardo Lopez, *Minnesota’s Decade-Long Failure to Confront Police Abuse*, NEW YORKER (June 10, 2020), <https://www.newyorker.com/news/news-desk/minnesotas-decades-long-failure-to-confront-police-abuse> [<https://perma.cc/6QJD-9YSA>]; MPD150, ENOUGH IS ENOUGH: A 150 YEAR PERFORMANCE REVIEW OF THE MINNEAPOLIS POLICE DEPARTMENT (2020), https://www.mpd150.com/wp-content/uploads/reports/report_2_uncompressed.pdf [<https://perma.cc/DMQ2-WVQ9>]; Kirsten Deleard, *A Demand for Justice and Law Enforcement: A History of Police and the Near North Side*, HISTORYAPOLIS (Nov. 20, 2015), <http://historyapolis.com/blog/2015/11/20/a-demand-for-justice-and-law-enforcement-a-history-of-police-and-the-near-north-side/> [<https://perma.cc/3Ezt-AQ4M>]; Holly Bailey & Mark Berman, *Minneapolis Struggled with Police Violence and Adopted Reforms. ‘And Yet, George Floyd is Still Dead.’* WASH. POST (May 29, 2020), https://www.washingtonpost.com/national/minneapolis-struggled-with-police-violence-and-adopted-reforms-and-yet-george-floyd-is-still-dead/2020/05/29/fe3ba110-a1e0-11ea-9590-1858a893bd59_story.html [<https://perma.cc/3XKJ-75PW>].

⁵ *Key Events Since George Floyd’s Arrest and Death*, ASSOCIATED PRESS (Mar. 7, 2021), <https://apnews.com/article/police-trials-coronavirus-pandemic-death-of-george-floyd-racial-injustice-bed72e9c8bf6ac02b68e5c5841e6337> [<https://perma.cc/VWQ3-S8FF>].

⁶ *Id.*

⁷ *Id.*

⁸ Van Jones, *Welcome to the ‘Great Awakening.’* CNN (June 14, 2020), <https://www.cnn.com/2020/06/12/opinions/great-awakening-empathy-solidarity-george-floyd-jones/index.html> [<https://perma.cc/J4K9-CYW2>].

⁹ There were protests in over 2000 cities and towns in the U.S. See Audra D.S. Burch, Weiyi Gau, Gabriel Gianordoli, Morrigan McCarthy & Jugal K. Patel, *How Black Lives Matter Reached Every Corner of America*, N.Y. TIMES (June 13, 2020), <https://www.nytimes.com/interactive/2020/06/13/us/george-floyd-protests-cities-photos.html>

since been described as the epicenter of a worldwide movement to transform policing.¹⁰ Yet, little has been accomplished here. On February 2, 2022, Amir Locke, a twenty-two-year-old Black man was shot and killed by an MPD officer during the execution of a no-knock warrant.¹¹ Tekle “Andrew” Sundberg, a 20-year-old Black man, was shot and killed by MPD SWAT team snipers during an apparent mental health crisis.¹² In Mr. Sundberg’s case, gunshots and a panicked call from a neighbor prompted hours of attempted negotiations and a six-hour standoff in an apartment complex.¹³

This Article begins by addressing the history of the MPD, longstanding accusations of racism, and statistical evidence of racial disparities in the use of force by MPD officers.¹⁴ This Article then discusses administrative and legislative efforts at reform, including those in the aftermath of the death of George Floyd, proposals for the abolition of the MPD, and proposed charter amendments.¹⁵ The Article ends with suggestions for reform, a discussion of the MPD’s failures to adhere to the rule of law, and recommendations on what can be done to fix the MPD.¹⁶ This Article advocates for inviting the United Nations (UN) Special Rapporteur on racism to visit Minneapolis and prepare a report that addresses systemic racism in the MPD.¹⁷ The Article also recommends incorporating core principles from the Patten Report in Northern Ireland, which transformed policing in Northern Ireland, to comply with human

[<https://perma.cc/5FLX-455N>]. There were also protests in at least 40 countries representing every continent except Antarctica. See Savannah Smith, Jiachuan Wu & Joe Murphy, *Map: George Floyd Protests Around the World*, NBC NEWS (June 9, 2020), <https://www.nbcnews.com/news/world/map-george-floyd-protests-countries-worldwide-n1228391> [<https://perma.cc/5WTN-RACZ>].

¹⁰ Chao Xiong & Paul Walsh, *Derek Chauvin, Convicted of Murdering George Floyd in Minneapolis, Is Led Away in Handcuffs*, STAR TRIB. (Apr. 21, 2021), <https://www.startribune.com/derek-chauvin-convicted-of-murdering-george-floyd-in-minneapolis-is-led-away-in-handcuffs/600048324/> [<https://perma.cc/WGD4-NNY2>]; Liz Navratil & Maya Rao, *Minneapolis to Pay Record \$27 Million to Settle Lawsuit with George Floyd’s Family*, STAR TRIB. (Mar. 12, 2021), <https://www.startribune.com/minneapolis-to-pay-record-27-million-to-settle-lawsuit-with-george-floyd-s-family/600033541/> [<https://perma.cc/K4DZ-TY6S>].

¹¹ Libor Jany, Paul Walsh & Abby Simmons, *Video: Amir Locke, Under Blanket, Holds Gun as Minneapolis Police Officers Enter, Fire 3 Shots*, STAR TRIB. (Feb. 3, 2022), <https://www.startribune.com/video-amir-locke-under-blanket-holds-gun-as-officers-enter-fire-3-shots/600142720/> [<https://perma.cc/6JA4-4NM4>].

¹² Jon Collins & Matt Sepic, *Transcript Details Panicked Call from Sundberg’s Neighbor*, MPR NEWS (July 18, 2022), <https://www.mprnews.org/story/2022/07/18/transcript-details-panicked-call-from-sundbergs-neighbor> [<https://perma.cc/5XR8-4TK9>]; Paul Walsh & Tim Harlow, *Minneapolis Police Fatally Shot Man During Standoff*, STAR TRIB. (July 14, 2022), <https://www.startribune.com/bca-at-scene-of-shooting-involving-police-in-minneapolis/600190118/> [<https://perma.cc/2ZS8-JXT4>].

¹³ Collins & Sepic, *supra* note 12; Walsh & Harlow, *supra* note 12.

¹⁴ *Infra* Sections III.A–B.

¹⁵ *Infra* Sections III.C–G.

¹⁶ *Infra* Part IV.

¹⁷ *Id.*

rights in a consent decree with the Minnesota Department of Human Rights (MDHR).¹⁸

II. RULE OF LAW

There is no single definition of the rule of law, although there are similarities among various definitions.¹⁹ One description of the core principles of the rule of law includes phrases like: superiority of the law, separation of powers, known and predictable laws, equal application, just laws, robust and accessible enforcement, an independent judiciary, and the right of citizens to participate.²⁰ Of particular relevance to this analysis are the principles of equal application and just laws. The Greek word *isonomia* conveys the concept of equality under the law.²¹ Among the critical sources of just laws are the primary human rights documents of the UN, including the Universal Declaration of Human Rights and the Covenant on Civil and Political Rights.²² For purposes of this Article, the most comprehensive global anti-discrimination treaty, the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), ratified by the United States in 1994, is of particular focus.²³ ICERD requires that the U.S. “adopt all necessary measures for speedily eliminating racial discrimination.”²⁴ This Article examines whether the practices of the MPD conform to the treaty’s standards and what might be done to change MPD’s practices in order to conform.

III. BACKGROUND

A. *History of the Minneapolis Police Department*

There is no comprehensive objective history of the MPD.²⁵ What exists is an eleven-page paper by a retired MPD officer in the Special Collections of the Minneapolis Public Library, an article on the entrapment of gay men in the 1980s, and an advocacy piece (and now book) by MPD150, self-described as an incomplete history, that argues for the

¹⁸ *Id.*

¹⁹ See ROBERT A. STEIN & JUSTICE RICHARD A. GOLDSTONE, *THE RULE OF LAW IN THE 21ST CENTURY* 9, 11 (Robert A. Stein et al., eds., 2nd ed. 2022).

²⁰ See Robert A. Stein, *What Exactly is the Rule of Law?*, 57 *HOUS. L. REV.* 185, 192–97 (2019).

²¹ *Id.* at 194–95; see FREDRICH A. HAYEK, *THE CONSTITUTION OF LIBERTY* 164–65 (4th ed. 1971).

²² See G.A. Res. 217 (III) A, Universal Declaration of Human Rights (Dec. 10, 1948); G.A. Res. 2200 (XXI) A, International Covenant on Civil and Political Rights (Dec. 16, 1966).

²³ International Convention on the Elimination of All Forms of Racial Discrimination, Dec. 21, 1965, 94 U.S.T. 1120, 660 U.N.T.S. 195.

²⁴ *Id.* 660 U.N.T.S. at 214.

²⁵ Zoom Interview with Michael J. Lansing, Professor, Augsburg Univ. (Nov. 15, 2021) [hereinafter Lansing Interview].

abolition of the MPD.²⁶ Of particular interest for this Article is a 1985 Special Task Force Report by the Minneapolis Commission on Civil Rights on “Minneapolis Police Department Treatment of Protected Class Individuals.”²⁷ There are annual reports by the MPD, also stored at the Minneapolis Public Library, that are of limited use in analyzing the history of the MPD.²⁸ Unlike some cities with such archives, no Minneapolis City Archive contains a historical chronology of the MPD.²⁹ The MPD has in recent years provided some pertinent information and statistics that are publicly accessible.³⁰

The MPD was established in 1867 following the Civil War and the U.S.-Dakota War.³¹ Like other police departments, some say MPD is a direct vestige of slavery.³² After 1867, Minneapolis mayors would continually fire police chiefs and replace them with “friends, family, and supporters.”³³ Corruption was rampant.³⁴ Between 1881 and 1886, the MPD grew from 27 to 114 officers.³⁵ By 1891, it reached 220 officers.³⁶ In 1900, Doctor A.A. Ames was elected to his fourth term as Mayor.³⁷ He appointed his brother, Fred Ames, as police chief, and the MPD became an effective tool for corruption.³⁸ “Officers committed graft, extortion, and burglaries.”³⁹ In the early 1900s, the MPD often wielded its power on behalf of the Citizens

²⁶ *Id.*; see MICHAEL A. FOSSUM, HISTORY OF THE MINNEAPOLIS POLICE DEPARTMENT (1996); Kevin Ehrman-Solberg, *The Battle of the Bookstores and Gay Sexual Liberation in Minneapolis*, 3 MIDDLE W. REV. 1, 1 (Fall 2016); MPD150, *supra* note 4. MPD150 is a collective that was formed in 2016 to create a 150-year performance review of the MPD and document the case for abolition, also described as defunding the police or a “police-free future.” <https://www.mpd150.com/> [<https://perma.cc/98QS-BSGU>]. The group is currently in the process of sunseting itself. *Id.*

²⁷ COMMISSION ON CIVIL RIGHTS, SPECIAL TASK FORCE REPORT: MINNEAPOLIS POLICE DEPARTMENT TREATMENT OF PROTECTED CLASS INDIVIDUALS (1985) [hereinafter CCRSTF Report]. This report is stored in the Special Collections of the Minneapolis Public Library.

²⁸ See generally, FOSSUM, *supra* note 26 (summarizing the statistical information contained in the annual reports).

²⁹ Lansing Interview, *supra* note 25.

³⁰ See *Police Department*, CITY OF MINNEAPOLIS, <https://www.minneapolismn.gov/government/departments/police/> [<https://perma.cc/LQB5-PWVK>].

³¹ See MPD150, *supra* note 4, at 8. The American Civil War between the North and South, largely over the issue of slavery, ended in 1865. *Id.* The U.S.-Dakota War ended in 1862. *Id.*

³² *Id.* at 7–9, 16; see Derecka Purnell, *How I Became a Police Abolitionist*, Atlantic (July 6, 2020), <https://www.theatlantic.com/ideas/archive/2020/07/how-i-became-police-abolitionist/613540/> [<https://perma.cc/3ERN-N6MN>].

³³ Lansing Interview, *supra* note 25.

³⁴ See MPD150, *supra* note 4, at 9; LINCOLN STEFFENS, THE SHAME OF MINNEAPOLIS: THE RUIN AND REDEMPTION OF A CITY THAT WAS SOLD OUT (1903), <http://www.minnesotalegalhistoryproject.org/assets/steffens-%20shame%20of%20mpls.pdf> [<https://perma.cc/H7LA-Z7GK>].

³⁵ FOSSUM, *supra* note 26, at 3.

³⁶ *Id.* at 4.

³⁷ *Id.*

³⁸ *Id.*; MPD150, *supra* note 4, at 9.

³⁹ MPD150, *supra* note 4, at 9.

Alliance, a group of powerful businessmen who resisted unionization.⁴⁰ The MPD joined forces with the Citizens Alliance to brutally suppress labor organizing efforts.⁴¹ The Volstead Act,⁴² prohibiting intoxicating beverages, passed in 1919, led to a significant increase in the MPD to 534 members.⁴³

In 1922, a meeting was held inviting “clergy and all prominent Negroes” to respond to police atrocities in Minneapolis.⁴⁴ At the time, support for the Ku Klux Klan was on the rise in Minneapolis, with more than fifty chapters of the Ku Klux Klan flourishing throughout Minnesota.⁴⁵

In 1945, Hubert Humphrey was elected Mayor.⁴⁶ In addition to battling corruption, he vowed to take action on civil rights.⁴⁷ At the time of Humphrey's election, there was a nationwide political emphasis on fighting corruption—Minneapolis shared in these endeavors.⁴⁸ Mayor Humphrey sent officers to the University of Minnesota for training on human relations.⁴⁹ There was an incident where MPD officers arrested, jailed, and interrogated two Black women for refusing to produce their draft cards.⁵⁰ Humphrey personally intervened, and the women were released the same evening.⁵¹ Humphrey established the Fair Employment Practices Commission, but he could not make significant progress on reforming the MPD before his election to the U.S. Senate in 1948.⁵²

In 1949, the president of the Minneapolis Police Federation,⁵³

⁴⁰ *Id.*

⁴¹ *Id.* at 10.

⁴² National Prohibition Act, ch. 85, 41 Stat. 305 (repealed 1933).

⁴³ FOSSUM, *supra* note 26, at 4.

⁴⁴ Delebard, *supra* note 4.

⁴⁵ TOM WEBER, *MINNEAPOLIS: AN URBAN BIOGRAPHY* 79 (2020); MPD150, *supra* note 4, at 10.

⁴⁶ Gary W. Reichard, *Hubert H. Humphrey*, 50, 51, *MINN. HIST.* (Summer 1998), <http://collections.mnhs.org/MNHHistoryMagazine/articles/56/v56i02p050-067.pdf> [<https://perma.cc/NP2S-MPMY>].

⁴⁷ See Michael J. Lansing, *Policing Politics: Labor, Race, and the Police Officers Federation of Minneapolis, 1945-1972*, 226, 226-27, *MINN. HIST.* (Spring 2021), <http://collections.mnhs.org/MNHHistoryMagazine/articles/67/v67i05p226-238.pdf> [<https://perma.cc/Q7YN-S3HC>].

⁴⁸ WEBER, *supra* note 45, at 110. Organized crime flourished in Minneapolis, as in many cities, during Prohibition. *Id.* It continued in many places into the 1940s. *Id.* FBI Director J. Edgar Hoover is reported to have called the city “one of the four or five worst crime spots in the country.” *Id.* (quoting Reichard, *supra* note 46, at 58).

⁴⁹ Lansing, *supra* note 47, at 227. At that time, police officers were only required to have an eighth-grade education. See Samuel G. Freedman, *The Problem with the Minneapolis Police Has Decades-Deep Roots*, *WASH. POST* (May 30, 2020), <https://www.washingtonpost.com/opinions/2020/05/30/problem-with-minneapolis-police-has-decades-deep-roots/> [<https://perma.cc/5N89-CDTQ>].

⁵⁰ Freedman, *supra* note 49.

⁵¹ *Id.*

⁵² See Eric Nathanson, ‘*Into the Bright Sunshine*’ - *Hubert Humphrey’s Civil-Rights Agenda*, *MINNPOST* (May 31, 2011), <https://www.minnpost.com/politics-policy/2011/05/bright-sunshine-hubert-humphreys-civil-rights-agenda/> [<https://perma.cc/U8WA-J48G>]; WEBER, *supra* note 45, at 110-12.

⁵³ *History*, POLICE OFFICERS FED’N OF MINNEAPOLIS, <https://mpdfederation.com/about-us/history/> [<https://perma.cc/87JK-T5XG>]. The Police Officers Federation of Minneapolis

William Joyce, agreed with Mayor Eric Hoyer that “any time policemen attempt to influence government or the outcome of elections . . . we have the makings of a police state.”⁵⁴ In the decades that followed, the Police Officers Federation defied that admonition.⁵⁵ Postwar efforts to address racial discrimination fell by the wayside.⁵⁶ Rank and file officers enforced racial hierarchies in Minneapolis.⁵⁷ MPD internal annual reports showed that Black residents were disproportionately arrested.⁵⁸ In 1960 the Police Officers Federation successfully lobbied for a city charter amendment to fix a set ratio of 1.7 police officers for every 1,000 residents.⁵⁹ The MPD grew from 646 officers in 1960 to 809 sworn officers and civilians by 1965.⁶⁰

Like other cities across the U.S., Minneapolis experienced significant racial tensions and uprisings in the 1960s.⁶¹ The first civilian review board was created with unofficial status in 1963.⁶² The review board ultimately failed when legal counsel advised that its unofficial status was insufficient to clothe its members with absolute immunity from defamation claims.⁶³ Black residents rioted in North Minneapolis in 1967 following incidents at the Minneapolis Aquatennial where police injured a young Black woman; dozens of other Black people were also injured, and several businesses in North Minneapolis were damaged or destroyed.⁶⁴ In 1967, the Minneapolis City Council established a Civil Rights Commission to investigate civilian discrimination complaints, and the MPD created an Internal Affairs Unit around that time to internally investigate misconduct claims.⁶⁵

The 1968 Kerner Commission, established by President Lyndon Johnson, concluded that there was an accumulation of unresolved

was founded in 1916. *Id.* It was incorporated in 1965 to represent police officers in the Minneapolis Police Department and Minneapolis Park Police. *Id.*

⁵⁴ Lansing, *supra* note 47, at 226.

⁵⁵ *Id.*

⁵⁶ See *id.*; see Geraldine N. Phillips, *Documenting the Struggle for Racial Equality in the Decade of the Sixties*, PROLOGUE MAG. (Summer 1997), <https://www.archives.gov/publications/prologue/1997/summer/equality-in-the-sixties.html> [<https://perma.cc/4JT5-ZBXM>]; NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS UNITED STATES, REPORT OF THE NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS 344–45 (1968), https://belonging.berkeley.edu/sites/default/files/kerner_commission_full_report.pdf?file=1&force=1 [<https://perma.cc/E59N-XPYE>] [hereinafter 1968 Kerner Commission Report].

⁵⁷ Lansing, *supra* note 47, at 226–27.

⁵⁸ See *id.* at 230 n.20.

⁵⁹ *Id.* at 231–32 n.27.

⁶⁰ FOSSUM, *supra* note 26, at 7.

⁶¹ See Alice George, *The 1968 Kerner Commission Got It Right, but Nobody Listened*, SMITHSONIAN MAG. (Mar. 1, 2018), <https://www.smithsonianmag.com/smithsonian-institution/1968-kerner-commission-got-it-right-nobody-listened-180968318/> [<https://perma.cc/27TU-AXLX>]; 1968 Kerner Commission Report, *supra* note 56.

⁶² Harold Berol & Marcus Sisk, *The Administration of Complaints by Civilians Against the Police*, 77 HARV. L. REV. 499, 511 n.56 (1964).

⁶³ *Id.*; MPD150, *supra* note 4, at 74.

⁶⁴ WEBER, *supra* note 45, at 138–39; RHODA G. LEWIN, JEWISH COMMUNITY OF NORTH MINNEAPOLIS 114–16 (2001).

⁶⁵ MPD150, *supra* note 4, at 12, 74.

grievances and widespread dissatisfaction among Black residents in virtually every city where violence occurred.⁶⁶

Bowing to pressure from the police union and former police union president and law-and-order Mayor Charles Stenvig, the authority of the Minneapolis Civil Rights Commission to investigate police misconduct was revoked in 1971.⁶⁷ In 1975, Mayor Albert Hofstede and City Council President Louis DeMars established a special committee to study ways to reduce police misconduct.⁶⁸ The committee consisted of fourteen members and was chaired by Professor David A. Ward of the Department of Sociology at the University of Minnesota.⁶⁹ The committee made extensive recommendations regarding following a formal rulemaking process, addressing the inadequacy of the MPD Internal Affairs Unit procedures, instituting external review, establishing an ombudsman, and appointing a permanent council committee to oversee the MPD.⁷⁰ In 1979, the Hennepin County Bar Association Committee on Individual Rights and Responsibilities proposed two specific ordinances, as well as the formation of a civilian review board with authority to investigate police misconduct.⁷¹ The Bar Association did not endorse the proposed ordinances.⁷²

In addition, a Minnesota Advisory Committee to the U.S. Commission on Civil Rights met with a group of concerned Twin Cities community organizations about police-community relations and prepared a report for both Minneapolis and St. Paul.⁷³ Among the findings for Minneapolis was a perception by BIPOC residents of greater abuse by police toward BIPOC residents than toward white residents, lack of accountability, lack of confidence in the IAU, and lack of external control.⁷⁴

In 1980, Tony Bouza became police chief, the first external appointment in over forty years, mainly chosen to reform the department.⁷⁵ He observed that the police controlled the underclass, as reflected in their relations with Black residents, and that Black residents were subjected to

⁶⁶ George, *supra* note 61. The Kerner Commission was chaired by Illinois Governor Otto Kerner Jr. *Id.* It concluded that institutional racism, including bad policing practices, caused the rioting. *Id.*; 1968 Kerner Commission Report, *supra* note 56. President Johnson did not endorse the Report. *See* George, *supra* note 61.

⁶⁷ MPD150, *supra* note 4, at 12; THE POLICE CIVILIAN REVIEW WORKING COMMITTEE, A MODEL FOR CIVILIAN REVIEW OF POLICE CONDUCT IN MINNEAPOLIS: A REPORT TO THE MAYOR AND CITY COUNCIL (1989). The MPD established its police union in 1916, known as the Police Officers Federation of Minneapolis. MPD150, *supra* note 4, at 9.

⁶⁸ CCRSTF Report, *supra* note 27, at A24-29.

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.* at A15-16.

⁷² *Id.*

⁷³ *Id.* at A30.

⁷⁴ *Id.* at A30-38 (presenting the Findings and Recommendations of the Minnesota Advisory Committee to the U.S. Commission on Civil Rights' Report on Police Practices in the Twin Cities).

⁷⁵ FOSSUM, *supra* note 26, at 8.

stop and frisks and other abuses.⁷⁶ In 1982, based on increasing conflicts between the MPD and BIPOC and gay communities, Mayor Donald Fraser asked the Hennepin County Bar Association to evaluate the MPD IAU's handling of citizen complaints.⁷⁷ Residents complained that the IAU rarely disciplined officers in response to misconduct claims.⁷⁸ Based on task force recommendations, Mayor Fraser established a three-person Police Review Panel by executive order on July 1, 1983.⁷⁹ The Police Review Panel made advisory recommendations on cases reviewed by the MPD IAU.⁸⁰ The panel issued quarterly reports and found many problems with IAU procedures and conclusions.⁸¹ The Police Review Panel also expressed concerns about the quality of findings reported by Chief Bouza.⁸² The panel's findings gave credence to criticisms of the IAU by community leaders, organizations, and residents.⁸³ In 1984, Mayor Fraser appointed a Special Task Force of the Minneapolis Civil Rights Commission on "Minneapolis Police Department Treatment of Protected Class Individuals" co-chaired by Herman Milligan and Elaine Valdez.⁸⁴ The task force held two days of hearings and issued extensive findings and recommendations, including the establishment of a Civilian Review Board to investigate citizen complaints of police misconduct.⁸⁵

John Laux served as police chief from 1989 to 1994.⁸⁶ After several additional incidents involving Black residents, he said he had difficulty understanding what caused "so much crazy behavior by so many officers in such a short period of time."⁸⁷ He instituted race-based sensitivity training and consulted with other police chiefs.⁸⁸ He later observed that police discipline was reduced to "[h]ave my lawyer talk to your lawyer."⁸⁹

A new Civilian Review Authority (CRA) was established by city

⁷⁶ Randy Furst, *Tony Bouza: A Former Police Chief Who Testifies Against Police*, STAR TRIB. (Mar. 20, 2013), <https://www.startribune.com/tony-bouza-a-former-police-chief-who-testifies-against-police/199063211/> [<https://perma.cc/GYU7-B2YS>]. "Stop and frisk" is a police practice where a police officer stops and pats down a suspect when they have a reasonable suspicion the suspect is armed. *Stop and Frisk*, ACLU DC, <https://www.acludc.org/en/know-your-rights/stop-and-frisk> [<https://perma.cc/95F9-GMTC>].

⁷⁷ CCRSTF Report, *supra* note 27, at A16.

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ *Id.* at A17.

⁸¹ *Id.*

⁸² *Id.* at A18.

⁸³ *Id.*

⁸⁴ *Id.* at i, 1-10.

⁸⁵ *Id.* at 1-10.

⁸⁶ Jon Tevlin, *Tevlin: Harteau's Not the First Chief to Deal with Misconduct*, STAR TRIB. (Aug. 13, 2013), <https://www.startribune.com/tevlin-hearteau-s-not-the-first-chief-to-deal-with-misconduct/219507571> [<https://perma.cc/UD74-DY4A>].

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ *Id.*

ordinance in 1990, based on task force recommendations.⁹⁰ But civilian members complained that it lacked subpoena power and that police officials only adopted recommendations with which they agreed, which were few.⁹¹ In April 1993, two MPD police officers picked up two intoxicated Indigenous men, threw them in the trunk of their squad car, and drove around for forty-five minutes, giving them a “rough ride.”⁹² The officers were ultimately given twenty-day and ninety-day suspensions.⁹³ The Indigenous men later filed a lawsuit in which a jury awarded \$200,000 in damages and \$250,000 in attorneys’ fees, but both officers remained on the MPD force.⁹⁴

In 2003, Minneapolis instituted a widely lauded citizen complaint mediation program called Police Community Relations Council (PCRC) after agreeing to a mediation agreement with the Department of Justice (DOJ) to address issues of “use of force, diversity and race relations.”⁹⁵ The PCRC was largely unsuccessful and was disbanded by Mayor R.T. Rybak in 2008.⁹⁶ In 2009, the MPD developed an Early Intervention System (EIS) to address officer conduct, but it was inconsistently used.⁹⁷ The CRA was replaced in 2012 by the Office of Police Conduct Review (OPCR) under the Minneapolis Department of Civil Rights after Governor Mark Dayton signed a law prohibiting civilian review boards from imposing discipline on police officers.⁹⁸ The MPD and police union lobbied heavily for this new law.⁹⁹

⁹⁰ Civilian Review Authority was established by city ordinance in 1990. See *History of Civilian Oversight of Law Enforcement in Minneapolis*, CITY OF MINNEAPOLIS, <https://www2.minneapolismn.gov/government/departments/civil-rights/opcr/civilian-oversight-history/> [<https://perma.cc/2V7R-UDDP>] (hereinafter *History of Civilian Oversight*).

⁹¹ Zoom Interview with William Green, Professor, Augsburg Univ. (Nov. 3, 2021) [hereinafter Green Interview].

⁹² *Timeline: Rough Rides: Brutality Against Native Men*, MPD150, <https://www.mpd150.com/report-old/timeline/> [<https://perma.cc/KA9P-NZAP>].

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ The Citizen Complaint Mediation Program was established in 2003. See SAMUEL WALKER, CAROL ARCHBOLD, & LEIGH HERBST, *MEDIATING CITIZEN COMPLAINTS AGAINST POLICE OFFICERS: A GUIDE FOR POLICE AND COMMUNITY LEADERS* 111 (2002), <https://cops.usdoj.gov/ric/Publications/cops-w0725-pub.pdf> [<https://perma.cc/NMG2-RHYM>].

⁹⁶ MPD150, *supra* note 4, at 14, 76. In 2022, the MPD announced that it was reviving the PCRC. PCRC MEMORANDUM OF UNDERSTANDING (Aug. 8, 2022), <https://www.minneapolismn.gov/media/-www-content-assets/documents/PCRC-MOU-unsigned-08-04-2022.pdf> [<https://perma.cc/L387-GX4C>].

⁹⁷ Tiffany Bui, *Would an Updated Early Intervention System Help MPD Avert Excessive Force Incidents?*, MINNPOST (June 26, 2020), <https://www.minnpost.com/metro/2020/06/would-an-updated-early-intervention-system-help-mpd-avert-excessive-force-incidents/> [<https://perma.cc/J9ZT-QFY9>]; see Libor Jany, *Early Warning System to Weed Out Troublesome Minneapolis Police Officers Didn't Appear to Launch*, STAR TRIB. (June 10, 2020), <https://www.startribune.com/early-warning-system-to-weed-out-troublesome-minneapolis-officers-didn-t-appear-to-launch/571157682/> [<https://perma.cc/RCU5-3WGL>].

⁹⁸ See *History of Civilian Oversight*, *supra* note 90; see Peace Officer Discipline Procedures Act, MINN. STAT. § 626.89 (2021).

⁹⁹ MPD150, *supra* note 4, at 15, 74.

In 2012, Janeé Harteau became the first female police chief.¹⁰⁰ She was also openly gay in a historically anti-gay police department that is still male dominated.¹⁰¹ She instituted an ambitious reform program called MPD 2.0 and invited the DOJ to provide technical assistance.¹⁰² Despite the MPD 2.0 program, in 2015, two officers were involved in the shooting death of Jamar Clark, a twenty-four-year-old Black man.¹⁰³ Protests followed, including an eighteen-day encampment and months of protests outside the Fourth Precinct station.¹⁰⁴ The officers were not criminally charged.¹⁰⁵ The National Association for the Advancement of Colored People (NAACP) demanded an independent investigation.¹⁰⁶ Chief Harteau participated in a remediation process with members of the Black community that was widely hailed as a success.¹⁰⁷ She instituted policies to implement the sanctity of life and the duty to intervene.¹⁰⁸ She was unanimously reappointed to a second term in 2016.¹⁰⁹ In 2017, Forbes Magazine listed Chief Harteau as one of

¹⁰⁰ See *An Authentic and Adaptive Leader*, JANEÉ HARTEAU (2020), <https://www.janeeharteau.com> [<https://perma.cc/536R-66TC>]; see *MPD Chief Listed Among Fortune Magazine's Top 50 World Leaders*, CBS NEWS (Mar. 24, 2017), <https://www.cbsnews.com/minnesota/news/harteau-50-greatest-leaders/> [<https://perma.cc/KA5K-HK2P>] [hereinafter *Top 50 World Leaders*].

¹⁰¹ See *Top 50 World Leaders*, *supra* note 100; Brandt Williams, *Janeé Harteau Sworn in as Mpls. Police Chief*, MPR NEWS (Dec. 12, 2012), <https://www.mprnews.org/story/2012/12/04/janeé-harteau-sworn-in-as-mpls-police-chief> [<https://perma.cc/X8AT-V67X>]; Ehrman-Solberg, *supra* note 26; CCRSTF Report, *supra* note 27, at 7, 14.

¹⁰² OJP DIAGNOSTIC CENTER, DIAGNOSTIC ANALYSIS OF MINNEAPOLIS POLICE DEPARTMENT, MN (Jan. 2015), https://mn.gov/mdhr/assets/2015.01%20OJP%20Minneapolis%20Police%20Report_tcm1061-457047.pdf [<https://perma.cc/6J6K-GYTK>]; *A Look Back at Janeé Harteau's Term as Chief of Minneapolis Police*, CBS NEWS (July 22, 2017), <https://www.cbsnews.com/minnesota/news/janeé-harteau-history-minneapolis-police/> [<https://perma.cc/557W-2YCS>] [hereinafter *A Look Back*].

¹⁰³ *A Look Back*, *supra* note 102.

¹⁰⁴ *Id.*; Erik Ortiz, *Jamar Clark: No Charges Against Minneapolis Cops Involved in Shooting*, NBC NEWS (Mar. 30, 2016), <https://www.nbcnews.com/news/us-news/jamar-clark-shooting-no-charges-against-2-minneapolis-cops-involved-n547941> [<https://perma.cc/UW6V-7DSM>].

¹⁰⁵ Ortiz, *supra* note 104.

¹⁰⁶ *NAACP Demands New Probe of Jamar Clark Police Shooting*, MPR NEWS (Apr. 4, 2016), <https://www.mprnews.org/story/2016/04/04/naacp-calls-for-new-jamar-clark-police-shooting-probe> [<https://perma.cc/7QTN-K5HW>].

¹⁰⁷ Rupa Shenoy, *Harteau: Community Will Help Draft Action Plan*, MPR NEWS (Aug. 7, 2013), <https://www.mprnews.org/story/2013/08/07/harteau-community-will-help-draft-action-plan> [<https://perma.cc/GB7P-KEGB>].

¹⁰⁸ Zoom Interview with Janeé Harteau, retired Minneapolis Police Chief, (Sept. 11, 2022); Kerri Miller & Ariana Rosas, *What 'Duty to Intervene' Means in Policing*, MPR NEWS (June 24, 2021), <https://www.mprnews.org/episode/2021/06/24/what-duty-to-intervene-means-in-policing> [<https://perma.cc/9F2M-B3AM>]; *Mpls. Police Make Changes Aimed at Defusing Conflicts*, KARE 11 (Aug. 8, 2016), <https://www.kare11.com/article/news/mps-police-make-changes-aimed-at-defusing-conflicts/89-290117305> [<https://perma.cc/3VfV-D4KW>] (Chief Harteau implemented policy changes that gave “officers a duty to intervene to prevent others from using force improperly and a duty to report misconduct.”).

¹⁰⁹ *About*, JANEÉ HARTEAU (2020), <https://www.janeeharteau.com/about> [<https://perma.cc/C3TK-STUL>].

the world's 50 greatest leaders.¹¹⁰

On July 15, 2017, Police Officer Mohammad Noor, who is of Somali descent, shot and killed a white Australian woman, Justine Damond, in a South Minneapolis alley while responding to Justine's call that she believed a woman was being raped in an alley.¹¹¹ There was an international outcry and call for justice.¹¹² Minneapolis Mayor Betsy Hodges demanded Harteau's resignation one week later.¹¹³ Chief Harteau became the political scapegoat despite some progress in reforming the MPD and despite instituting the remediation process that regained some trust from the Black community following the earlier death of Jamar Clark.¹¹⁴

Chief Medaria Arradondo, the first Black police chief, was appointed to replace Harteau.¹¹⁵ Minnesota Attorney General Keith Ellison and Commissioner of Public Safety John Harrington released their Report on Officer-Involved Killings in February 2020 after their public-safety task force conducted public hearings.¹¹⁶

There have been several officer-involved shootings¹¹⁷ in

¹¹⁰ *Top 50 World Leaders*, *supra* note 100.

¹¹¹ German Lopez, "American Nightmare": Australians React in Horror to US Police Shooting that Killed One of Their Own, VOX (July 18, 2017), <https://www.vox.com/policy-and-politics/2017/7/18/15988644/justine-damond-police-shooting-american-nightmare> [<https://perma.cc/XJ9L-NUZ6>]. Justine allegedly rapped on the squad car in an effort to get the officers' attention, which may have startled the officers. Amy Forliti & Jeff Baenen, *Prosecutors Target Officer's Report of Noise Before Shooting*, AP NEWS (Apr. 29, 2019), <https://apnews.com/article/3b1d0dcadee84837becda818c6a18cdb> [<https://perma.cc/7RVF-K64P>].

¹¹² *Id.* Noor was convicted by the jury of third-degree murder and manslaughter. Associated Press, *Ex-Minneapolis Police Officer Sentenced to 57 Months in the Killing of a 911 Caller*, NPR (Oct. 21, 2021), <https://www.npr.org/2021/10/21/1047986308/mohammad-noor-sentenced-minneapolis-police-911-australian-caller> [<https://perma.cc/WSP8-VRPC>]. The Minnesota Supreme Court overturned the third-degree murder conviction. *Id.* The civil case brought by Damond's family settled for \$20,000,000. *Id.*

¹¹³ Andy Mannix & Emma Nelson, *Justine Damond 'Didn't Have to Die,' Says Minneapolis Police Chief Janceé Harteau*, STAR TRIB. (July 21, 2017), <https://www.startribune.com/justine-damond-didnt-have-to-die-says-minneapolis-police-chief-janee-harteau-justine-ruszczky/435651393/> [<https://perma.cc/7EJ6-JG6Y>].

¹¹⁴ Libor Jany, Andy Mannix, & Eric Roper, *Jance Harteau Resigns: A Timeline*, STAR TRIB. (July 22, 2017), <https://www.startribune.com/janee-harteau-resigns-a-timeline/435917263/> [<https://perma.cc/3CX4-3FCV>].

¹¹⁵ Libor Jany, *Arradondo to be Reappointed as Minneapolis Police Chief*, STAR TRIB. (Oct. 31, 2018), <https://www.startribune.com/arradondo-to-be-reappointed-as-minneapolis-police-chief/499186911/> [<https://perma.cc/8Y5N-85DK>].

¹¹⁶ *Working Group Releases Consensus Recommendations for Reducing Police-Involved Deadly Force Encounters*, MINN. DEP'T OF PUB. SAFETY (Feb. 24, 2020), <https://dps.mn.gov/divisions/ooc/news-releases/Pages/Working-group-releases-consensus-recommendations-for-reducing-police-involved-deadly-force-encounters.aspx> [<https://perma.cc/YUX4-BLU4>].

¹¹⁷ *Officer Involved Shootings*, POLICE DATA INITIATIVE, <https://www.policedatainitiative.org/datasets/officer-involved-shootings/> [<https://perma.cc/B4G3-BPK3>] ("Although no national or standard definition exists, an officer involved shooting (OIS) may be defined as the discharge of a firearm, which may include accidental and intentional discharges, by a police officer, whether on or off duty.").

Minneapolis since 2000.¹¹⁸ Activists released a report concluding that “oppression of poor people and [B]lack people was baked into the very founding of the department in 1867.”¹¹⁹ In all, twenty-two Black residents died from police-involved killings between January 1, 2000, and October 5, 2021 in Minneapolis.¹²⁰ Comparatively, six white residents were killed by police during the same period.¹²¹

B. Statistical Disparities

The statistics on racial disparities in the use of force by the MPD are stark. According to the *New York Times* analysis drawn from Minneapolis’s own MPD database, “[a]bout twenty percent of Minneapolis’s population is [B]lack. But when police get physical—with kicks, choke holds, punches, take downs, Mace spray, Tasers and the like, the person subject to that force is [B]lack 60% of the time.”¹²²

Of the fifty police-involved killings of Black residents in Minnesota between January 1, 2000, and October 5, 2021, twenty-two were in Minneapolis.¹²³ Seven police-involved killings have occurred in Minneapolis since Mayor Jacob Frey took office in 2017.¹²⁴ He campaigned on a promise to reform the MPD.¹²⁵ Six white residents were killed in police-involved shootings in Minneapolis between January 1, 2000, and October 5, 2021.¹²⁶ There were 217 police-involved deaths in Minnesota during that period.¹²⁷ Minneapolis isn’t the only city in Minnesota with these kinds of racial disparities, but it’s the worst.¹²⁸ Over 60% of those killed by the MPD during this time period were Black, while less than 20% were white, despite the City population being 60% white and 20% Black.¹²⁹

¹¹⁸ Jeff Hargarten, Jennifer Bjorhus, MaryJo Webster & Kelly Smith, *Every Police-Involved Death in Minnesota Since 2000*, STAR TRIB. (Feb. 2, 2022), <https://www.startribune.com/every-police-involved-death-in-minnesota-since-2000/502088871/> [https://perma.cc/AK2A-MZA8].

¹¹⁹ MPD150, *supra* note 4.

¹²⁰ Hargarten et al., *supra* note 118.

¹²¹ *Id.*

¹²² Richard A. Oppel Jr. & Lazaro Gamio, *Minneapolis Police Use Force Against Black People at 7 Times the Rate of Whites*, N.Y. TIMES (June 3, 2020), <https://www.nytimes.com/interactive/2020/06/03/us/minneapolis-police-use-of-force.html> [https://perma.cc/T173-TLH7].

¹²³ Hargarten et al., *supra* note 118.

¹²⁴ *Id.*

¹²⁵ Farah Stockman, *Mayor Jacob Frey of Minneapolis Had Promised to Improve Police Relations*, N.Y. TIMES (Nov. 3, 2021), <https://www.nytimes.com/2020/05/29/us/jacob-frey-minneapolis-george-floyd.html> [https://perma.cc/E43G-4YJ9].

¹²⁶ Hargarten et al., *supra* note 118.

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ *Id.*; Jeff Hargarten, *Minneapolis Police Shootings Since 2000: A Deeper Look at Who and Where*, STAR TRIB. (July 15, 2018), <https://www.startribune.com/minneapolis-police-shootings-since-2000-a-deeper-look-at-who-and-where/435882213/> [https://perma.cc/72QW-9RLW].

C. The Murder of George Floyd and Its Aftermath

The video of the killing of George Floyd was “heard around the world.”¹³⁰ The Minneapolis Police Chief, Mayor, City Council, the Minnesota Legislature, President Trump, and U.S. Congress all got in the act to reform the police.¹³¹ The reform efforts by Chief Arradondo and Mayor Frey have included modifying the body camera policy to include discipline, front-end city attorney involvement in the discipline process, recruitment priorities, a more robust de-escalation policy, a stricter no-knock policy, traffic enforcement reforms, new critical incident standards, a victim-centered sexual assault investigation policy, a warrior-style training ban, and a use of force overhaul.¹³² The Minneapolis City Council focused its efforts on a city charter amendment to replace the police department with a new department of public safety.¹³³ The Minnesota Legislature was divided between efforts in the House of Representatives, controlled by Democrats, and the Senate, controlled by Republicans.¹³⁴ The Minnesota House of Representatives held numerous hearings where members of the public provided testimony, including victims, activists, and police reform experts, among others.¹³⁵ Minnesota House Democrats approved language in three bills that would ban chokeholds, neck restraints, and warrior-style officer training while also giving the Minnesota Attorney General the primary authority to charge police officers in cases involving deaths.¹³⁶ The three bills approved by Minnesota House Democrats also would have

¹³⁰ Nicole B. Alexander, *George Floyd and the Shot Heard Round the World*, THE HARV. CRIMSON (Feb. 23, 2022), <https://www.thecrimson.com/article/2022/2/23/alexander-bhm-george-floyd/> [https://perma.cc/RB87-8388].

¹³¹ See Section III.C; *infra* notes 134–50 and accompanying text.

¹³² *Police Policy Reform*, CITY OF MINNEAPOLIS, <https://www.minneapolismn.gov/government/programs-initiatives/community-safety/focus-areas/police-policy-reform/> [https://perma.cc/D82J-L9KC].

¹³³ *Public Safety Charter Amendment (CH2021-00015)*, CITY OF MINNEAPOLIS, <https://lms.minneapolismn.gov/file/CH2021-00015> [https://perma.cc/Q34Z-WHVF]; see *Charter Amendments Impacting Public Safety*, LEAGUE OF WOMEN VOTERS MINNEAPOLIS, <https://lwvmppls.org/2-14-the-charter-amendments/> [https://perma.cc/64TW-6Y3D].

¹³⁴ Peter Callaghan, *The Big Winner in the Race for the Minnesota Legislature: Divided Government*, MINNPOST (Nov. 5, 2020), <https://www.minnpost.com/state-government/2020/11/the-big-winner-in-the-race-for-the-minnesota-legislature-divided-government/> [https://perma.cc/2RS6-YQKX].

¹³⁵ Carlos Mariani, *RELEASE: Rep. Mariani, Community Leaders Hold Town Hall to Discuss Police Violence Prevention* (May 30, 2020), <https://www.house.leg.state.mn.us/members/profile/news/10399/30000> [https://perma.cc/TXX3-N8MX]; Carlos Mariani, *RELEASE: Following George Floyd’s Killing, Minn. House Public Safety Division Discusses Criminal Justice and Police Accountability Reforms* (June 13, 2020), <https://www.house.leg.state.mn.us/members/profile/news/10399/30130> [https://perma.cc/8XWN-5738].

¹³⁶ Walker Orenstein & Peter Callaghan, *The Legislature Just Passed a Police Reform Bill. What It Does – and Doesn’t Do – to Reshape Law Enforcement in Minnesota*, MINNPOST (July 21, 2020), <https://www.minnpost.com/state-government/2020/07/the-legislature-just-passed-a-police-reform-bill-what-it-does-and-doesnt-do-to-reshape-law-enforcement-in-minnesota/> [https://perma.cc/EAE6-H9G7].

ended cash bail for most people accused of misdemeanors, altered use of force laws, given more power to the Peace Officer Standards and Training (POST) Board to strip officers' licenses, and created citizen oversight councils for police departments.¹³⁷

Senate Republicans passed a narrow bill banning chokeholds, requiring officers to intervene when another officer uses excessive force, requiring mental health and autism training, and adding two citizen members to the POST Board.¹³⁸ The outcome of the Senate and House positions was a compromise bill that watered down the House bills.¹³⁹

President Trump issued an Executive Order on June 16, 2020, in a Rose Garden Ceremony where he generally praised police, called for law and order, mandated additional training and increased involvement by mental health professionals and social workers, and announced a limited ban on chokeholds.¹⁴⁰ This order had little effect since state and local governments largely control law enforcement.¹⁴¹ The U.S. House of Representatives passed the George Floyd Justice in Policing Act of 2020.¹⁴² The Republican-controlled Senate blocked the House's Act, which ended in a stalemate.¹⁴³ The stalemate resulted from a disagreement over modification of existing qualified immunity for police officers.¹⁴⁴ Negotiations between U.S. Republican and Democratic senators on a reform bill collapsed in September 2021.¹⁴⁵

The outcome of federal actions by Trump and Congress was a hodgepodge of measures that accomplished little. Attorney General Merrick Garland announced a DOJ pattern or practice investigation that

¹³⁷ *Id.*

¹³⁸ *Id.*; Carlos Mariani, *RELEASE: Minnesota House Passes Police Accountability Act*, (July 20, 2020), <https://www.house.leg.state.mn.us/members/profile/news/10399/30435> [https://perma.cc/Q438-VZ2B]. Carlos Mariani was the chair of the Public Safety and Criminal Justice Reform Finance and Policy Committee. *Id.*

¹³⁹ Orenstein & Callaghan, *supra* note 136; Sam DeLeon, *MN Legislature Fails to Deliver Significant Police Reform*, MINN. SPOKESMAN RECORDER (July 21, 2021), <https://spokesman-recorder.com/2021/07/21/mn-legislature-fails-to-deliver-significant-police-reform/> [https://perma.cc/U7FG-YMCD].

¹⁴⁰ Amita Kelly & Brian Naylor, *Trump, Hailing Law Enforcement, Signs Executive Order Calling for Police Reform*, NPR (June 16, 2020), <https://www.npr.org/2020/06/16/877601170/watch-live-trump-to-sign-executive-order-on-police-reform> [https://perma.cc/72PL-LKHN]. Exec. Order 13,929, *Safe Policing for Safe Communities*, 85 FR 37,325 (June 19, 2020), revoked by Exec. Order 14,074 (May 25, 2022), <https://www.federalregister.gov/presidential-documents/executive-orders/donald-trump/2020> [https://perma.cc/Q8TC-LDWV].

¹⁴¹ Kelly & Naylor, *supra* note 140.

¹⁴² Jason Breslow, *Where Efforts to Overhaul Policing Stand in Congress After Chauvin Verdict*, NPR (Apr. 21, 2021), <https://www.wbur.org/npr/989500468/where-efforts-to-overhaul-policing-stand-in-congress-after-chauvin-verdict> [https://perma.cc/5PYC-29QZ].

¹⁴³ *Id.*

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*; see NAACP Legal Defense Fund, *LDF Issues Statement on the Failure to Advance the George Floyd Justice in Policing Act of 2021* (Sept. 22, 2021), <https://www.naacpldf.org/press-release/ldf-issues-statement-on-the-failure-to-advance-the-george-floyd-justice-in-policing-act-of-2021/> [https://perma.cc/B9TF-5XWV].

was welcomed by Chief Arradondo.¹⁴⁶ Minnesota Governor Tim Walz ordered an MDHR investigation.¹⁴⁷

But “[t]here is no silver bullet,” according to Associate Professor Maria Ponomarenko of the University of Texas Law School, who has studied and written extensively on police reform.¹⁴⁸ Still, she is optimistic that the DOJ pattern or practice investigation will lead to necessary reforms.¹⁴⁹ So is retired Florida Police Chief and City Manager Frank Fernandez, who has participated in several DOJ investigations.¹⁵⁰

Others are not so optimistic. Professor David Schultz does not believe racism will disappear from police practices until society changes.¹⁵¹ Professor William Green, who has served on past civilian review boards, has observed that they have been hampered by lack of subpoena power and only having the limited authority to issue advisory opinions, which are most often ignored.¹⁵² Chuck Turchick, a Minneapolis resident and longtime follower of past efforts at police reform, shares their skepticism, as do several activist groups.¹⁵³ Reviewing the history of the MPD and the sporadic and largely unsuccessful efforts at reform, one can easily understand their skepticism.

There are five main activist groups in the Twin Cities split between police reform or abolition: Community United Against Police Brutality

¹⁴⁶ Andy Mannix, *Justice Department to Probe Whether Minneapolis Police Have ‘Pattern and Practice’ of Misconduct*, STAR TRIB. (Apr. 21, 2021), <https://www.startribune.com/justice-department-to-probe-whether-minneapolis-police-have-pattern-and-practice-of-misconduct/600048448/> [<https://perma.cc/RF5C-PJS7>].

¹⁴⁷ *Quiet Night in Twin Cities; State Launches Civil Rights Probe of Minneapolis*, MPR NEWS (June 2, 2020), <https://www.mprnews.org/story/2020/06/02/floyds-death-ruled-a-homicide-memorial-service-set-for-thursday> [<https://perma.cc/W74T-NMSP>].

¹⁴⁸ Zoom Interview with Maria Ponomarenko, Assoc. Prof. of Law, Univ. of Minn. and Co-Founder and Counsel at the N.Y. Univ. Sch. of Law Policing Project (Nov. 10, 2021) [hereinafter Ponomarenko Interview].

¹⁴⁹ *Id.*

¹⁵⁰ Zoom Interviews with Frank Fernandez, President of Blueprints 4 Safety Strategies Grp., LLC, Mia., Fla., Former Deputy Chief, Mia. Police Dep’t, and Police Chief of the Hollywood, Fla. Police Dep’t. [hereinafter Fernandez Interview]. Fernandez served as Director of Public Safety and Assistant City Manager for the City of Coral Gables, Fla. from 2015 to 2019 (June 9, 2020, continuing through Nov. 2021).

¹⁵¹ See David Schultz, *The \$2 Billion-Plus Price of Injustice: A Methodological Map for Police Reform in the George Floyd Era*, 39(3) LAW & INEQ. 571 (2021), DOI: <https://lawandinequality.org/article/the-2-billion-plus-price-of-injustice-a-methodological-map-for-police-reform-in-the-george-floyd-era/> [<https://perma.cc/MX7A-LZLY>].

¹⁵² Green Interview, *supra* note 91.

¹⁵³ See Libor Jany, *Minneapolis Police; ‘Behind the Ball’ on Years-Old Department of Justice Report*, STAR TRIB. (May 29, 2019), <https://www.startribune.com/minneapolis-police-behind-the-ball-on-years-old-department-of-justice-report/510595072/> [<https://perma.cc/34YM-BE7R>] (discussing and quoting Chuck Turchick); James Larty & Simone Weichselbaum, *Before George Floyd’s Death, Minneapolis Failed to Adopt Reforms, Remove Bad Officers*, MARSHALL PROJECT (May 28, 2020), <https://www.themarshallproject.org/2020/05/28/before-george-floyd-s-death-minneapolis-police-failed-to-adopt-reforms-remove-bad-officers> [<https://perma.cc/KU28-NVP4>]; Mary Turck, *What Does Ending the Minneapolis Police Department Mean?* MINN. SPOKESMAN RECORDER (June 8, 2020), <https://spokesman-recorder.com/2020/06/08/what-does-ending-the-minneapolis-police-department-mean/> [<https://perma.cc/6AAA-8FD6>].

(CUAPB),¹⁵⁴ Twin Cities Coalition for Justice 4 Jamar,¹⁵⁵ Black Visions Collective,¹⁵⁶ Reclaim the Block,¹⁵⁷ and MPD150.¹⁵⁸ CUAPB has a detailed list of 44 recommendations to reform the MPD and other departments in Minnesota, Twin Cities Coalition for Justice 4 Jamar proposes a citizen group with control over the police as an interim measure toward abolition, and the other three are pressing for abolition and replacement with community-based alternatives.¹⁵⁹ MPD150 published a comprehensive report of its work and findings: “Enough is Enough: A 150-Year Performance Review.”¹⁶⁰ Other local activists, like Jason Sole, Professor of Criminal Justice at Hamline University, and D.A. Bullock, Media and Narrative Strategist for Reclaim the Block, share their views that abolition is the only solution.¹⁶¹ Those calling for abolition all share the view that the MPD is unreformable.¹⁶² That view is shared by others nationally, including author Alex S. Vitale.¹⁶³ Vitale and other abolitionists cite the past efforts at reform as proof that none of them work.¹⁶⁴ Many of the groups supporting abolition or reform share the perspective of some like Frank Fernandez that police are called on to deal with many social problems such as drug use, mental illness, and domestic violence that they are ill-equipped to handle.¹⁶⁵

D. 2021 Referendums to Amend Minneapolis City Charter and Citywide Elections

Following the murder of George Floyd, the subsequent protests,

¹⁵⁴ CMTIES. UNITED AGAINST POLICE BRUTALITY, <https://www.cuapb.org/> [<https://perma.cc/8Q57-PG34>] [hereinafter CUAPB].

¹⁵⁵ TCC4J, TWIN CITIES COAL. FOR JUST. 4 JAMAR (TCC4J), <https://sites.google.com/view/tcc4j/tcc4j?authuser=0> [<https://perma.cc/JEM6-9MJ3>] [hereinafter TCC4J].

¹⁵⁶ Values, BLACK VISIONS COLLECTIVE, <https://www.blackvisionsmn.org/values> [<https://perma.cc/HN5T-VS2W>].

¹⁵⁷ About, RECLAIM THE BLOCK, <https://www.reclaimtheblock.org/home/#about> [<https://perma.cc/LH6P-Y9T4>].

¹⁵⁸ MPD150, *supra* note 4; *see also* text accompanying *supra* note 26.

¹⁵⁹ Tiffany Bui, *What to Do About the MPD? How Three Activist Groups Are Rethinking Public Safety*, MINNPOST (July 1, 2020), <https://www.minnpost.com/metro/2020/07/what-to-do-about-the-mpd-how-three-activist-groups-are-rethinking-public-safety/> [<https://perma.cc/Z6MF-Z6QW>]. *See supra* notes 154–58.

¹⁶⁰ MPD150, *supra* note 4.

¹⁶¹ Jim Walsh, *I Can See a World Without Police?: A Q&A with Jason Sole, Founder of the Institute of Aspiring Abolitionists*, MINNPOST (Oct. 21, 2021), <https://www.minnpost.com/community-sketchbook/2021/10/i-can-see-a-world-without-police-a-qa-with-jason-sole-founder-of-the-institute-of-aspiring-abolitionists/> [<https://perma.cc/R8BY-R9E7>].

¹⁶² *See supra* notes 151–61.

¹⁶³ *See* ALEX S. VITALE, *THE END OF POLICING* (2017). Alex S. Vitale is a “Professor of Sociology and Coordinator of the Policing and Social Justice Project at Brooklyn College and the CUNY Graduate Center, and a Visiting Professor at London Southbank University.” *Bio*, ALEX S. VITALE, PROFESSOR OF SOCIO. BROOKLYN COLL., <http://www.alex-vitale.info/bio.html> [<https://perma.cc/X7EJ-SZGJ>].

¹⁶⁴ *See* VITALE, *supra* note 163; MPD150, *supra* note 4, at 74–76.

¹⁶⁵ MPD150, *supra* note 4, at 29–35; Fernandez Interview, *supra* note 150.

and the highly publicized destruction of the Minneapolis Police Department's Third Precinct and numerous Twin Cities area businesses, many groups called for defunding, downsizing, or abolishing the MPD.¹⁶⁶ Throughout the summer of 2020 and into 2021, calls to “defund the police” were heard from protestors and some Minneapolis City Council members.¹⁶⁷ Major news networks such as Fox and MSNBC debated the meaning of the slogan.¹⁶⁸ Were people advocating for the complete dissolution of police? Some Minneapolis activist groups supported replacing the MPD with a Minneapolis Department of Public Safety (DPS).¹⁶⁹ Groups including Justice 4 Jamar and Black Visions Collective supported the referendum to replace the MPD with a DPS and opposed the proposed amendment to adopt a strong mayor system.¹⁷⁰ Others like CUAPB offered reforms, not abolition.¹⁷¹ On June 7, 2020, thousands of protestors attended a rally organized by Black Visions Collective and others.¹⁷² Nine out of thirteen members of the Minneapolis City Council joined and pledged to “defund the police.”¹⁷³ Coming from a majority of the City Council members, this pledge attracted international attention.¹⁷⁴ There were no details provided at the time.¹⁷⁵ City Council members who had attended the “Defund the Police” rally later struggled to define what

¹⁶⁶ See *supra* notes 151–61.

¹⁶⁷ Matt Sepic, *A Year After George Floyd's Death, Plans for Minneapolis Police Reform Have Softened*, NPR (May 25, 2021), <https://www.npr.org/2021/05/25/1000298293/a-year-after-george-floyds-death-plans-for-minneapolis-police-reform-have-soften> [<https://perma.cc/3H3N-VHNR>].

¹⁶⁸ MSNBC, *Activists on Defunding the Police: 'We're Not Talking About Gotham Without Batman'*, YOUTUBE (Dec. 6, 2020), <https://youtu.be/QqrWCpppygc> [<https://perma.cc/L72P-NRWE>].

¹⁶⁹ Kathryn Styer Martinez, *Petition to Replace MPD Submitted to Minneapolis City Officials*, MPR NEWS (Apr. 30, 2021), <https://www.mprnews.org/story/2021/04/30/a-petition-to-replace-mpd-with-a-new-department-submitted-to-mpls-city-officials> [<https://perma.cc/7V9U-TKZQ>].

¹⁷⁰ See Bui, *supra*, note 159; Jon Collins, *What to Know About the 'Strong Mayor' Ballot Amendment in Minneapolis*, MPR NEWS (Aug. 31, 2021), <https://www.mprnews.org/story/2021/08/31/what-to-know-about-the-strong-mayor-ballot-amendment-in-minneapolis> [<https://perma.cc/ZDC6-V7BY>] (“The amendment would reorganize Minneapolis city government, giving more executive authority to the mayor. The mayor would be declared the city’s chief executive officer, with control over administrative functions in the city The City Council would take a more purely legislative role of making policy.”).

¹⁷¹ Bui, *supra*, note 159; CUAPB, *supra* note 154.

¹⁷² Deena Winter, *What Happens When a Tiny Police Abolitionist Group Finds Itself with \$29 Million?*, MINN. REFORMER (Apr. 28, 2021), <https://minnesotareformer.com/2021/04/28/what-happens-when-a-tiny-police-abolitionist-group-finds-itself-with-29-million/> [<https://perma.cc/GCU2-PK4H>] [hereinafter *\$29 Million*].

¹⁷³ *Id.*

¹⁷⁴ Deena Winter, *Minneapolis Council Member Says He 'Got Got' at 'Defund Police' Rally*, MINN. REFORMER (Oct. 8, 2021), <https://minnesotareformer.com/2021/10/08/minneapolis-council-member-says-he-got-got-at-defund-police-rally/> [<https://perma.cc/EC2C-2A2T>] [hereinafter *Got Got*].

¹⁷⁵ See *\$29 Million*, *supra* note 172.

defunding the police meant.¹⁷⁶ The following week the City Council announced its intent to amend the City Charter to remove the current minimum police staffing level and create a new Community Safety and Violence Prevention Department with increased control by the council.¹⁷⁷ Two weeks later, the council sent their proposed charter amendment to the Charter Commission.¹⁷⁸ Mayor Frey opposed the proposed amendment.¹⁷⁹ The Charter Commission voted to delay the proposed referendum, keeping it off the November 2020 ballot.¹⁸⁰ City Council members vowed to move forward with community meetings.¹⁸¹

In August 2020, a group of eight residents from North Minneapolis commenced a lawsuit claiming that the City was violating the City Charter by allowing the number of officers to fall below the required minimum and that it was connected to an increase in crime in their neighborhoods.¹⁸² On July 1, 2021, the Hennepin County District Court ruled in their favor.¹⁸³ The

¹⁷⁶ Jon Collins & Brandt Williams, *After Pledging to Defund Police, Mpls. City Council Still Rethinking Public Safety*, MPR NEWS (Oct. 28, 2020), <https://www.mprnews.org/amp/story/2020/10/28/after-pledging-to-defund-police-mpls-city-council-still-rethinking-public-safety> [https://perma.cc/2XMZ-QGJZ]; see *Got Got*, *supra* note 174.

¹⁷⁷ *Minneapolis Council Takes Steps to Put Police Department Changes Before Voters*, MPR NEWS (June 12, 2020), <https://www.mprnews.org/story/2020/06/12/minneapolis-council-takes-steps-to-put-police-department-changes-before-voters> [https://perma.cc/TYE7-U47G].

¹⁷⁸ See Brandt Williams, *Minneapolis Commission Considers a New Police Department Proposal*, MPR NEWS (July 27, 2020), <https://www.mprnews.org/story/2020/07/27/minneapolis-commission-preps-a-new-police-department-proposal> [https://perma.cc/8XKU-84DP].

¹⁷⁹ Mary Louise Kelly & Courtney Dorning, *Minneapolis Mayor Wants ‘Full Structural Revamp,’ Not Abolition of Police Department*, NPR (June 10, 2020), <https://www.npr.org/sections/live-updates-protests-for-racial-justice/2020/06/10/874210961/minneapolis-mayor-wants-full-structural-revamp-not-abolition-of-police-departmen> [https://perma.cc/U24R-GXPD].

¹⁸⁰ *Minneapolis Charter Commission Delays Police Disbandment Vote, Keeping It from Nov. Ballot*, CBS NEWS (Aug. 5, 2020), <https://www.cbsnews.com/minnesota/news/minneapolis-charter-commission-to-take-up-proposal-to-disband-police/> [https://perma.cc/UT9U-F8SJ].

¹⁸¹ Solomon Gustavo, *Noting Matters: A Much Too Detailed Look at the Minneapolis City Council’s Charter Amendment ‘Explanatory Language’ Saga*, MINNPOST (Apr. 20, 2021), <https://www.minnpost.com/metro/2021/08/noting-matters-a-much-too-detailed-look-at-the-minneapolis-city-councils-charter-amendment-explanatory-language-saga/> [https://perma.cc/WXV8-W3ZF].

¹⁸² Brandt Williams, *Plaintiffs Sue to Keep Minneapolis Cops on the Job*, MPR NEWS (Aug. 20, 2020), <https://www.mprnews.org/story/2020/08/20/plaintiffs-sue-to-keep-minneapolis-cops-on-the-job> [https://perma.cc/E3R2-AUGA].

¹⁸³ See *id.*; Laura Collins, *Minneapolis Couple Sue the City and Its Mayor for Failing to Protect and Police Its Streets After Council Pledges to ‘Dismantle’ the MPD, Sending Message to Criminals that It’s ‘Open Season’ on Gun Violence*, DAILYMAIL.COM (June 7, 2021), <https://www.dailymail.co.uk/news/article-9660407/Minneapolis-residents-sue-city-Mayor-Jacob-Frey-failing-protect-police-streets.html> [https://perma.cc/YS94-SW7Z]; Liz Navratil & Susan Du, *Judge’s Minneapolis Police Staffing Ruling Bolsters North Minneapolis Residents*, STAR TRIB. (July 2, 2021), <https://www.startribune.com/judge-s-minneapolis-police-staffing-ruling-bolsters-north-minneapolis-residents/600074604/> [https://perma.cc/X88L-RH4H].

Minnesota Supreme Court affirmed the ruling.¹⁸⁴

Several Grassroots Black leaders formed a coalition called Yes 4 Minneapolis.¹⁸⁵ They proposed a charter amendment to eliminate the MPD and replace it with a new DPS.¹⁸⁶ Licensed police officers would be joined by mental health responders, substance abuse specialists, violence interrupters, and prevention specialists.¹⁸⁷ The City Council would have increased oversight responsibilities for the DPS.¹⁸⁸

A second proposed amendment was brought by the City Council that would eliminate the MPD and replace it with a DPS and a commissioner who would be nominated by the Mayor and confirmed by the City Council.¹⁸⁹ The Commissioner would appoint a Chief of Law Enforcement Services.¹⁹⁰ The City Council would have oversight like in the Yes 4 Minneapolis amendment.¹⁹¹

The Charter Commission initiated a proposed amendment to restructure the city charter to create a “strong mayor” with executive authority, including directing the council to serve legislative and oversight roles.¹⁹²

The Yes 4 Minneapolis amendment was supported by Black Visions Collective, Reclaim the Block, the American Civil Liberties Union, and OutFront Minnesota.¹⁹³ A group called All for Minneapolis was formed to oppose the amendment.¹⁹⁴ There was a lengthy legal battle over the ballot language and proposed explanatory language that bounced back and forth between a Hennepin County District Court Judge and the City Council until finally resolved by the Minnesota Supreme Court days before ballots were

¹⁸⁴ *Spann v. Minneapolis City Council*, 979 N.W.2d 66, 80 (Minn. 2022). The Minnesota Supreme Court affirmed in part, reversed in part, and remanded, concluding that the mayor has a clear legal duty to employ 0.0017 sworn police officers per resident. *Id.*

¹⁸⁵ *See* Styer Martinez, *supra* note 169.

¹⁸⁶ *Id.*

¹⁸⁷ Robert Haider, *A Run-Down of the 5 Charter Amendments Minneapolitans May Vote on This November*, TAKE ACTION MN (June 17, 2021), <https://takeactionminnesota.org/a-run-down-of-the-5-charter-amendments-minneapolitans-will-vote-on-this-november/> [<https://perma.cc/7RZA-47WD>].

¹⁸⁸ *Id.*; *see* LEAGUE OF WOMEN VOTERS MINNEAPOLIS, <https://lwvmpls.org/2-14-the-charter-amendments/> [<https://perma.cc/6549-KPYD>].

¹⁸⁹ Haider, *supra* note 187.

¹⁹⁰ *Id.*

¹⁹¹ *Id.*; LEAGUE OF WOMEN VOTERS MINNEAPOLIS, *supra* note 188 (Question Two on the ballot read: “Shall the Minneapolis City Charter be amended to remove the Police Department and replace it with a Department of Public Safety that employs a comprehensive public health approach to the delivery of functions by the Department of Public Safety, with those specific functions to be determined by the Mayor and City Council by ordinance; which will not be subject to exclusive mayoral power over its establishment, maintenance, and command; and which could include licensed peace officers (police officers), if necessary, to fulfill its responsibilities for public safety, with the general nature of the amendments being briefly indicated in the explanatory note below, which is made a part of this ballot?”).

¹⁹² Haider, *supra* note 187.

¹⁹³ Jon Collins, *The Yes 4 Minneapolis Charter Amendment, Explained*, MPR NEWS (Aug. 31, 2021), <https://www.mprnews.org/story/2021/08/31/the-yes-4-minneapolis-charter-amendment-explained> [<https://perma.cc/J6CT-EMAD>].

¹⁹⁴ *Id.*

printed and early voting began.¹⁹⁵

Chief Arradondo spoke out against the Yes 4 Minneapolis amendment.¹⁹⁶ Five incumbents lost re-election campaigns.¹⁹⁷ Two incumbents did not seek re-election.¹⁹⁸ Mayor Jacob Frey won re-election.¹⁹⁹ The Yes 4 Minneapolis amendment was defeated, and the Charter Commission amendment to create a strong mayor system passed.²⁰⁰

E. Post-November 2021 Election Developments

On December 2, 2021, Mayor Frey announced his appointment of a 35-member workgroup on public safety co-chaired by community activist Nekima Levy Armstrong and Rev. DeWayne Davis, Lead Pastor at Plymouth Congregational Church.²⁰¹ The workgroup included both activists who have advocated to replace the police department and police department supporters.²⁰² Chief Arradondo announced his resignation on December 6, effective January 15, 2022.²⁰³ Interim Police Chief Amelia Huffman took office, and a nationwide search was initiated for a permanent replacement.²⁰⁴ Huffman announced she was applying.²⁰⁵ She also announced that she was focusing on violent crimes, which had skyrocketed

¹⁹⁵ Gustavo, *supra* note 181.

¹⁹⁶ Collins, *supra* note 193.

¹⁹⁷ Solomon Gustavo, *The Final Tally: Five Minneapolis Council Incumbents Unseated in 2021 Election*, MINNPOST (Nov. 4, 2021) <https://www.minnpost.com/metro/2021/11/the-final-tally-five-minneapolis-council-incumbents-unseated-in-2021-city-election/> [<https://perma.cc/L8R6-FLBA>].

¹⁹⁸ David Griswold, *Minneapolis Mayor Frey Wins Re-Election, Majority of City Council Will Be* *New*, KARE 11 (Nov. 2, 2021), <https://www.kare11.com/article/news/politics/elections/frey-leads-race-for-minneapolis-mayor/89-bf7547cd-327a-462c-b637-388540cad3f3> [<https://perma.cc/MB29-XLQ3>].

¹⁹⁹ *Id.*

²⁰⁰ *Id.*; see Sarah Holder, *Minneapolis Rejects Police Department Overhaul*, BLOOMBERG CITYLAB (Nov. 3, 2021), <https://www.bloomberg.com/news/articles/2021-11-03/minneapolis-rejects-police-overhaul-ballot-measure> [<https://perma.cc/HTM5-ARPV>].

²⁰¹ See CITY OF MINNEAPOLIS, FREY FORMS COMMUNITY SAFETY WORK GROUP 1-2 (Dec. 2, 2021), <https://minneapolismn.gov/news/2021/december/mayor-frey-forms-community-safety-work-group/> [<https://perma.cc/F4SH-VHGV>].

²⁰² Melissa Turtinen, *Mayor Frey Unveils Workgroup to Develop Public Safety Recommendations*, BRING ME THE NEWS (Dec. 2, 2021), <https://bringmethenews.com/.amp/minnesota-news/mayor-frey-unveils-workgroup-to-develop-public-safety-recommendations> [<https://perma.cc/5F6R-PNDW>].

²⁰³ Matt Sepic & Nina Moini, *Arradondo Won't Seek a New Term as Minneapolis Police Chief*, MPR NEWS (Dec. 6, 2021), <https://www.mprnews.org/amp/story/2021/12/06/minneapolis-police-chief-arradondo-future> [<https://perma.cc/UZY7-GCKF>].

²⁰⁴ Tim Nelson and MPR News Staff, *Amelia Huffman Will Serve as Interim Minneapolis Police Chief*, MPR NEWS (Dec. 7, 2021), <https://www.mprnews.org/amp/story/2021/12/07/amelia-huffman-will-serve-as-interim-mpls-police-chief> [<https://perma.cc/A2ZK-S7TM>].

²⁰⁵ *Id.*

over the past two years.²⁰⁶ After an extensive search, Brian O'Hara, Deputy Mayor of Newark, N.J., was appointed as the new Minneapolis Police Chief on November 3, 2022.²⁰⁷

F. Department of Justice Pattern or Practice Investigation

Following the unrest in Los Angeles that occurred after officers were found not guilty of the brutal beating of Rodney King in 1992, Congress enacted 42 U.S.C. § 14141, authorizing the DOJ to verify allegations of systemic abuse and deprivation of civil rights.²⁰⁸ These are commonly known as “pattern or practice” investigations.²⁰⁹ Since the statute was enacted in 1994, the DOJ has opened seventy-one investigations and established forty reform agreements.²¹⁰ According to Professor Maria Ponomarenko, expert on policing and police reform, the reform agreements produced by this process are generally one of the more effective ways to engage in accountability.²¹¹

To begin an investigation, the Assistant Attorney General of the Civil Rights Division of the DOJ asks the following questions: (1) if the allegations are true, is there a constitutional or federal statutory violation, and (2) if the allegations are true, do they represent a pattern or practice of violations or merely sporadic and isolated events?²¹² Once the decision to open a case is made, the DOJ often works in conjunction with the local U.S. Attorney's Office to gather the relevant information.²¹³

Although no two inquiries are alike, most pattern or practice investigations involve similar steps.²¹⁴ As soon as the investigation is opened,

²⁰⁶ Max Nesterak, *Minneapolis Mayor Plans to Address Violence Through Boosted Enforcement, Officer Recruitment*, MINN. REFORMER (Jan. 5, 2022), <https://minnesotareformer.com/briefs/minneapolis-mayor-plans-to-address-violence-through-boosted-enforcement-officer-recruitment/> [<https://perma.cc/UKC3-9853>].

²⁰⁷ Conversation with Brian O'Hara, Capri Theatre (Oct. 24, 2022). O'Hara has extensive experience implementing the federal consent decree in Newark. *Id.* O'Hara is aware of Patten Report and Northern Ireland policing reforms and agrees that culture change to comply with human rights is necessary. *Id.*

²⁰⁸ See CIVIL RIGHTS DIVISION U.S. DEPARTMENT OF JUSTICE, THE CIVIL RIGHTS DIVISION'S PATTERN AND PRACTICE POLICE REFORM WORK: 1994-PRESENT 1, 3 (Jan. 2017), <https://www.justice.gov/crt/file/922421/download> [<https://perma.cc/TGW8-ZVPC>] [hereinafter Civil Rights Division]. The authority to conduct pattern-or-practice investigations is now codified in 34 U.S.C. Section 12,061.

²⁰⁹ *Id.* These are investigations into “cases involving ‘a pattern or practice of conduct by law enforcement officers’ that violates Constitutional or federal rights.” *Id.* (internal citations omitted).

²¹⁰ See RAM SUBRAMANIAN, LAUREN-BROOKE EISEN, TARYN MERKL, LILY ARZY, HERNANDEZ STROUD, TAYLOR KING, JACKIE FIELDING & ALIA NAHRA, BRENNAN CENTER FOR JUSTICE, A FEDERAL AGENDA FOR CRIMINAL JUSTICE REFORM 1, 13 (2020), https://www.brennancenter.org/sites/default/files/2021-01/FederalAgendaCriminalJustice_Final.pdf [<https://perma.cc/TQM9-CDUZ>].

²¹¹ Ponomarenko Interview, *supra* note 148.

²¹² See Civil Rights Division, *supra* note 208, at 5.

²¹³ See *id.*

²¹⁴ *Id.* at 10.

often before publicly announced, DOJ officials meet with law enforcement and civic leaders, labor unions and other related organizations, and community groups to discuss the scope of the probe's basis.²¹⁵ Investigators review materials such as written policies, training materials, and internal memos, often creating timelines to analyze better changes in policing over time.²¹⁶ They may also engage in "ride-alongs," where DOJ investigators or policing experts (most often former officers themselves) shadow officers to view their daily interactions and conduct.²¹⁷ Although they know they are being evaluated, officers are surprisingly candid during ride-alongs, and valuable material is often collected.²¹⁸

One aspect of pattern or practice investigations where the DOJ is particularly effective is with the data analysis conducted during the inquiry.²¹⁹ As they can sift through large amounts of records, DOJ experts collect data from police or incident reports.²²⁰ This can help identify systemic civil rights violations, but it can also be used in advanced statistical analyses developed with the help of statisticians and criminologists.²²¹ These models allow the DOJ to determine, for example, whether law enforcement is disproportionately targeting non-white residents.²²²

If the investigation does not uncover enough evidence to sustain a finding of violations of the Constitution or federal law, the DOJ will notify the department and close the inquiry.²²³ Of the sixty-nine total investigations opened before 2017, only twenty-six have been resolved this way.²²⁴ When there is evidence of misconduct, the DOJ produces a "findings letter" outlining the basis for the decision and analyzing its uncovered issues.²²⁵ The findings letter is often expansive, outlining dysfunction between law enforcement, municipal government, and the court system, if necessary.²²⁶ In other words, "it is both a diagnosis of a law enforcement agency's problems and the foundation for a plan to treat the root causes of those problems."²²⁷ The DOJ then moves to gain the perspectives of the community and the department under investigation before engaging in reform negotiations to ensure that all needs are met.²²⁸ Although the negotiations themselves are not adversarial in nature, in rare cases, law enforcement will refuse to cooperate, and civil litigation is necessary to ensure compliance.²²⁹ As of 2017, only six pattern or practice investigations

²¹⁵ *Id.*

²¹⁶ *Id.*

²¹⁷ *Id.*

²¹⁸ Ponomarenko Interview, *supra* note 148; Fernandez Interview, *supra* note 150.

²¹⁹ Ponomarenko Interview, *supra* note 148; Civil Rights Division, *supra* note 208, at 11.

²²⁰ Civil Rights Division, *supra* note 208, at 11.

²²¹ *See id.*

²²² *Id.*

²²³ *Id.* at 15.

²²⁴ *Id.*

²²⁵ *Id.*

²²⁶ *Id.* at 16.

²²⁷ *Id.*

²²⁸ *Id.* at 17.

²²⁹ *Id.* at 18.

could not be resolved with a reform agreement, resulting in the DOJ initiating litigation.²³⁰

Reform agreements often consist of a consent decree and an independent monitoring team.²³¹ The decree, enforceable in federal court, is considered the most effective method for the DOJ to ensure accountability.²³² The designated monitors oversee the decree's implementation to ensure compliance with the negotiated terms.²³³ The team members are typically agreed upon between the DOJ and local law enforcement, but if that fails, the court can appoint members.²³⁴ The terms of these decrees can vary from straight-forward and easy-to-implement reforms, such as rewriting use of force policies or restructuring systems of accountability, to systemic changes such as revising municipal codes or requiring cities to design and provide better mental health services.²³⁵

Although most experts agree that pattern or practice investigations are initially successful, significant questions remain about the long-term viability of their introduced reforms. For example, a study of three police departments that entered into consent decrees with the DOJ (Pittsburgh, Cincinnati, and Washington, DC) found that “backsliding” had occurred in all but one department.²³⁶ To complicate matters further, there is no agreed-upon metric to assess the long-term effectiveness of the reforms implemented.²³⁷ Finally, many activists question the value of restricting law enforcement to reforms that may have been determined years ago.²³⁸

Consent decrees have no set termination date and only end once the agency has fully implemented the terms of the agreement.²³⁹ The conditions decided upon when the negotiations occurred may not reflect current viewpoints or scholarship on the best ways to implement the necessary changes.²⁴⁰ For example, a pattern or practice investigation was opened into Seattle's police department after the 2010 shooting of an Indigenous man attracted national attention.²⁴¹ Although the department cooperated by all accounts, activists who had formerly supported the

²³⁰ *Id.*

²³¹ *Id.* at 20-21.

²³² *Id.*

²³³ *Id.* at 21-23.

²³⁴ *Id.* at 23.

²³⁵ *Id.* at 27-28, 33-34.

²³⁶ Joshua M. Chanin, *Examining the Sustainability of Pattern or Practice Police Misconduct Reform*, 18(2) POLICE Q. 163, 170-75 (Pittsburgh); 175-79 (Washington, DC); 179-82 (Cincinnati) (2015).

²³⁷ See SAMUEL WALKER, TWENTY YEARS OF DOJ “PATTERN OR PRACTICE” INVESTIGATIONS OF LOCAL POLICE: ACHIEVEMENTS, LIMITATIONS, AND QUESTIONS 22-23 (2017), <https://samuelwalker.net/wp-content/uploads/2017/02/DOJ-PP-Program-Feb24.pdf> [<https://perma.cc/6C75-DVJR>].

²³⁸ See *id.* at 2; Martin Kaste, *Police Consent Decrees Are Coming Back – But They Might Not Make Sense Anymore*, NPR (June 22, 2021), <https://www.npr.org/2021/06/22/1009182213/police-consent-decrees-are-coming-back-but-they-might-not-make-sense-anymore> [<https://perma.cc/KF76-WARN>].

²³⁹ See Kaste, *supra* note 238.

²⁴⁰ See Civil Rights Division, *supra* note 208, at 35; Kaste, *supra* note 238.

²⁴¹ Kaste, *supra* note 238.

consent decree became concerned when law enforcement responded to the protests after George Floyd's murder with tear gas and flashbangs.²⁴² For these activists, the argument represents an outdated belief that police departments and prisons can be reformed.²⁴³ More significantly, it stands in the way of their ultimate goal of abolition.²⁴⁴

The timeline for the investigations, negotiation of the reform agreements, and consent decrees vary depending on the size of the department, the scope of the allegations, the level of cooperation between the DOJ and local law enforcement, and other factors.²⁴⁵ Because the investigation into the MPD was announced on April 21, 2021,²⁴⁶ Minneapolis is unlikely to see the findings letter until late 2022 at the earliest.²⁴⁷ It is unknown how the April 27, 2022, report of the MDHR will affect the DOJ investigation.²⁴⁸

G. Minnesota Department of Human Rights Investigation and Findings

On April 27, 2022, the MDHR issued its findings in a comprehensive seventy-two-page report stating that the MPD and the City had engaged in a pattern or practice of race discrimination.²⁴⁹ Among other things, they reviewed approximately 700 hours of body-worn camera footage and nearly 480,000 pages of Minneapolis and MPD records; observed approximately eighty-seven hours of 2021 MPD Academy trainings for new officer hires; completed multiple ride-alongs with MPD officers in each of the MPD's five precincts; analyzed all recorded use of force incidents from January 1, 2010, to December 31, 2020; interviewed MPD patrol officers, sergeants, lieutenants, inspectors, current and former police chiefs, and other command staff; interviewed City staff; and interviewed and reviewed statements from over 2,200 community members.²⁵⁰ They engaged nationally recognized policing experts to review and assess the evidence.²⁵¹

²⁴² *Id.*

²⁴³ *See id.*

²⁴⁴ *See id.*

²⁴⁵ *See* Civil Rights Division, *supra* note 208, at 14.

²⁴⁶ *Attorney General Merrick B. Garland Delivers Remarks at Announcement of Pattern or Practice Investigation into the Minneapolis Police Department*, U.S. DEP'T OF JUST. (May 4, 2021), <https://www.justice.gov/opa/speech/attorney-general-merrick-b-garland-delivers-remarks-announcement-pattern-or-practice-0> [<https://perma.cc/W8WY-AR2L>].

²⁴⁷ *See* Civil Rights Division, *supra* note 208, at 14. As of January 23, 2023, the DOJ has not yet concluded its investigation nor released its report.

²⁴⁸ *See* MINN. DEP'T OF HUM. RTS., *INVESTIGATION INTO THE CITY OF MINNEAPOLIS AND THE MINNEAPOLIS POLICE DEP'T, FINDINGS FROM THE MINN. DEP'T OF HUM. RTS.* (April 27, 2022), https://mn.gov/mdhr/assets/Investigation%20into%20the%20City%20of%20Minneapolis%20and%20the%20Minneapolis%20Police%20Department_tcm1061-526417.pdf [<https://perma.cc/YRG2-KQG4>] [hereinafter MDHR Report].

²⁴⁹ *Id.*

²⁵⁰ *Id.* at 6-8.

²⁵¹ *Id.* at 7.

IV. RECOMMENDATIONS

A. Special Rapporteur on Racism

Special Rapporteurs are independent subject matter experts nominated by the President of the UN Human Rights Council and approved by the Council's member states.²⁵² The UN has developed several procedures to respond to the thousands of communications it receives each year regarding alleged human rights violations.²⁵³ Over time, the Council has expanded its capacity to respond to individual communications.²⁵⁴ For example, the Economic and Social Council adopted Resolution 1235 in 1967 that, among other things, allowed the Human Rights Commission to conduct hearings with public discussion of alleged violations committed by named governments.²⁵⁵ The first substantial discussion about the U.S. was introduced in 1995.²⁵⁶ Cuba proposed a resolution endorsing a report by the Special Rapporteur regarding persisting racial discrimination.²⁵⁷ Cuba's resolution was rejected, with only three countries voting in favor.²⁵⁸ The commission also developed a practice of appointing Special Rapporteurs to monitor human rights violations in particular countries.²⁵⁹ The Human Rights Commission also set up theme-oriented procedures that allow Special Rapporteurs to respond to information received in an effort to eliminate perceived human rights abuses.²⁶⁰ In 2006, the procedures were transferred from the Human Rights Commission to the Human Rights Council.²⁶¹ Among the theme-oriented procedures created by the Human Rights Council was a Special Rapporteur on racism and xenophobia.²⁶²

On June 5, 2020, following the murder of George Floyd, forty-seven Special Rapporteurs signed a "Statement on the Protests against Systemic Racism in the United States" prepared by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia, and

²⁵² *FAQs: United Nations Special Rapporteurs*, ACLU, <https://www.aclu.org/other/faqs-united-nations-special-rapporteurs> [<https://perma.cc/8STP-HD9X>]; see *Special Procedures of the UN Human Rights Council*, INT'L JUST. RES. CTR., <https://ijrcenter.org/un-special-procedures/> [<https://perma.cc/A2VS-NM29>].

²⁵³ *Individual Communications*, UNITED NATIONS HUM. RTS. OFF. OF THE HIGH COMM'R, <https://www.ohchr.org/en/treaty-bodies/individual-communications> [<https://perma.cc/6ZDU-4VX8>].

²⁵⁴ *Id.*

²⁵⁵ Economic and Social Council Res. 1,235 (XLII) (June 6, 1967) <https://digitallibrary.un.org/record/214657?ln=en> [<https://perma.cc/LN5H-7QGD>].

²⁵⁶ DAVID S. WEISSBRODT, INTERNATIONAL HUMAN RIGHTS: LAW, POLICY, AND PROCESS 334 (2009).

²⁵⁷ Economic and Social Council Draft Res. U.N. DOCS. E/CN.4/1995/78 (Mar. 3, 1995), <https://digitallibrary.un.org/record/171573?ln=en> [<https://perma.cc/XD5S-7PZQ>].

²⁵⁸ WEISSBRODT, *supra* note 256, at 334.

²⁵⁹ *Id.*

²⁶⁰ ACLU, *supra* note 252.

²⁶¹ INT'L JUST. RES. CTR., *supra* note 252.

²⁶² *Id.*

related intolerance.²⁶³ The UN Committee on the Elimination of Racial Discrimination (CERD) issued a statement under its Early Warning and Urgent Action Procedures expressing alarm at the killing of George Floyd and the resurgence and impunity for police killings of Black people in the U.S.²⁶⁴ On June 16, 2020, the Special Rapporteur on racism published an article, “The UN Should Establish a Commission of Inquiry on Systemic Racism and Law Enforcement in the United States.”²⁶⁵ The UN has not agreed with this proposal, partially under a misguided view by some that Western democracies like the U.S. should not be held to account for perceived human rights violations.²⁶⁶ And yet, as documented by the history of the MPD, the problems persist.²⁶⁷

E. Tendayi Achiume, former Special Rapporteur on racism, planned a country visit to the U.S. in late 2022.²⁶⁸ This author urged civil

²⁶³ *Statement on the Protests against Systemic Racism in the United States*, UNITED NATIONS HUM. RTS. OFF. OF THE HIGH COMM’R (June 5, 2020), <https://www.ohchr.org/en/statements/2020/06/statement-protests-against-systemic-racism-united-states> [https://perma.cc/H9CW-68ZA].

²⁶⁴ *Prevention of Racial Discrimination, Including Early Warning and Urgent Action Procedures*, UNITED NATIONS HUM. RTS. OFF. OF THE HIGH COMM’R (June 12, 2020), <https://www.ohchr.org/sites/default/files/Documents/HRBodies/CERD/earlywarning/statements/USA.PDF> [https://perma.cc/S5KK-SJWT].

²⁶⁵ E. Tendayi Achiume, *The UN Should Establish a Commission of Inquiry on Systemic Racism and Law Enforcement in the United States*, JUST SEC. (June 16, 2020), <https://www.justsecurity.org/70811/the-un-human-rights-council-should> [https://perma.cc/3H8D-XNB9].

²⁶⁶ See Alex Hinton, *70 Years Ago Black Activists Accused the U.S. of Genocide: They Should Have Been Taken Seriously*, POLITICO (Dec. 26, 2021), <https://www.politico.com/news/magazine/2021/12/26/black-activists-charge-genocide-united-states-systemic-racism-526045> [https://perma.cc/5HWF-PEN2]. Past efforts to engage the UN on racism in the U.S. have been futile. *Id.* In 1951, Paul Robeson and other Black activists presented a 240-page petition, “We Charge Genocide: The Crime of Government Against the Negro People.” *Id.* The petition documented hundreds of killings and other abuses, some involving police, from 1945 to 1951. *Id.* America’s immense political influence helped bury the issue. *Id.* Other efforts to raise the issue were in communications to the UN Commission on Human Rights and Sub-Commission on Prevention of Discrimination and Protection of Minorities submitted by the Black American Law Student Association, University of Minnesota Chapter in 1982 and 1983. A. RAY MCCOY, BLACK AMERICAN LAW STUDENT ASSOCIATION, UNIVERSITY OF MINNESOTA CHAPTER, HUMAN RIGHTS VIOLATIONS BY THE POLICE AGAINST BLACKS IN THE U.S.A. (June 29, 1983), http://moses.law.umn.edu/racial-justice/img/016/BALSA_Petition_1983.pdf [https://perma.cc/GD46-M4D9]. The UN took no action.

²⁶⁷ See MPD150, *supra* note 4; FOSSUM, *supra* note 26.

²⁶⁸ *View Country Visits of Special Procedures of the Human Rights Council Since 1998*, UNITED NATIONS HUM. RTS. OFF. OF THE HIGH COMM’R, <https://spinternet.ohchr.org/ViewCountryVisits.aspx?visitType=pending&lang=en> [https://perma.cc/CRU2-WY2F]. The newly appointed Special Rapporteur has not yet announced a U.S. visit. However, the new UN International Independent Mechanism to Advance Racial Justice and Equality in the Context of Law Enforcement has recently announced a country visit to the U.S. from April 24-May 5, which will include local visits. *Call for Inputs on Upcoming Country Visit to the United States of America by the United Nations International Independent Expert Mechanism to Advance Racial Justice and Equality in the context of Law Enforcement from 24 April–5 May 2023*, UNITED NATIONS

society organizations, joined by family members of George Floyd, Jamar Clark, Amir Locke, and others, along with the Minneapolis Mayor and City Council, to invite the Special Rapporteur to include a visit to Minneapolis as part of the country visit. On June 2, 2022, six speakers held a press conference at Minneapolis City Hall announcing that a letter was being sent to the Special Rapporteur.²⁶⁹ On June 20, 2022, sixteen local civil society groups sent a joint letter to the Special Rapporteur.²⁷⁰ These invitations were in addition to the standing invitation issued by President Biden in 2021, which remains open.²⁷¹

B. The City of Minneapolis Should Look to the Patten Report in Northern Ireland as a Model for its Policing Reform

One police reform effort outside the U.S. is particularly relevant to efforts to reform the MPD: the one that followed the Good Friday Agreement or Belfast Agreement in 1998, resolving the Troubles in Northern Ireland.²⁷² It was followed by the Report of the Independent Commission on Policing for Northern Ireland, also known as the Patten Report, released in 1999.²⁷³

It may not appear intuitive on its face that the issues facing the MPD following the murder of George Floyd are comparable to those facing Northern Ireland.²⁷⁴ In fact, if you look at the mistrust toward the MPD in

HUM. RTS. OFF. OF THE HIGH COMM'R, <https://www.ohchr.org/en/calls-for-input/2023/calls-for-inputs-upcoming-country-visit-united-states-america-united-nations> [https://perma.cc/WVB2-RPW2]. The itinerary is not yet available. *Id.* After conducting interviews and reviewing documents they will prepare a detailed report. *Id.*

²⁶⁹ *Open Letter to United Nations Special Rapporteur on Racism - Ms. E. Tendayi Achiume*, TWIN CITIES AMNESTY (June 1, 2022), <https://twincitiesamnesty.org/open-letter-united-nations-special-rapporteur-racism-ms-e-tendayi-achiume> [https://perma.cc/UKW2-UYU]. This Article's author wrote the letter to the Special Rapporteur, which was signed by numerous community groups. *See id.*

²⁷⁰ *Id.*

²⁷¹ *Standing Invitations*, UNITED NATIONS HUM. RTS. OFF. OF THE HIGH COMM'R, <https://spinternet.ohchr.org/StandingInvitations.aspx?lang=en> [https://perma.cc/DSR9-BQK2].

²⁷² *See* NORTHERN IRELAND OFFICE, *THE BELFAST AGREEMENT: AN AGREEMENT REACHED AT THE MULTI-PARTY TALKS ON NORTHERN IRELAND* (Apr. 10, 1998) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1034123/The_Belfast_Agreement_An_Agreement_Reached_at_the_Multi-Party_Talks_on_Northern_Ireland.pdf [https://perma.cc/G3AW-7PUD] [hereinafter *Belfast Agreement*].

²⁷³ CHRISTOPHER PATTEN, *A NEW BEGINNING: POLICING IN NORTHERN IRELAND, THE REPORT OF THE INDEPENDENT COMMISSION ON POLICING FOR NORTHERN IRELAND*, <https://cain.ulster.ac.uk/issues/police/patten/patten99.pdf> [https://perma.cc/HS3A-WRG7] [hereinafter *Patten Report*].

²⁷⁴ Northern Ireland faced decades-long sectarian violence known as "the Troubles," in which over 3,600 people were killed by police, military, and paramilitary forces over the period from 1968 through 1998. There are numerous books and articles describing the Troubles. *See* TIM PAT COOGAN, *THE TROUBLES: IRELAND'S ORDEAL AND THE SEARCH FOR PEACE* (St. Martin's Griffin 2002) (1996); DAVID MCKITTRICK & DAVID McVEA, *MAKING SENSE*

BIPOC communities built up over the decades of misuse of force described in Section III of this Article, the community mistrust of the MPD is comparable, though not identical, to that of Catholics in Northern Ireland.²⁷⁵ Still, if you compare Northern Ireland and the Troubles to Minneapolis and George Floyd and the protests and rioting that resulted, the same can be said that it happened both gradually and then suddenly.²⁷⁶ Northern Ireland is an example of successful policing reform that has been sustainable for over twenty years.²⁷⁷ There is no similar record of success with the attempted reforms of the MPD as described in Part III of this Article or the MDHR Report.²⁷⁸

Mayor Jacob Frey has proclaimed that Minneapolis will be a role model for police reform.²⁷⁹ The efforts so far fall short of that promise. To be sure, there have been internal changes in department policies,²⁸⁰ and his workgroup on public safety has released its report with recommendations to strengthen oversight of the MPD, improve recruitment and accountability, and expand violence prevention and behavioral crisis response teams.²⁸¹ He has also recommended, and the City Council has approved, the hiring of Cedric Alexander as Commissioner of Public Safety, a newly created position with responsibility for the police department, fire department, Minneapolis Emergency Communications, and a Department of Neighborhood Safety.²⁸² It's a start, but it's not enough. Notably, Frey quoted J. Scott Thomson, former president of the Police Executive

OF THE TROUBLES (New Amsterdam Books 2002) (2000); KEVIN TOULIS, *REBEL HEARTS: JOURNEY WITHIN THE IRA'S SOUL* (1997); EAMON COLLINS, *KILLING RAGE* (1998); PATRICK REDDEN KEEFE, *SAY NOTHING, A TRUE STORY OF THE IRISH TROUBLES* (2020); Alex Cowell, *50 Years Later, Troubles Still Cast 'Huge Shadow' over Northern Ireland*, N.Y. TIMES (Oct. 4, 2018), <https://www.nytimes.com/2018/10/04/world/europe/northern-ireland-troubles.html> [https://perma.cc/BY7Q-GBUN].

²⁷⁵ See *supra* note 274; *supra* Part III.

²⁷⁶ See *supra* note 274; *supra* Part III.

²⁷⁷ See *infra* Section IV.B.

²⁷⁸ See MDHR Report, *supra* note 248, at 48–52; *supra* Part III.

²⁷⁹ See Mayor Jacob Frey, *Worldwide Change Must Start in Minneapolis*, STAR TRIB. (June 17, 2020), <https://www.startribune.com/mayor-jacob-frey-worldwide-change-must-start-in-minneapolis/571327772/> [https://perma.cc/J3WS-ZWVY].

²⁸⁰ Becky Z. Dernbach, *No One Has More Power to Change the Minneapolis Police Department than Mayor Jacob Frey. We Asked Him What He's Accomplished*, SAHAN J. (May 3, 2021), <https://sahanjournal.com/policing-justice/minneapolis-mayor-frey-police-reform/> [https://perma.cc/DSS8-VDR2]. See Alexander, *supra* note 130.

²⁸¹ CITY OF MINNEAPOLIS, MAYOR JACOB FREY COMMUNITY SAFETY WORK GROUP REPORT 27–28 (June 27, 2022), <https://www.minneapolismn.gov/media/-www-content-assets/documents/Community-Safety-Work-Group-Report-June-2022.pdf> [https://perma.cc/P673-4LUQ].

²⁸² Liz Navratil, *Cedric Alexander Nominated to Serve as Minneapolis' First Community Safety Commissioner*, STAR TRIB. (July 7, 2022), <https://www.startribune.com/cedric-alexander-nominated-to-serve-as-minneapolis-first-community-safety-commissioner/600188406/> [https://perma.cc/B264-LDB3]; see Tim Nelson, *Cedric Alexander Officially Sworn in as First Community Safety Commissioner in Minneapolis*, MPR NEWS (Aug. 8, 2022), <https://www.mprnews.org/story/2022/08/08/alexander-officially-sworn-in-as-first-community-safety-commissioner-in-minneapolis> [https://perma.cc/8KKJ-65A8].

Research Forum, saying, “Within a police department, culture eats policy for breakfast.”²⁸³ Yet the reforms implemented and suggested so far fail to address changing the culture within the MPD.²⁸⁴

The Good Friday Agreement or Belfast Agreement in Northern Ireland was intended to form the basis of a political settlement, but it did not resolve the issue of policing.²⁸⁵ It recognized that policing was a central issue when it stated, “[the participants] believe that the agreement provides the opportunity for a new beginning to policing in Northern Ireland with a police service capable of attracting and sustaining support from the community as a whole.”²⁸⁶ The Independent Commission on Policing (ICP) in Northern Ireland, also known as the Patten Commission, was a major step in the Northern Ireland peace process.²⁸⁷ It was chaired by conservative politician Lord Patten and had eight members and a secretary.²⁸⁸ The Commission held a series of open meetings in every part of Northern Ireland.²⁸⁹ 10,000 people attended public meetings, with over 1,000 people speaking.²⁹⁰ 450 written submissions were received as part of the meetings, and more than 2,500 written submissions were received overall.²⁹¹ The meetings included some elements similar to a truth and reconciliation process.²⁹² The Patten Report, entitled “A New Beginning: Policing in Northern Ireland,” made a total of 175 recommendations across nineteen thematic areas.²⁹³ There were five key benchmark standards for the recommendations:

1. Does the proposal promote effective and efficient policing?
2. Will it deliver fair and impartial policing, free from partisan control?
3. Does it provide for accountability, both to the law and to the community?
4. Will it make the police more representative of the society they serve?
5. Does it protect the human rights and human dignity of all?²⁹⁴

²⁸³ Frey, *supra* note 279.

²⁸⁴ The City Council approved the hiring of Brian O’Hara as the new Minneapolis Police Chief on Nov. 3, 2022. *See supra* note 207 and accompanying text. It is promising that Chief O’Hara is aware of the Patten Report and policing reforms in Northern Ireland to comply with human rights and vows to change the culture of Minneapolis policing.

²⁸⁵ *See* Belfast Agreement, *supra* note 272.

²⁸⁶ *Id.* at 22.

²⁸⁷ *See id.*; Patten Report, *supra* note 273.

²⁸⁸ *See* Patten Report, *supra* note 273.

²⁸⁹ *Id.* at 11.

²⁹⁰ *Id.*

²⁹¹ *Id.*

²⁹² *See id.* at 9; *see Truth and Reconciliation, FACING HIST. & OURSELVES*, <https://www.facinghistory.org/en-ca/resource-library/truth-reconciliation-0> [<https://perma.cc/2UWN-X7U6>] (“Truth and reconciliation commissions are often a way for perpetrators and victims to publicly acknowledge episodes of violence between them. Such commissions provide a space for former enemies to bridge their differences. For the most part, they are designed to bring about processes of healing, processes that offer victims solace and reassurance that their trauma will not be repeated.”).

²⁹³ *See* Patten Report, *supra* note 273, at 107-22.

²⁹⁴ *Id.* at 5-6.

These recommendations encompassed some ideas similar to those proposed by the Minneapolis workgroup regarding best practices on recruitment, hiring, training, accountability, and oversight, but beyond that, the Patten Report incorporated the key recommendation that the protection of human rights is fundamental to the performance of police duties and must be the core of policing.²⁹⁵ Decisions police officers make each day—and human rights considerations guiding those decisions—make the difference in how members of the public respond to police.²⁹⁶ The Patten Report emphasizes that as an element of policing, upholding the law and upholding human rights are not separate functions but are one and the same.²⁹⁷ Respect for dignity and human rights is the core principle of the Patten Report.²⁹⁸ It should be the core of transforming the MPD as well.

As described in the above sections on the rule of law and the Special Rapporteur on racism, the U.S. is bound by primary human rights documents, including the Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination.²⁹⁹ Bringing these principles to the level of the cop on the street requires education and training.³⁰⁰ Robin Young is a retired police sergeant in Derry, Northern Ireland, who lived and worked through the Troubles and the subsequent transformation of policing through the Patten Report.³⁰¹ He now provides training to police officers throughout Europe on incorporating human rights standards into everyday policing.³⁰² He observed:

I find the workgroup report a logical piece of thinking that addresses the issues arising from sound research into valid community concerns, however, I feel that the report and subsequent actions arising from its recommendations would be better served if there was a greater focus on respecting of human rights as a core theme in their efforts rather than an adjunct.³⁰³

The MDHR Report concluded that “without fundamental organizational culture change, reforming MPD’s policies, procedures, and trainings will be meaningless.”³⁰⁴ The Patten Report describes upholding the law and human rights as one and the same.³⁰⁵ It recommends replacing the

²⁹⁵ *Id.* at 18.

²⁹⁶ *See id.* at 5.

²⁹⁷ *Id.* at 18.

²⁹⁸ *See id.*

²⁹⁹ *See supra* notes 22–23; *supra* Part II.

³⁰⁰ *See* Patten Report, *supra* note 273, at 91–97.

³⁰¹ Zoom Interview with Robin Young, Former Police Sergeant, Police Serv. of Northern Ireland (July 15, 2022).

³⁰² *Id.*

³⁰³ *Id.*

³⁰⁴ MDHR Report, *supra* note 248, at 9.

³⁰⁵ Patten Report, *supra* note 273, at 18.

then-existing police force with one whose “fundamental purpose . . . should be . . . the protection and vindication of human rights of all.”³⁰⁶ It recommends that education on human rights be a central part of all police training and that a lawyer with specific expertise in human rights be appointed to the staff of the police legal services and be consulted about police operations that raise human rights considerations.³⁰⁷

George Hamilton, the Chief Constable of the Police Service of Northern Ireland, in September 2016, responded to questions about police decision-making saying, “[a]s a police officer, human rights protect me, my family and my community and I think that is something to be cherished.”³⁰⁸

The Patten Report is widely credited with transforming the culture and practice of policing in Northern Ireland.³⁰⁹ The recommendations of the Patten Report, particularly Section Four on Human Rights, should be adapted and included in efforts to reform the MPD.

C. Truth and Reconciliation

A truth and reconciliation commission is an official body tasked with discovering and revealing past wrongdoing by a government in the hope of resolving conflicts.³¹⁰ Truth commissions are a form of transitional justice.³¹¹ The roots of the concept of transitional justice in the twentieth century are the trials in Nuremberg and Tokyo after World War II.³¹² Those

³⁰⁶ *Id.*

³⁰⁷ *Id.* at 20.

³⁰⁸ RICHARD MARTIN, *POLICING HUMAN RIGHTS: LAW, NARRATIVES, AND PRACTICE* 4 (2021).

³⁰⁹ *POLICING THE NARROW GROUND* (John Doyle ed. 2010); KATHLEEN O'TOOLE AND ROBERT PIERCE, *SEVEN WAYS TO FIX POLICING NOW: BUILDING TRUST, AUTHENTIC PARTNERSHIPS, AND SAFE COMMUNITIES* xiv-xv, 2 (2022); David Hayley, *Police Reform as Foreign Policy*, 38 *AUSTL. AND N.Z. J. OF CRIMINOLOGY* 167, 206-15 (2005); Graham Ellison, *A Blueprint for Democratic Policing Anywhere in the World: Police Reform, Political Transition, and Conflict Resolution in Northern Ireland*, 10 *POLICE Q.* 243, 244 (2007); JOHN C. MURRAY, *BORN OF THE TROUBLES: LESSONS IN TRUST AND LEGITIMACY FROM THE POLICE SERVICE OF NORTHERN IRELAND* 5 (Dec. 2017) (M.A. thesis, Naval Postgraduate School), <https://apps.dtic.mil/sti/pdfs/AD1053379.pdf> [<https://perma.cc/EU7F-2RHA>]; Martin S. Flaherty, *Northern Ireland's Lessons for American Policing*, *JUST SEC.* (June 24, 2020), <https://www.justsecurity.org/70887/northern-irelands-lessons-for-american-policing/> [<https://perma.cc/XSU6-KJ9W>]; Maggie Beirne, *George Floyd: Lessons from Northern Ireland for Policing Transformation*, *SOC. CHANGE INITIATIVE* (May 25, 2021), <https://socialchangeinitiative.com/george-floyd-lessons-to-be-learned-from-northern-ireland-for-policing-transformation> [<https://perma.cc/NX9E-NQV2>]; Michael Posner, *How Northern Ireland Could Provide a Model for Transforming American Policing*, *FORBES* (June 4, 2020), <https://www.forbes.com/sites/michaelposner/2020/06/04/how-northern-ireland-could-provide-a-model-for-reforming-american-policing/?sh=63a699fb18ef> [<https://perma.cc/LUJ7-JU2E>].

³¹⁰ *FACING HIST. & OURSELVES*, *supra* note 292.

³¹¹ *See id.*

³¹² *See* MADOKA FUTAMURA, *WAR CRIMES TRIBUNALS AND TRANSITIONAL JUSTICE: THE TOKYO TRIAL AND THE NUREMBURG LEGACY* (2008).

tribunals included some elements of transitional justice.³¹³ The concept of transitional justice has become more widely accepted in the last fifty years.³¹⁴ Early truth commissions in Uganda, Bolivia, and the Philippines in the 1970s and 80s were incomplete in that no final reports were produced.³¹⁵

Truth commissions have now been held in more than forty countries, including Canada, Sierra Leone, Argentina, Chile, El Salvador, South Korea, and South Africa.³¹⁶ Priscilla Hayner, who is perhaps the preeminent expert on truth and reconciliation commissions, describes four primary elements of a truth commission: (1) focuses on the past, (2) does not concentrate on a single event but attempts to paint an overall picture of certain human rights violations over a period of time, (3) exists for a predetermined period of time and ceases to exist when its mandate ends, usually with submission of a report, and (4) is vested with certain authority.³¹⁷ Even so, there is no template or simple formula for them. Each truth commission is unique. Some, like those in South Africa, have been largely successful.³¹⁸ Others, like the one-person commission in Honduras, and those in Uganda, Bolivia, and the Philippines, have been less successful.³¹⁹

Truth commissions are investigations into past human rights abuses, not with an aim to prosecute individuals, but with the aim of finding out the truth about what happened.³²⁰ A second important purpose is to publish the findings.³²¹ A third purpose is to acknowledge the past, a step toward reconciliation.³²² Fourth, truth commissions offer recommendations to improve societies.³²³ They offer a form of accountability that is most often otherwise lacking.³²⁴

Some believe that truth and reconciliation commissions have no place in Western democracies.³²⁵ In 2009, U.S. President Barack Obama

³¹³ See *id.*; Fernando Travesí, *ICTJ at 20 Years: An Ever-Evolving Pursuit for Justice and Sustainable Peace in Societies Grappling with Legacies of Mass Human Rights Violations*, ICTJ (May 24, 2021), <https://www.ictj.org/news/ictj-20-years-ever-evolving-pursuit-justice-and-sustainable-peace-societies-grappling-legacies> [https://perma.cc/3L9Q-QRUL].

³¹⁴ See Travesí, *supra* note 313.

³¹⁵ PRISCILLA B. HAYNER, *UNSPEAKABLE TRUTHS: TRANSITIONAL JUSTICE AND THE CHALLENGE OF TRUTH COMMISSIONS* 239-40, 244 (2nd ed. 2011).

³¹⁶ See *International Human Rights Law: Truth and Reconciliation*, DALHOUSIE UNIV. LIBR., <https://dal.ca.libguides.com/c.php?g=257217&p=1717302> [https://perma.cc/N4PD-2SKH]; Bonny Ibhawoh, *Do Truth and Reconciliation Commissions Heal Divided Nations?*, THE CONVERSATION (Jan. 23, 2019), <https://theconversation.com/do-truth-and-reconciliation-commissions-heal-divided-nations-109925> [https://perma.cc/Q5SZ-5ACQ].

³¹⁷ HAYNER, *supra* note 315, at 11-12.

³¹⁸ *Id.* at 27.

³¹⁹ *Id.* at 239-40, 243-44.

³²⁰ See *id.* at 11-12.

³²¹ See *id.*

³²² See *id.*

³²³ See *id.*

³²⁴ See *id.*

³²⁵ See EVAN P. CENTALA, *REDEFINING TRANSITIONAL JUSTICE IN THE NORTH AMERICAN CONTEXT? THE MAINE WABANAKI-STATE CHILD WELFARE TRUTH AND RECONCILIATION COMMISSION* (May 2016) (M.A. Thesis, Univ. of Me.); Paige Arthur, *How "Transitions"*

rejected the suggestion by Senator Patrick Leahy for a truth commission on abusive detention and torture.³²⁶ But there have been a handful of local truth and reconciliation commissions in the U.S.³²⁷ They take a variety of forms.³²⁸ One was the Greensboro Truth and Reconciliation Commission, created in 2004 to address issues arising out of race-based violence in Greensboro, North Carolina in 1979.³²⁹ Their report was completed in 2006.³³⁰

From February 2013 to June 2015, the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission attempted to reckon with Maine's history of non-compliance with the Indian Child Welfare Act (ICWA) and the resulting cultural genocide.³³¹ The commission discovered what happened to the children of Wabanaki families that were placed into the child welfare system, suggested reforms, heard and recorded the testimony of victims,³³² and attempted to work towards new reconciliation and healing.³³³

A Truth Telling Project was established by community activists in St. Louis following the death of Michael Brown, Jr. in 2014.³³⁴

The North Carolina Commission of Inquiry on Torture was established in 2017.³³⁵ It heard testimony from victims, former interrogators, religious leaders, and others on North Carolina's role in the CIA's post-9/11

Reshaped Human Rights: A Conceptual History of Transitional Justice, 31 HUM. RTS. Q. 321 (2009); Sarah Souli, *Does America Need a Truth and Reconciliation Commission?*, POLITICO (Aug. 16, 2020), <https://www.politico.com/amp/news/magazine/2020/08/16/does-america-need-a-truth-and-reconciliation-commission-395332> [<https://perma.cc/2SYX-GXXU>] (“Some Western countries attach a stigma to truth commissions—they are for failed or failing states, the thinking goes.”); Kelebogile Zvobgo & Claire Crawford, *Some People Want a U.S. Truth Commission. But Truth Commissions Have Limits.*, WASH. POST, (Oct. 21, 2020), <https://www.washingtonpost.com/politics/2020/10/21/people-want-truth-commission-if-trump-loses-truth-commissions-have-limits/> [<https://perma.cc/AC2R-9P77>] (“In the United States, for instance, some analysts hold fast to the idea that commissions are for “other” countries—not developed Western democracies.”).

³²⁶ HAYNER, *supra* note 315, at 234.

³²⁷ Souli, *supra* note 325.

³²⁸ *See id.*

³²⁹ Jayne Huckerby & Aya Fujimura-Fanselow, *The Truth About Rendition and Torture: An Inquiry in North Carolina*, JUST SEC. (Dec. 14, 2017), <https://www.justsecurity.org/49343/truth-rendition-torture-nongovernmental-inquiry-north-carolina/> [<https://perma.cc/CJ2J-5K2T>].

³³⁰ GREENSBORO TRUTH AND RECONCILIATION COMMISSION, <https://greensborotrc.org> [<https://perma.cc/WMV5-DARW>].

³³¹ *See* MAINE WABANAKI-STATE CHILD WELFARE TRUTH AND RECONCILIATION COMM'N, BEYOND THE MANDATE CONTINUING THE CONVERSATION (June 14, 2015), https://d3n8a8pro7vnm.cloudfront.net/mainewabanakireach/pages/17/attachments/original/1468974047/TRC-Report-Expanded_July2015.pdf?1468974047 [<https://perma.cc/X7FK-7VZN>].

³³² DAWNLAND (Independent Lens 2018).

³³³ *The Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission*, UPSTANDER PROJECT, <https://upstanderproject.org/firstlight/trc> [<https://perma.cc/NSY9-9CET>].

³³⁴ THE TRUTH TELLING PROJECT, <https://thetruthtellingproject.org> [<https://perma.cc/ZUG4-V993>].

³³⁵ Huckerby & Fujimura-Fanselow, *supra* note 329.

rendition, detention, and interrogation program.³³⁶ The commission found that the CIA had rented airplanes from private contractors in North Carolina.³³⁷

More recently, Maryland formed a truth and reconciliation process on racism and lynchings in 2019.³³⁸ On October 1, 2020, in the wake of the murder of George Floyd and calls for action by residents, Iowa City adopted a resolution establishing a truth and reconciliation commission on restorative justice.³³⁹ Similar efforts are underway in Philadelphia, Boston, and San Francisco, although the current status in these cities is uncertain.³⁴⁰ Minneapolis also adopted a truth and reconciliation process resolution in October 2020.³⁴¹ A workgroup has been formed and has progressed to defining the priority groups outlined in the resolution, addressing a vision statement, and providing guidelines on implementation.³⁴² The workgroup has identified a number of resources.³⁴³ Fania E. Davis has specifically addressed race and restorative justice in the U.S.³⁴⁴ The Minneapolis workgroup would be well served by consulting with others, including Priscilla Hayner and Eduardo Gonzalez, as well as other groups that have undertaken local efforts.³⁴⁵ Hayner warns that the period of creation is the highest risk, along with badly constructed procedures for selecting members or terms of reference that cut short their potential reach.³⁴⁶

Although it has not been characterized as a truth and reconciliation commission, the State of Oklahoma established a 1921 Tulsa Race Riot

³³⁶ See THE N.C. COMM'N OF INQUIRY ON TORTURE, <https://www.nccit.org> [<https://perma.cc/JL7W-VPTE>].

³³⁷ *Id.*

³³⁸ H.B. 307, 2019 Reg. Sess. (Md. 2019).

³³⁹ *Ad Hoc Truth and Reconciliation Commission*, CITY OF IOWA CITY, <https://www.icgov.org/city-government/boards-commissions-and-committees/ad-hoc-truth-and-reconciliation-commission> [<https://perma.cc/ZA7S-XXNL>].

³⁴⁰ *Press Release*, GRASSROOTS LAW PROJECT (July 1, 2020), <https://www.tjrc.org/press-release> [<https://perma.cc/7UFD-6Y4Q>]; *TRJC*, GRASSROOTS LAW PROJECT, <https://www.grassrootslaw.org/tjrc> [<https://perma.cc/Q7DR-DJJV>].

³⁴¹ *Legislative File: Truth and Reconciliation Process (2020-01059)*, CITY OF MINNEAPOLIS, <https://lims.minneapolismn.gov/File/2020-01059> [<https://perma.cc/E6WK-P57Q>]; Melissa Turtinen, *Minneapolis will Create a Commission to Confront History of Racism*, BRING ME THE NEWS (Oct. 16, 2020), <https://bringmethenews.com/minnesota-news/minneapolis-will-create-a-commission-to-confront-history-of-racism> [<https://perma.cc/ZEK8-EPZL>].

³⁴² Turtinen, *supra* note 341.

³⁴³ See *Update from Truth and Reconciliation Workgroup (RCA-2021-00767)*, CITY OF MINNEAPOLIS, <https://lims.minneapolismn.gov/RCA/8236> [<https://perma.cc/TS6C-Q6BL>].

³⁴⁴ See FANIA E. DAVIS, *THE LITTLE BOOK OF RACE AND RESTORATIVE JUSTICE: BLACK LIVES, HEALING AND US SOCIAL TRANSFORMATION* (2019).

³⁴⁵ See HAYNER, *supra* note 315. Eduardo Gonzalez is a transitional justice practitioner with twenty years of experience working with truth commissions around the world and a senior research fellow at George Mason University's Mary Hoch Center for Reconciliation. *Our Team*, GEORGE MASON UNIV., <https://www.mhcr.gmu.edu/people> [<https://perma.cc/UR2R-49ZV>].

³⁴⁶ HAYNER, *supra* note 315, at 236.

Commission that made findings and prepared an extensive report.³⁴⁷ The Minneapolis workgroup should also examine that report for another model of restorative justice. Truth and reconciliation processes are not a panacea but a starting point on the road to accountability and community healing.

V. CONCLUSION

Despite some strong advocates and arguments for the abolition of the MPD, it is unlikely to be accepted by officials and voters. The majority of Minneapolis voters, including Black voters, rejected the proposed charter amendment to replace the MPD with a DPS.³⁴⁸ Several of the City Council members at the “Defund the Police” rally later claimed it was not intended literally.³⁴⁹ Some were defeated and others did not run for reelection.³⁵⁰ Residents from North Minneapolis sued the City to abide by the requirement to hire a minimum number of police officers based on a percentage of the population.³⁵¹ Some have attributed setbacks at the Minnesota legislature, as well as other state legislatures and Congress, to a backlash against the slogan “defund the police.”³⁵² Regardless, slogans do not solve problems.³⁵³

The culture within the MPD must change. The Mayor and City Council should follow the recommendations in the MDHR Report and work with new MPD Police Chief Brian O’Hara to implement human rights standards consistent with the Patten Report into Minneapolis policing. If the

³⁴⁷ H.R.J. Res. 1035, Okla. Sess. Laws 1997 (Okla. 1997); OKLAHOMA COMMISSION, TULSA RACE RIOT (2001), <https://www.okhistory.org/research/forms/fireport.pdf> [https://perma.cc/4XAA-DB6S].

³⁴⁸ Holder, *supra* note 200.

³⁴⁹ *See supra* note 176.

³⁵⁰ *See supra* notes 197–98 and accompanying text.

³⁵¹ Williams, *supra* note 182.

³⁵² *See, e.g.*, Chris Cillizza, *Even Democrats Are Now Admitting ‘Defund the Police’ Was a Massive Mistake*, CNN (Nov. 5, 2021), <https://amp.cnn.com/2021/11/05/politics/defund-the-police-democrats/index.html> [https://perma.cc/D5JX-7T7T]; Astead W. Herndon, *How a Pledge to Dismantle the Minneapolis Police Collapsed*, N.Y. TIMES (Sept. 26, 2020), <https://www.nytimes.com/2020/09/26/us/politics/minneapolis-defund-police.amp.html> [https://perma.cc/F5HL-5F5E]; James Hohmann, *Will Election Day Render ‘Defund the Police’ Defunct?*, WASH. POST (Nov. 1, 2021), <https://www.washingtonpost.com/opinions/2021/11/02/voters-may-hand-defund-the-police-a-setback-on-tuesday/> [https://perma.cc/B795-UFS5]; Matthew Brown, *Democratic Whip James Clyburn: ‘Defund the Police’ Cost Democrats Seats, Hurt Black Lives Matter Movement*, USA TODAY (Nov. 8, 2020), <https://www.usatoday.com/story/news/politics/2020/11/08/james-clyburn-defund-police-cost-democrats-seats-hurt-black-lives-matter/6216371002/> [https://perma.cc/W6XP-UD94].

³⁵³ *See* Nekima Levy Armstrong, *Black Voters Want Better Policing, Not Posturing by Progressives*, N.Y. TIMES (Nov. 7, 2021), <https://www.nytimes.com/2021/11/09/opinion/minneapolis-police-defund.html> [https://perma.cc/9CGR-K7YZ]; Tevlin, *supra* note 86 (“[A] slogan won’t be enough for the long haul.”). “In the area of politics and policy, our major obligation is not to mistake slogans for solutions.” MICHAEL EGNER, BETWEEN SLOGANS AND SOLUTIONS: A FRAME-BASED ASSESSMENT METHODOLOGY FOR PUBLIC DIPLOMACY 1 (2010) (quoting Edward R. Murrow), https://www.rand.org/pubs/rgs_dissertations/RGSD255.html [https://perma.cc/UXK4-56C8].

DOJ completes its pattern or practice investigation and agrees to appoint a special monitor to oversee enforcement of the DOJ's recommendations, the City should follow those recommendations as well. They should follow the recommendations of the UN Special Rapporteur on racism. They should follow the recommendations in the Patten Report on making human rights a core of policing. The City should heed some recommendations by those proposing abolition that reduce the responsibility for armed police officers to respond to some types of 911 calls. The City should join in adopting these recommendations and others that may be proposed, including recommendations by policing experts Frank Fernandez and Maria Ponomarenko and The Policing Project at the New York University School of Law.³⁵⁴ The City should proceed with a truth and reconciliation process in conjunction with a visit by the Special Rapporteur on racism and incorporate their recommendations.

It is only by following these recommendations that the City can break from the past persistent culture of racism in the MPD and the cycle of community outrage followed by backlash and no meaningful change. Residents and officials need to have the political will and resiliency to follow through on these efforts in order to make lasting change. Minneapolis has struggled with police violence and adopted reforms time and again and yet, George Floyd is dead.³⁵⁵ And now, so is Amir Locke. And so is Tekle “Andrew” Sundberg. The cycle must end.

History says

Don't hope on this side of the grave

But then, once in a lifetime

The longed-for tidal wave

Of Justice can rise up/

³⁵⁴ Frank G. Fernandez & James Roth, *The Key Steps to Substantial and Sustainable Police Reforms*, MINNPOST (July 13, 2020), <https://www.minnpost.com/community-voices/2020/07/the-key-steps-to-substantial-and-sustainable-police-reforms/> [<https://perma.cc/TZF3-68R3>]; THE POLICING PROJECT, <https://www.policingproject.org> [<https://perma.cc/AD93-ZKXD>].

³⁵⁵ Bailey & Berman, *supra* note 4.

And hope and history rhyme.

Seamus Heaney, *The Cure at Troy* (1990)*

- Written during and in response to the Troubles in Northern Ireland