



May 28, 2020

The Honorable Jacob Frey
Mayor of Minneapolis
350 South 5th Street, Room 331
Minneapolis, MN 55415

Mr. Medaria Arradondo
Chief, Minneapolis Police Department
350 South 5th Street, Room 130
Minneapolis, MN 55415

Dear Mayor Frey and Chief Arradondo,

Three days ago, the country watched in horror as a Minneapolis Police Department (MPD) officer killed George Floyd with three other officers standing idly by as he begged for his life and as bystanders pleaded with officers to stop. Two days ago, you condemned this behavior and we welcomed your swift response in firing the four officers responsible for Mr. Floyd’s death and requesting an independent investigation by state and federal law enforcement agencies. Yesterday, we woke to alarming images of police using tear gas and projectiles against demonstrators, most of whom were peacefully protesting Mr. Floyd’s killing at the hands of MPD officers. This type of militarized response to communities mourning the death of a member only serves to escalate tensions – as we saw last night.

We do not purport to represent the views of countless local communities who have unique relationships with local law enforcement or to supplant the need for direct engagement and dialogue with community members. Instead, we offer a perspective based on our collective 450-year history of activism and advocacy. It is through our collective experience that we can attest to the fact that these types of events deepen distrust in law enforcement, reopen old wounds, and inflict new ones. They remind us of our historically fraught relationship with a profession that is sworn to serve and protect the public. They remind us of violence against activists during the civil rights movement, of the enforcement of segregation and Jim Crow laws during the 19th and 20th centuries, and of fugitive slave laws in centuries past.

This history is in part why Minneapolis is reeling in pain. The wanton killing of George Floyd on a city street has left the city’s residents grasping for answers as they try to understand and cope with the needless death of another Black man at the hands of police. Like so many other incidences of police violence, Jamar Clark’s death in 2015 still has not been forgotten. The demonstrations we are witnessing in the aftermath of Mr. Floyd’s death are the people of Minneapolis letting out that collective pain and calling for accountability. Yet, demonstrators exercising their First Amendment rights have been met with a militarized police response that only stands to escalate tensions, inflict harm and pain, and chill free speech. When police respond in such a manner, it validates the reasons these communities have taken to the street – the long-standing use of excessive force against Black and Brown people. To take this route is to fan the flames of racial tensions, leading to an escalation of conduct as we saw play out last night on the streets of the city.

We know that hundreds of thousands of police officers report for duty every day, with a mission to keep us safe and protect us from harm. And we are grateful to the police officers and departments across the country that are committed to fair and impartial public safety strategies, dedicated to principles of fairness, equity, and accountability, and working actively to build the bridges that lead to substantial change. Nonetheless, the challenge of instituting reform uniformly across the country to eliminate the unfair burden borne by Black people in communities that are too often the victims of racial profiling and biased policing remains as urgent as ever.



While mass assemblies may sometimes turn violent, the goal of law enforcement in these circumstances should always be peaceful resolution. Indeed, MPD's current policies reflect this very principle.¹ To this end, we encourage MPD to commit to preventing, mitigating, and de-escalating the potential for violence at large crowd events.²

We need to learn from past lessons to avoid repeating mistakes.³ Indeed, the 18-day occupation of the Fourth Precinct by demonstrators in the aftermath of Mr. Clark's killing in 2015 led to a U.S. Department of Justice Community Oriented Policing Service (COPS) assessment of MPD's response, which embodied many of the same principles embodied in the practices we offer here.⁴

These best practices should provide a roadmap for reform and guidance for managing demonstrations and that we collectively endorse:

- **Refrain from Using Military Equipment for Crowd Control and Require Officers to Interact with Assemblers in a Respectful and Positive Manner:** The use of military equipment and riot gear encourages an “us vs. them” battlefield mentality and heightens tensions between police and demonstrators. Military force should not be used for domestic protests. Consistent with Minnesota's Law Enforcement Code of Ethics, MPD should require all officers to interact with assemblers in a respectful and professional manner before, during, and after assemblies, and they should avoid militarized responses unless responding to high-risk threats.⁵ Evidence suggests that this type of militarized policing heightens the risk of violent conflict that puts officers as well as the public at greater risk of injury.⁶ Indeed, officers may be more willing to engage in a confrontation when armed with military grade weaponry.

¹ Minneapolis Police Department, *Policy & Procedure Manual, Tactical Response (7-800)*.

http://www.ci.minneapolis.mn.us/police/policy/mpdpolicy_7-800_7-800: "The primary responsibility in all tactical situations is to prevent the loss of human life and to contain the threat. Whenever possible, efforts will be directed towards peaceful resolution;" Minneapolis Police Department, *Policy & Procedure Manual, Civil Disturbances (7-805)*.

http://www.ci.minneapolis.mn.us/police/policy/mpdpolicy_7-800_7-800: "MPD personnel will not interfere with lawful protests and/or demonstrations. Unless a crime has been committed, officers are responsible only for keeping the peace at civil disturbances."

² Norton, B., Hamilton, E., Braziel R., Linskey, D., & Zeunik, J. (2015). An Assessment of the St. Louis County Police Department. Collaborative Reform Initiative, Office of Community Policing Services, U.S. Department of Justice.

<https://www.policefoundation.org/wp-content/uploads/2015/10/cops-p316-pub.pdf>.

³ Office of Community Policing Services, U.S. Department of Justice (2015). *After-Action Assessment of the Police Response to the August 2014 Demonstrations in Ferguson, Missouri*. <https://www.policefoundation.org/wp-content/uploads/2018/08/After-Action-Assessment-of-the-Police-Response-to-the-August-2014-Demonstrations-in-Ferguson-Missouri.pdf>

⁴ Straub, F., Hassan, A., Brown, J., Gorban, B., Monroe, R., and Zeunik, J. (2017). *Maintaining First Amendment Rights and Public Safety in North Minneapolis*. Office of Community Policing Services, U.S. Department of Justice.

<https://www.policefoundation.org/wp-content/uploads/2017/03/Maintaining-First-Amendment-Rights-and-Public-Safety-in-North-Minneapolis.pdf>.

⁵ Minneapolis Police Department, *Policy & Procedure Manual, Minnesota Law Enforcement Code of Ethics (5-102.01)*.

http://www.ci.minneapolis.mn.us/police/policy/mpdpolicy_5-100_5-100: As a Minnesota Law Enforcement Officer, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all to liberty, equality and justice."... With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear of favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities."

⁶ See, e.g., American Civil Liberties Union. (2014). *War Comes Home: The Excessive Militarization Of American Police*, at 2. <https://www.aclu.org/report/war-comes-home-excessive-militarization-american-police>: "[T]he use of hyper-aggressive tools and tactics results in tragedy for civilians and police officers, escalates the risk of needless violence, destroys property, and undermines individual liberties.;" Carlson, M., Marcus-Newhall, A., Miller, N. (1990). Effects of Situational Aggression Cues: A

Instead, police departments should require officers assigned to demonstrations to wear regular uniforms and to interact with members of the public in a friendly, respectful, and positive manner before, during, and after an assembly. This helps all parties recognize their shared humanity, which decreases the likelihood that assemblers will feel threatened by or fear them and resort to self-defense. As DOJ's COPS office recognized in its after-action report of the Ferguson, Mo., demonstrations in 2014 ("Ferguson Assessment"), these actions help ensure that every interaction officers have with members of the public has the potential to enhance police legitimacy and procedural justice.⁷

- **Promote Crowd Control Tactics, Including De-escalation, That are Less Likely to Cause Injury and Set Clear Limits on The Use of Force:** Leaders should understand that nonlethal uses of force can escalate tensions, cause injury, and endanger members of the public as well as officers. Police responses to mass demonstrations should be "proportional to the actions and mood of the crowd [because it] is critical to making sure the police do not unintentionally escalate tensions during protests."⁸ De-escalation tactics should be the priority and use of force a last resort when interacting with large crowds. This includes refraining from using force unless absolutely necessary, including a counseled determination that there is a risk of death or serious injury and all reasonable alternatives have been exhausted, adequate warnings have been issued, and there are safe means of egress for demonstrators.
- **Prohibit the Use of Tear Gas for Crowd Control:** Tear gas can be sprayed at people or thrown like a grenade into crowds, where it "explodes" with gas. It cannot be targeted when sprayed; as such, it carries a high risk of affecting unintended targets or bystanders. When tear gas canisters explode, the gas disperses widely to surrounding areas. For these reasons, departments should restrict the use of tear gas to situations in which crowds engage in acts that risk death or serious injury and all other options have been exhausted. The use of tear gas also should require approval from the highest level of the department, (i.e., from the chief or commissioner). In the midst of the current pandemic, more than ever, police departments must carefully consider when to use dispersal agents that can cause stampedes and increase the risk of social contact. As DOJ's COPS office recognized in the Ferguson Assessment following the uprising in Ferguson, "[f]or the very limited circumstances when tear gas is used, law enforcement must deploy tear gas only when people have a means of safe egress and after appropriate warnings are clearly announced and sufficient time is allowed for individuals to leave the area."⁹

Quantitative Review, *Journal of Personality and Social Psychology*, 58(4), pgs. 622–33; see also Balko, R. (Aug. 14, 2014). After Ferguson, How Should Police Respond to Protests?, *The Washington Post*, https://www.washingtonpost.com/news/the-watch/wp/2014/08/14/after-ferguson-how-should-police-respond-to-protests/?utm_term=.596ff835f9cd; Singal, J. (Aug. 14, 2014). How Militarizing Police Can Increase Violence, Law Enforcement, *New York Magazine*, <https://www.thecut.com/2014/08/how-militarizing-police-can-increase-violence.html>.

⁷ Office of Community Oriented Policing Services, U.S. Department of Justice. (2015) *After-Action Assessment of the Police Response to the August 2014 Demonstrations in Ferguson, Missouri*, at 116. <https://www.policefoundation.org/wp-content/uploads/2018/08/After-Action-Assessment-of-the-Police-Response-to-the-August-2014-Demonstrations-in-Ferguson-Missouri.pdf>

⁸ Police Executive Research Forum. (2018). *The Police Response to Mass Demonstrations: Promising Practices and Lessons Learned*. <https://perf.memberclicks.net/assets/PoliceResponseMassDemonstrations.pdf>.

⁹ Office of Community Oriented Policing Services, U.S. Department of Justice. (2015) *After-Action Assessment of the Police Response to the August 2014 Demonstrations in Ferguson, Missouri*, pg. 51. <https://www.policefoundation.org/wp-content/uploads/2018/08/After-Action-Assessment-of-the-Police-Response-to-the-August-2014-Demonstrations-in-Ferguson-Missouri.pdf>.



- **Engage with Community Leaders to Create Dialogue Before and During Assemblies:** To successfully manage large crowd events, MPD should create clear pathways for the proactive dissemination of information to the media and the community during mass assemblies. When the media and the community know that there are centralized locations for information, there is less opportunity for confusion and misinformation.

Command staff at police departments should hold formal meetings with event organizers and/or protesters as early as possible to determine where the event will occur and what is permitted.¹⁰ This process might be more difficult when demonstrations are organized on short notice or on social media, which are rarely led by a single, identifiable leader (and which often identify all participants as leaders). In these situations, officers should not expect organizers to present a single leader; rather, they should remain flexible and consider using social media to communicate.¹¹ Officers' relationships with community members are valuable and should be leveraged when preparing for "leaderless" or spontaneous demonstrations.¹²

We counsel against the use of force, including lethal force, in response to large demonstrations even when legally permissible. It is in such times, when tensions are at their highest, that officials should exercise their discretion and lead the way toward peaceful resolution. The department should enlist community leaders to serve as liaisons and to provide guidance to demonstrators – guidance that encourages the peaceful exercise of their First Amendment rights. And leadership should work with these communities to find ways to facilitate the demonstrations in ways that serve the communities' interests and allow for their voices to be amplified. To this end, the city should be careful in its decision to deploy the national guard and seek instead to pursue a response centered on the principles of communication, de-escalation, and peaceful resolution.

- **Protect and Respect Constitutional Rights:** The First Amendment protects the rights of the people to peacefully assemble to air grievances. While the police are working to preserve public safety, they must also remember that they are protecting the constitutional rights of those gathered to demonstrate. This means that officers should ensure that any restraint imposed on demonstrators is necessary to ensure public safety and does not unreasonably constrain the demonstrations or violate constitutional rights.

¹⁰ Minnesota Department of Public Safety. (Feb. 2020). *Working Group: Police-Involved Deadly Force Encounters*. <https://dps.mn.gov/divisions/co/working-group/Documents/police-involved-deadly-force-encounters-recommendations.pdf>: The need for effective, ongoing, and meaningful engagement with key stakeholders in the community highlights one of the recommendations of the Minnesota Working Group on Police Deadly Encounters. The Working Group, created by Attorney General Keith Ellison and DPS Commissioner John Harrington, called for more de-escalation training. It also called for the creation of an office similar to the federal Office of Community Relations Services in the Department of Justice to serve as "Minnesota's Peacemaker." Per the report, "[t]he component would have the authority and responsibility to work with communities in conflict . . . [t]he" Office would work with community groups, public officials, law enforcement, and other relevant stakeholders to promote healing and restoration, resolve community conflicts arising from highly charged incidents, and prevent and respond to alleged hate crimes involving the targeting of individuals based on their race, color, national origin, gender, gender identity, sexual orientation, religion, or disability."

¹¹ Police Executive Research Forum. (May 13, 2020). *Protests and Civil Disturbances in the COVID-19 Environment*. <https://www.policeforum.org/covidmay13>: "There are almost always opportunities to communicate with protesters. Even groups that call themselves 'leaderless' have informal leaders. Police should reach out to these leaders and attempt to build relationships with them."

¹² "Police Executive Research Forum. (2018). *The Police Response to Mass Demonstrations: Promising Practices and Lessons Learned*. <https://perf.memberclicks.net/assets/PoliceResponseMassDemonstrations.pdf>: "Instead of insisting that you need to have a one on one with the leaders of a demonstration, I think departments can think creatively about using social media as a tool for reaching out to all demonstrators. This approach doesn't risk alienating the people you are trying to reach."



The Department of Justice has recognized that “[l]aw enforcement has the responsibility to protect persons and groups exercising their right to assemble peacefully, all while ensuring public safety and the protection of privacy and the associated rights of individuals. Ensuring these protections starts at the planning and training stage, during the event, and after the event.”¹³ This includes the right of the public to record police activities, and policies that prohibit officers from retaliating against people who lawfully record police activity, including by using force.

- **Ensure Officers Are Accountable and Identifiable During Protests:** Community trust is built when there are transparent means of holding law enforcement accountable. To do this, police officers must be identifiable either by name or by badge number. There must also be a publicized complaint process that allows protestors to lodge complaints of misconduct.

Department leaders should create formal protocols to (1) investigate violations of policy; (2) address complaints arising from mass demonstrations; and (3) evaluate the effectiveness of pertinent policies, resources, tactics, and training. This formal process should include not only the transparent investigation of complaints from members of the public but also evaluation of uses of force, stops, searches, and arrests, and officer injury reports (along with relevant video footage) to assess how well officers followed policies, obeyed the rules of engagement, and carried out their overall mission. Both successes and failures should be analyzed and used to inform future training and deployment plans.

It is crises such as the police killing of Mr. Floyd that provide opportunities for true leadership and to forge the path toward a truly equitable and safe society for all people. By committing to policies and practices that provide all Minneapolis residents the dignity and respect due to them, MPD can begin to build trust and earn legitimacy in all the communities it serves.

Real change in the relationship between communities of color and law enforcement is only possible with real accountability for this department and the officers involved. Therefore, we urge you and the police departments you oversee to use this moment and the ensuing protests as an opportunity to grapple with the ongoing legacy of police violence in communities of color, and to re-examine and reform public safety and policing. If you have any questions, please contact Lynda Garcia and Sakira Cook, The Leadership Conference on Civil and Human Rights, at garcia@civilrights.org and cook@civilrights.org.

Sincerely,

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President and CEO, The Leadership Conference on Civil and Human Rights

Derrick Johnson
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¹³ Office of Community Oriented Policing Services, U.S. Department of Justice. (2015) *After-Action Assessment of the Police Response to the August 2014 Demonstrations in Ferguson, Missouri*. <https://www.policefoundation.org/wp-content/uploads/2018/08/After-Action-Assessment-of-the-Police-Response-to-the-August-2014-Demonstrations-in-Ferguson-Missouri.pdf>.



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