

COMMUNITY ANALYSIS OF THE REPORT BY THE WORKING GROUP ON POLICE-INVOLVED DEADLY FORCE ENCOUNTERS

Presented by:
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Introduction

On March 11, 2019, members of Communities United Against Police Brutality responded to media reports that Attorney General Keith Ellison would be addressing investigations and prosecutions in police deadly-force incidents by sending a letter (copy attached) offering information that was gleaned from reinvestigating deadly force incidents. Our reinvestigations exposed shoddy investigatory work, biased interviews and even outright lies by the BCA.

Months passed before we got a response from AG Ellison. CUAPB finally heard from his office the day media outlets reported his appointments to the Working Group on Police-Involved Deadly Force Encounters. Once we learned that this work group was stacked with law enforcement representatives but had absolutely no representation from police accountability activists/experts and no family members of people killed by police who did not get justice, we knew the process was rigged from the start and that AG Ellison had no interest in data that would contradict the premises underpinning that work group.

We were even more appalled to learn that while this work group had no plans whatsoever to learn from families of people killed by police who never got justice, they had scheduled a panel of families of cops who had killed members of the community. This is truly a slap in the face of the families of victims of police violence.

Nonetheless, representatives of the organizations listed above and others, all volunteers, met and crafted a document of community recommendations. A copy is attached. This document was presented at the beginning of the first meeting of the work group and was submitted in writing as indicated on the work group web page. Thus, from day one, members of the work group were provided with recommendations from knowledgeable police accountability activists and family members of people killed by police. Sadly, the community's recommendations were largely ignored.

As a result of this poor process, the recommendations that result from this biased work group are generally not measurable, will not affect the underlying causes that lead to police deadly force incidents, will not curtail deadly force incidents in any meaningful way, and some will outright harm the community by making it even harder to hold law enforcement officers accountable.

Language Matters

Even the name of the work group is problematic. The term “police-involved deadly force encounters” creates the impression that law enforcement officers are merely on the sidelines of an incident that resulted in the death of a member of our community. A more realistic term would be “police-perpetrated deadly force incident” but for purposes of this analysis, we will generally use the shorter term “deadly force incident.”

Recommendation 1.1

This recommendation and associated action steps speak to police-community relations. This framing proposes that if police and the community could somehow just get along better, trust would be built and the problem would be solved. It also places half the responsibility for the problem on the community, when we have little control over the conduct of police. This is a false framing.

We need to be clear—this is an issue of police abuse of authority, the oppression that underpins it, and the lack of accountability that encourages it. No amount of “dialogue” or other relationship-building measures will improve this because “relationships” aren’t the underlying cause of the problem. The real cause is a lack of accountability. Unless efforts shift from “police-community relations” to police accountability, these problems will continue. In fact, if police were held accountable for their actions in meaningful ways, police misconduct—including deadly force incidents—would greatly decrease and police-community relations would improve on its own, with no special efforts needed.

Recommendation 1.2

This recommendation is covered twice in the working group’s report—here, and again in Recommendation 2.2. Given that 50% of people killed by police are in a mental health crisis at the time, it is only common sense for local governments to invest in more community-based mental health services. However, even more importantly, LAW ENFORCEMENT OFFICERS NEED TO STOP BEING THE PRIMARY RESPONDERS TO MENTAL HEALTH CRISIS CALLS.

In 2019, the Minneapolis Police Department responded to 15,000 emotionally disturbed person (EDP) calls. Very few involved any kind of weapon. Thus, a mobile mental health crisis team could just as easily respond to most of those calls, providing initial assessment and starting treatment on-scene. At minimum, there should be a co-response of mental health workers and officers at all calls involving a mental health component. There should never be a police-only response to mental health crisis calls.

Recommendation 1.3

This recommendation states that the Department of Public Safety should “take steps to ensure” that families of people killed by police are not treated in the typical hurtful way they are treated now. The action step is to hire a Family Liaison position.

If this position was used to ensure that families would no longer be treated in the shabby manner they have been in the past, then that could be beneficial. However, there is great concern among families of people killed by police and police

accountability activists that this liaison position would actually be used to gather intelligence from the families that would then be used to thwart their efforts at justice in civil proceedings. There would need to be a demonstrated fire wall between this liaison position and the rest of the Department of Public Safety.

Recommendation 1.4

This recommendation calls for promoting community policing, including proactive policing. However, while couched in happy talk, this recommendation is really about predictive policing—a model of “broken windows” policing that results in increased racial profiling and targeting of poor and homeless people.

Recommendation 1.5

This recommendation calls for the creation of an office to serve as “Minnesota’s Peacemaker” similar to the DOJ’s Office of Community Service. On the surface, this sounds like a nice concept but how would it end police deadly force incidents? The Office of Community Service was the agency that conducted federal mediation in Minneapolis. After over five years of mediation, the community has absolutely nothing to show for it.

There is also a concern that this recommendation inserts officers into personal disputes, a possibility rife with the potential for a tragic outcome. Instead, people should be taught and provided with resources to address their own disputes within the community. We do support the portion of this recommendation that calls for more resources for restorative justice.

Recommendation 2.1

Recruiting for diversity would be beneficial but relying on the POST Board to create and enforce such standards is a fast track to failure. The POST Board has a long history of refusing to hold departments and Chief Law Enforcement Officers accountable for the Board’s own training and reporting standards. How would this be any different?

This recommendation should also have addressed the hiring preference for military recruits, which both impedes the ability to hire for diversity and negatively impacts department culture.

Recommendation 2.2

This recommendation is, essentially, more specific wording for Recommendation 1.2. However, it falls far short of recognizing the need to end police-only responses to mental health crisis calls.

Every county in Minnesota currently has a mobile mental health crisis team. What’s needed is dispatch triage to deflect calls to these teams rather than routing them through police and expecting them to decide whether to route them to the mental health crisis team. This can be achieved by embedding a mental health worker in dispatch to make decisions about the most appropriate responders for these calls. This model is working well in other states, even states with low population density counties.

Action Item 2.2.2 refers to the Vitals app and similar technology. This technology is opposed by a number of disability rights organizations as an invasion of privacy and, essentially, as a GPS for disabled people.

Recommendation 2.3

De-escalation training was already funded by the legislature 3 years ago.

Recommendation 2.4

Body-worn camera footage is already being used for training in most departments that have them. Given that most departments don't discipline officers for misconduct, the only thing this recommendation would change is that BWC footage would be used as part of the coaching done to avoid disciplining officers.

Recommendation 2.5

Police training funds are currently managed through the POST Board and are funded from a surcharge on non-DUI license reinstatement fees. This is an unstable source of funding. Instead, training should be funded as part of the POST Board's overall budget, which should come through standard appropriations similar to other state agencies.

Much of the training listed in this recommendation has already been mandated in past legislative sessions. The issue isn't the need to mandate more training. The issue is the lack of standards by the POST Board related to the quality of the training it is paying for now. The POST Board's training approval process is so lax that virtually any course that can claim some relationship to the work of law enforcement officers will be approved without any review of the content or quality of the course.

Recommendation 2.6

Enhancing the ability for law enforcement officers and dispatchers to recognize and respond appropriately to people with developmental, physical and intellectual disabilities would be valuable.

Recommendation 2.7

"Law and the Community" is a proprietary product of NOBLE, an organization one of the work group members is heavily involved in. The organization does not make its training materials available to members of the public for review. However, based on descriptions on the organization's website, this training appears to be positive spin for police. There is a heavy emphasis on "why the police do what they do," which appears to place the burden on the community to act in a way that is acceptable to police and, thus, to blame the victim for any misconduct they experience at the hands of police. Before such a recommendation should be adopted, it would be essential to vet the actual training content with members of oppressed communities as part of the process.

Recommendation 3.1

THIS IS THE MOST PROBLEMATIC RECOMMENDATION IN THE ENTIRE REPORT.

It would increase funding for the BCA to continue their slipshod, biased investigations of police-perpetrated killings. The community is fed up with one law enforcement agency

investigating another law enforcement agency, with predictable results. **THIS RECOMMENDATION MUST NOT BE ADOPTED.**

The BCA is, essentially, the state version of the FBI. This agency works with all other law enforcement agencies in the state. Some BCA agents have a history of killing members of the community themselves. They are not capable of non-biased investigations of other law enforcement agencies.

WHAT IS ACTUALLY NEEDED is an agency that is independent of law enforcement and that would be tasked with both investigating and prosecuting deadly force incidents. Such an agency was proposed by Sen. Scott Dibble in previous legislative cycles. This proposal should be brought forward and passed by the legislature.

Recommendation 3.2

This recommendation suffers from the same problem as Recommendation 3.1 because it keeps the prosecution function in the hands of the same individuals who have failed to prosecute police in the past. Such decisions must be removed from county prosecutors, who work hand-in-glove with police on a daily basis and who rely on remaining in the good graces of police in order to do their job.

The only acceptable solution is an independent agency that handles both the investigation and prosecution of police officer critical incidents (incidents that result in serious bodily injury or death).

Recommendation 3.3

Due to restrictions on access to body-worn camera footage embedded in the Minnesota Government Data Practices Act, MN Stat. Ch. 13, specifically 13.825, they are useless as tools for accountability. This issue is compounded by poor policies controlling the devices, including the ability of officers to decide when to use them and to review the footage before writing their reports. Before there are any further expenditures for these devices, the legislature must address the flaws in MN Stat. 13.825. Further, the legislature must address the withholding of all video recordings and other data after a deadly force incident under the ruse of a lengthy “ongoing investigation.” Even data that are classified as “public at all times in the originating agency” under MN Stat. 13.82 are routinely withheld for lengthy periods in violation of the MDGPA.

Recommendation 3.4

Sentinel event reviews stem from a concept in health care that seeks to find and eradicate system issues that lead to medical mistakes. This kind of review should be adopted in policing. However, such reviews cannot be a substitute for holding officers accountable for their conduct. Unlike health care workers, law enforcement officers are given the permission of the state to use physical violence in their work. This permission sets up a dynamic that is ripe for abuse in the absence of accountability.

Recommendation 3.5

The language of this recommendation is virtually the same as Recommendation 1.1. It is public relations gibberish without meaning and without merit in terms of ending police-perpetrated killings.

Recommendation 3.6

Under Minnesota law, there is no statute of limitations for murder or manslaughter. An independent agency for investigating and prosecuting police critical incidents could reopen and reinvestigate closed cases. No other agency would be needed.

Recommendation 4.1

Rather than a vaguely worded and unmeasurable recommendation, the work group should have adopted use of force standards recently passed in California that restrict deadly force to use only as a last resort.

The United States is a signatory to the United Nations Human Rights Treaties. These treaties outline acceptable use of force by law enforcement officers. Any use of force policies adopted by Minnesota law enforcement agencies must comport to the United Nations Code of Conduct for Law Enforcement, Article 3. This Code is attached.

Recommendation 4.2

This appears to be a reiteration of Recommendation 4.1 with more meat on the bones. Largely these are good recommendations but would be strengthened by restricting the deadly force to use only as a last resort and requiring the adoption of the provisions of the UN Code of Conduct for Law Enforcement as cited above.

Recommendation 4.3

The POST Board does an abysmal job of taking action on officer licenses even under circumstances in which state statute requires such actions, including in the case of convictions for domestic violence and other crimes. Convening focus groups will not change this practice. The POST Board is not appropriately accountable to the public and there is a serious failure of oversight of their work. Addressing this accountability failure must be a priority.

Recommendation 4.4

There is a serious need to collect data on police-perpetrated deadly force incidents. We would add to this recommendation that this data collection include deaths caused in police chases and that such data be available easily to the public through a dashboard or other access mechanism.

Recommendation 4.5

Under MN Statute 609.662, officers are already required to render aid to people they shoot. Further, the POST Board mandates all officers to be certified as First Responders and that this certification must be renewed annually. However, the training records of a number of officers who have killed members of the community reveal that officers are not getting or maintaining this critical certification.

In our reinvestigation of a number of police-perpetrated deadly force incidents, officers rendered aid in only one incident. In an incident in St. Paul, the victim was alive when officers handcuffed him and he remained alive for 9 minutes after being shot. The nature of his wounds were such that had he received aid in those 9 minutes, he would likely have survived. That individual was in the throes of a mental health crisis when he was shot.

Recommendation 4.6

This recommendation pertains to implementation of an Early Intervention Program (often called an early warning system) to identify problem conduct and act on it. However, the utility of this recommendation is lost with the addition of “in a non-disciplinary manner.” Officers who engage in problem conduct should be disciplined under a progressive disciplinary system.

It should be noted that the Minneapolis Police Department has been attempting to implement an EIP for at least 20 years without success. They are currently on their fourth or fifth effort, which they’ve been working on for the last 3+ years. If the largest police department in the state can’t figure this out, how will others?

Recommendation 4.7

This recommendation is acceptable to the community and may be valuable in reducing officer stress that leads to bad conduct.

Recommendation 4.8

Most data related to deadly force incidents are already public but law enforcement agencies are notorious for withholding these data in violation of the MGDPA. One of the organizations in our coalition is in the midst of a lawsuit against the City of Minneapolis over their routine withholding of these data for months and even years. Enforcing the MGDPA would go a long way toward transparency.

The City of Chicago posts all data on deadly force incidents right on their website, eliminating the need to respond to data requests and making these data easily accessible to the public. This concept should be added to this recommendation.

Action Step 4.8.1 is totally unnecessary as the data referenced is already private.

Recommendation 5.1

This recommendation addresses officer mental health and wellness. Action Step 5.1.5, requiring mental health re-evaluations every three years, is the only recommendation accepted from the community’s recommendations. However, this action step lacks a plan for addressing findings of impairment discovered in these re-evaluations. This action step also fails to address the often poor quality of mental health services made available to officers.

Recommendation 5.2

We support this recommendation.

RECOMMENDATIONS THAT ARE MISSING FROM THE WORK GROUP REPORT

A number of important recommendations are missing from this report.

- 1) Implementation of an independent state agency to investigate deadly force incidents and prosecute the involved officers.
- 2) End fear-based, military style, “warrior” trainings and significantly increase the amount of de-escalation training through POST Board requirements.
- 3) End the practice of police-only response to mental health crisis calls. Deflect these calls to mobile mental health crisis teams. In cases involving a weapon, ensure a co-response.
- 4) Discipline and prosecution of officers who engage in excessive force. Failure to hold police accountable in non-lethal excessive force incidents creates a climate that allows deadly force incidents to occur.
- 5) Modify MN Stat. 626.89 to allow civilian oversight bodies to make findings of fact and discipline recommendations and require CLEOs to provide written explanation of any deviance from those recommendations.
- 6) Require annual instructor-led anti-oppression training by community-based organizations representing people from oppressed groups.
- 7) Require the release of unedited video footage to families of people killed by law enforcement officers within 48 hours of the incident (e.g., body cam, dash cam, witness videos and surveillance video from police, business, and residents).
- 8) Require law enforcement officers to carry their own professional liability insurance.



Communities United Against Police Brutality™

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March 11, 2019

Office of Minnesota Attorney General Keith Ellison
445 Minnesota Street, Suite 1400
St. Paul, MN 55101

Sent via email to: Attorney.General@ag.state.mn.us

RE: Investigating and Prosecuting Killings by Police

Dear Attorney General Ellison:

Our organization has reviewed the investigations of a number of police killings of members of the community. Most recently, we have spent months reviewing the BCA investigation of the shooting death of Thurman Blevins. Prior to that, we reviewed the BCA investigation of the police shooting of Jamar Clark.

Our reviews have revealed a pattern of sloppy, incomplete and inadequate investigations into these matters. The witness interviews alone reveal a bias toward clearing the officers of any culpability. These biases extend into the forensic testing, including which tests are performed and which are not. If the goal of these investigations is to determine the facts of what happened, they are utter failures. Further, the format in which these investigatory results are released to the prosecutor's office as well as the public is so deeply flawed as to preclude all but the most dedicated people from reviewing the results and reaching any sort of reasonable conclusion.

As you consider alternatives to the current pattern of investigation and prosecution of police critical incidents that result in death, we would appreciate the opportunity to present our findings to you and other stakeholders. Could we arrange a meeting with you soon—before any decisions are made? You may reach me directly by cellular telephone at 612-703-1612.

For justice,

/s/ Michelle F. Gross

Michelle Gross
President

C: D. Scott Dibble, Minnesota State Senator via US Mail
Michael O. Freeman, Hennepin County Attorney via citizeninfo@hennepin.us
John Harrington, Public Safety Commissioner via dps.commissioners@state.mn.us

August 17, 2019

To: Minnesota Governor Tim Walz, Attorney General Keith Ellison Co-chair, Public Safety Commissioner John Harrington Co-chair

From: Community Coalition of Families and Anti-Police Brutality Activists

Recommendations for the Minnesota Working Group on Police-Involved Deadly Force Encounters

“Police Brutality is the unwarranted or excessive and often illegal use of force against civilians by U.S. police officers. Forms of police brutality have ranged from assault and battery (e.g., beatings) to mayhem, torture, and murder.” Encyclopaedia Britannica

Anti-police brutality activists, the community and families of loved ones whose lives were stolen by Minnesota law enforcement have been calling for police accountability, police reform and an immediate end to police brutality in the state of Minnesota for decades. Carrying signs and banners to demand basic civil and human rights, and for an end to police brutality in Minnesota, we have been in the streets and in courtrooms, at City Hall, city council meetings, and the Minnesota State Capitol. We’ve camped outside police departments, county prosecutors’ offices, the Minnesota Bureau of Criminal Apprehension (BCA), the Governor’s Office, and outside the homes of the Governor, mayors, and county prosecutors. We’ve marched at the airport, in front of trains, outside NFL games, major league baseball games, the Minnesota State Fair and at the Mall of America. We have sent letters, provided recommendations and research, requested meetings and a seat at the table with decision-makers, only to be ignored time and time again. **So forgive us if we don’t follow your formal protocols today, are too loud for you, make you feel uncomfortable, and disrupt your meeting to make you listen to the people who need to be at this table today. Listen to the families that have suffered the ultimate sacrifice to be here today, because this is their LIVES, and their SUFFERING and PAIN, at the hands of Minnesota law enforcement.**

“Those closest to the problem are closest to the solution, but furthest from the resources and power...no movement for social justice has ever succeeded without the full participation and leadership of those most affected.” Glenn E. Martin, Founder of GEM Trainers and JustLeadershipUSA.

Recommendations:

1. **Immediately disband this “Working Group on Police-Involved Deadly Force Encounters”** and put your energies into implementing the changes that are needed. Establish the means to develop a timeline and oversight for implementation. If you must convene a group for guidance, establish a working group with families of people killed by law enforcement, police accountability activists and representatives of the communities most affected by police violence including people with disabilities and people with mental illness. These are the people that have personal experiences dealing with law enforcement, with county prosecutors and the Minnesota Bureau of Criminal Apprehension (BCA). **In the crudest sense of the word, families are the unfortunate customers of Minnesota law enforcement, county prosecutors, and the BCA.** If Governor Tim Walz, Attorney General Keith Ellison, and Public Safety Commissioner John Harrington are serious about making substantial changes to policing in Minnesota and “preventing police-involved deadly force encounters,” then they **MUST** listen

to and follow the lead of the families and communities affected by police brutality. They are the EXPERTS. Since 2000, there have been over 199 police-involved killings in Minnesota, over 199 Minnesota families impacted by fatal police killings. Families can tell you better than anyone else what needs to change. And, the best council will come from the disability and mental health community, as well as those who work consistently on police accountability issues with the families of loved ones whose lives were stolen at the hands of law enforcement.

2. **Immediately implement an independent state agency to investigate deadly force incidents and prosecute the involved law enforcement officers.** No more biased and inept investigations by the BCA or other law enforcement agencies. This body must be staffed with experienced attorneys, investigators, researchers and other unbiased experts who do not work for or have ties with law enforcement agencies. This agency must have the sovereign legal authority to directly file charges against law enforcement officer similar to independent special prosecutors, without having charging decisions overridden by any other governmental agency. Mandated protocols must be established and compliance rigorously enforced to ensure complete transparency with families and the public.
3. **End fear-based, military style, “warrior” trainings and significantly increase the amount of de-escalation training through POST Board requirements.** Currently the POST Board requires 90 hours of in-person firearm training, and only 1 hour of an *online* de-escalation training module that law enforcement officers can easily skip ahead to complete, taking in little information. Minnesota law enforcement officers must spend *at least* as many hours completing in-person de-escalation training as they do firearm training, and pass a required skills test. There must be a culture shift from a military training framework to a comprehensive self-defense and de-escalation training framework rooted in serving all community members, specifically our most vulnerable community members.
4. **Calls for community members suffering a mental health crisis or needing wellness checks must be responded to by experienced mental health workers and those knowledgeable in how to most effectively address the needs of people with cognitive disabilities.** Over 50% of the people killed by Minnesota law enforcement officers were experiencing a mental health crisis at the time of their death, and people with disabilities are 16 times more likely to be killed by law enforcement than the general population. Even in cases where the officers were informed the person was in crisis or suicidal, instead of providing help and using de-escalation tactics law enforcement had an enemy combatant military-style response and reacted with violence. Doctors, nurses, and caregivers in mental health facilities, hospitals, clinics, and group homes routinely help people experiencing a crisis without using guns and Tasers. We must expect and require law enforcement officers to know how to initially respond to such a crisis, and then quickly call in and defer to mental health experts.
5. **Annual, in-person mental health training by proven, experienced and respected mental experts from the local community instead of the current, ineffective crisis intervention training/CIT.** There are many accredited national and local behavioral health organizations that provide effective mental health courses that are in-person, and targeted to law enforcement. These hands-on training teach law enforcement how to respond without using violence. Methodologies include: early intervention through recognition of signs and symptoms, defusing crisis, understanding mental illness, mental health literacy, and most importantly, how to help someone in crisis through connection and bringing in the appropriate caregivers.

- 6. Enforcement of discipline and prosecution of law enforcement who engage in excessive force.** Lack of consequences creates a culture and environment where misconduct is all but encouraged. Law enforcement officers are rarely disciplined and held accountable for policy violations, misconduct, violent encounters, and deadly police brutality. Most excessive force is also criminal, yet these incidents are rarely prosecuted. Misconduct complaints must be easily made publically available through online searches providing details of an officer's behavior, but maintaining victim confidentiality. Criminal and civil lawsuits against law enforcement officers should also be made easily available to the public including sentences and settlements and judgments. Legislative changes should be made to Minnesota Statute 626.89, subd. 17, the *Peace Officers Discipline Procedures, Civilian Review*, to state "a civilian review board, commission, or other oversight body **shall** have the authority to make a finding of fact or determination regarding a complaint against an officer or impose discipline on an officer." Civilian Review Boards must be a part of all agencies discipline processes, and must be comprised only of civilians, no law enforcement personnel, with protection from any retaliation and harassment. Given the dysfunction and ineptitude that results in a lack of accountability, there must be comprehensive audits of all current discipline processes and procedures by independent outside entities. All investigations that were improperly conducted, and resulted in no discipline should be reopened and appropriate discipline imposed.
- 7. Annual required in-person anti-oppression training conducted by community-based organizations that represent people from oppressed groups.** Black and Native people are killed by law enforcement at disproportionately higher rates with the majority of killings at the hands of white officers. Watered-down diversity and inclusion trainings must be replaced by anti-racism training that challenges law enforcement officers to address their own racism and prejudices towards people they perceive as "other" and different from themselves. Further, it is well-known and documented that racism is a problem within law enforcement agencies and a significant factor in officer killings. Officers of color have filed discrimination suits against Minnesota police departments, most notably against the Minneapolis Police Department (MPD).
- 8. All law enforcement agencies must conduct mandatory psychiatric tests of their officers every 3 years, after critical incidents involving police shootings, after deadly force incidents and when transferring to other police departments within the state.** Having law enforcement officers patrolling the community with guns, while suffering from their own mental health issues, is a major public safety concern for the community. There must be comprehensive and ongoing psychiatric evaluations that are conducted by employment psychiatrists. Any red flags or mental health issues must be addressed and treated; treatment must be offered along with removal from patrol as deemed necessary for public safety; and refusal of treatment must be grounds for termination.
- 9. Require the release of unedited video footage to families of people killed by law enforcement officers within 48 hours of the fatal incident (e.g., body cam, dash cam, witnesses video and surveillance video from police, business, and residents).** True transparency requires allowing family members immediate access to any and all video. Allowing families to immediately review unedited video footage does not hamper investigations. It does answer questions for families about what occurred, and decreases the opportunity for misconduct and evidence tampering.
- 10. Reopen all of the BCA's and county prosecutors' fatal law enforcement cases.** In the press conference following the trial of Justine Ruszczyk Damond's fatal shooting by Minneapolis police,

Hennepin County Prosecutor Mike Freeman acknowledged his office had to *“take the initiative to rectify some issues with the BCA’s work. Initially there were mistakes by both the Minneapolis police and the BCA.”* Freeman’s criticism of the BCA’s work was also caught on video at an employee holiday party in 2017, where he stated, *“they’re called investigators...and they haven’t done their job.”* Following the trial verdict, Justine’s father was quoted stating there was *“active resistance of a number of Minneapolis officers, including the head of their union [Robert Kroll] and either active resistance or gross incompetence of the BCA, particularly at the beginning of the investigation.”* Governor Walz told reporters after the trial in reference to criticism of the BCA’s performance, *“I need to understand what happened here and what brought up those accusations, and to understand whether we can validate them, and if we do what are the processes to move and alleviate that.”* It was reported *“his office was collecting information about the accusations of poor work.”*

In light of all these damning statements, ALL cases where the BCA led the investigation must reopened and reexamined. The most notable case that must be reopened is that of Jamar Clark. Over twenty witness accounts were dismissed by the BCA, MPD, and the Hennepin County Attorney’s Office, despite the fact that some of them took pictures and videos. One witness even recorded what he saw immediately afterwards and went to the St. Paul FBI Office and the BCA with the information, but was never contacted or interviewed. There were discrepancies with what MPD reported, how evidence was collected and processed by MPD and the BCA, and with what witnesses reported. Finally, it must also be acknowledged that Mike Freeman recently completed out-patient treatment for alcohol abuse after an incident that occurred last spring where witnesses reported he appeared to be under the influence of alcohol and displaying erratic behavior while working at a community event. The following day he took a 6 week medical leave. Alcoholism does not suddenly occur; it typically progresses over time. This calls into question his judgement and if sound decisions were made about evidence involving fatal law enforcement cases in Hennepin County. All fatal law enforcement cases investigated by the BCA must be reopened and full transparency of the investigations provided to the affected families and the public.

These recommendations are provided by Communities United Against Police Brutality, Justice 4 Marcus Golden, Racial Justice Network, Take A Knee Nation - Minneapolis, Twin Cities Coalition for Justice 4 Jamar Clark, Native Lives Matter, Disability Justice Network, Justice 4 Cordale Handy, Justice for Isak Aden, Blue LIES Matter, Justice for Justine Damond Ruszczyk, and Black Lives Matter Twin Cities Metro

Code of Conduct for Law Enforcement Officials

Adopted by General Assembly resolution 34/169 of 17 December 1979

Article 1

Law enforcement officials shall at all times fulfil the duty imposed upon them by law, by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession.

Commentary:

(a) The term "law enforcement officials", includes all officers of the law, whether appointed or elected, who exercise police powers, especially the powers of arrest or detention.

(b) In countries where police powers are exercised by military authorities, whether uniformed or not, or by State security forces, the definition of law enforcement officials shall be regarded as including officers of such services.

(c) Service to the community is intended to include particularly the rendition of services of assistance to those members of the community who by reason of personal, economic, social or other emergencies are in need of immediate aid.

(d) This provision is intended to cover not only all violent, predatory and harmful acts, but extends to the full range of prohibitions under penal statutes. It extends to conduct by persons not capable of incurring criminal liability.

Article 2

In the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons.

Commentary:

(a) The human rights in question are identified and protected by national and international law. Among the relevant international instruments are the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Convention on the Suppression and Punishment of the Crime of Apartheid, the Convention on the Prevention and Punishment of the Crime of Genocide, the Standard Minimum Rules for the Treatment of Prisoners and the Vienna Convention on Consular Relations.

(b) National commentaries to this provision should indicate regional or national provisions identifying and protecting these rights.

Article 3

Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty.

Commentary:

(a) This provision emphasizes that the use of force by law enforcement officials should be exceptional; while it implies that law enforcement officials may be authorized to use force as is reasonably necessary under the circumstances for the prevention of crime or in effecting or assisting in the lawful arrest of offenders or suspected offenders, no force going beyond that may be used.

(b) National law ordinarily restricts the use of force by law enforcement officials in accordance with a principle of proportionality. It is to be understood that such national principles of proportionality are to be respected in the interpretation of this provision. In no case should this provision be interpreted to authorize the use of force which is disproportionate to the legitimate objective to be achieved.

(c) The use of firearms is considered an extreme measure. Every effort should be made to exclude the use of firearms, especially against children. In general, firearms should not be used except when a suspected offender offers armed resistance or otherwise jeopardizes the lives of others and less extreme measures are not sufficient to restrain or apprehend the suspected offender. In every instance in which a firearm is discharged, a report should be made promptly to the competent authorities.

Article 4

Matters of a confidential nature in the possession of law enforcement officials shall be kept confidential, unless the performance of duty or the needs of justice strictly require otherwise.

Commentary:

By the nature of their duties, law enforcement officials obtain information which may relate to private lives or be potentially harmful to the interests, and especially the reputation, of others. Great care should be exercised in safeguarding and using such information, which should be disclosed only in the performance of duty or to serve the needs of justice. Any disclosure of such information for other purposes is wholly improper.

Article 5

No law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor may any law enforcement official invoke superior orders or exceptional circumstances such as a state of war or a threat of war, a threat to national security, internal political instability or any other public emergency as a justification of torture or other cruel, inhuman or degrading treatment or punishment.

Commentary:

(a) This prohibition derives from the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly, according to which:

"[Such an act is] an offence to human dignity and shall be condemned as a denial of the purposes of the Charter of the United Nations and as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights [and other international human rights instruments]."

(b) The Declaration defines torture as follows:

". . . torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted by or at the instigation of a public official on a person for such purposes as obtaining from him or a third person information or confession, punishing him for an act he has committed or is suspected of having committed, or intimidating him or other persons. It does not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions to the extent consistent with the Standard Minimum Rules for the Treatment of Prisoners."

(c) The term "cruel, inhuman or degrading treatment or punishment" has not been defined by the General Assembly but should be interpreted so as to extend the widest possible protection against abuses, whether physical or mental.

Article 6

Law enforcement officials shall ensure the full protection of the health of persons in their custody and, in particular, shall take immediate action to secure medical attention whenever required.

Commentary:

(a) "Medical attention", which refers to services rendered by any medical personnel, including certified medical practitioners and paramedics, shall be secured when needed or requested.

(b) While the medical personnel are likely to be attached to the law enforcement operation, law enforcement officials must take into account the judgement of such personnel when they recommend providing the person in custody with appropriate treatment through, or in consultation with, medical personnel from outside the law enforcement operation.

(c) It is understood that law enforcement officials shall also secure medical attention for victims of violations of law or of accidents occurring in the course of violations of law.

Article 7

Law enforcement officials shall not commit any act of corruption. They shall also rigorously oppose and combat all such acts.

Commentary:

(a) Any act of corruption, in the same way as any other abuse of authority, is incompatible with the profession of law enforcement officials. The law must be enforced fully with respect to any law enforcement official who commits an act of corruption, as Governments cannot expect to enforce the law among their citizens if they cannot, or will not, enforce the law against their own agents and within their agencies.

(b) While the definition of corruption must be subject to national law, it should be understood to encompass the commission or omission of an act in the performance of or in connection with one's duties, in response to gifts, promises or incentives demanded or accepted, or the wrongful receipt of these once the act has been committed or omitted.

(c) The expression "act of corruption" referred to above should be understood to encompass attempted corruption.

Article 8

Law enforcement officials shall respect the law and the present Code. They shall also, to the best of their capability, prevent and rigorously oppose any violations of them.

Law enforcement officials who have reason to believe that a violation of the present Code has occurred or is about to occur shall report the matter to their superior authorities and, where necessary, to other appropriate authorities or organs vested with reviewing or remedial power.

Commentary:

(a) This Code shall be observed whenever it has been incorporated into national legislation or practice. If legislation or practice contains stricter provisions than those of the present Code, those stricter provisions shall be observed.

(b) The article seeks to preserve the balance between the need for internal discipline of the agency on which public safety is largely dependent, on the one hand, and the need for dealing with violations of basic human rights, on the other. Law enforcement officials shall report violations within the chain of command and take other lawful action outside the chain of command only when no other remedies are available or effective. It is understood that law enforcement officials shall not suffer administrative or other penalties because they have reported that a violation of this Code has occurred or is about to occur.

(c) The term "appropriate authorities or organs vested with reviewing or remedial power" refers to any authority or organ existing under national law, whether internal to the law enforcement agency or independent thereof, with statutory, customary or other power to review grievances and complaints arising out of violations within the purview of this Code.

(d) In some countries, the mass media may be regarded as performing complaint review functions similar to those described in subparagraph (c) above. Law enforcement officials may, therefore, be justified if, as a last resort and in accordance with the laws and customs of their own countries and with the provisions of article 4 of the present Code, they bring violations to the attention of public opinion through the mass media.

(e) Law enforcement officials who comply with the provisions of this Code deserve the respect, the full support and the co-operation of the community and of the law enforcement agency in which they serve, as well as the law enforcement profession.