



October 27, 2017

Via Overnight Mail and Electronic Mail

The Honorable Jeffrey B. Johnson
United States Attorney for the Eastern District of Missouri
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St. Louis, MO 63102
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RE: Request for federal investigation of law enforcement response to protests following the acquittal of former St. Louis officer Jason Stockley

Dear U.S. Attorney Jensen:

On behalf of the NAACP Legal Defense and Educational Fund, Inc. (LDF), I write to you with urgency to underscore the need for an independent investigation of the conduct of St. Louis Metropolitan Police Department (SLMPD) officers during public demonstrations following the acquittal of SLMPD officer Jason Stockley for the shooting death of Anthony Lamar Smith.¹ In a letter dated October 4, 2017,² your predecessor, Acting U.S. Attorney Carrie Costantin, committed to considering any credible evidence of willful deprivation of civil rights by law enforcement in violation of 18 U.S.C. §242 to determine whether federal action is appropriate.³ Additionally, your predecessor's letter stated that any investigation by your office would be coordinated with the St. Louis Circuit Attorney's Office, which would identify any potential

¹ St. Louis Mayor Krewson formerly requested such an investigation last month. *See* Press Release, Lyda Krewson, Office of the Mayor, St. Louis, Mo., Mayor Krewson and Chief O'Toole Call For Independent Investigation Into Police Department's Response to Demonstrations (Sept. 27, 2017), <https://www.stlouis-mo.gov/government/departments/mayor/news/mayor-krewson-and-chief-otoole-call-for-independent-investigation.cfm>.

² Letter from Carrie Costantin, Acting U.S. Attorney, E.D., Mo., U.S. Dep't of Justice, to Lyda Krewson, Office of the Mayor, St. Louis, Mo., (Oct. 4, 2017), http://www.stltoday.com/costantin-letter/pdf_e0ba389b-b3fe-55b8-84f0-6bc802973163.html.

³ 18 U.S.C. §242 prohibits the willful deprivation of a person's constitutional rights, or other rights secured under U.S. law, by a person acting under color of law. The Justice Department has successfully prosecuted St. Louis area police officers in the past. *See, e.g.*, Amended Judgment, U.S. v. Pullen, No. 4:09-cr-00624-TWS (E.D. Mo. March 30, 2011); *see also* Press Release, Office of Public Affairs, U.S. Dep't of Justice, Former St. Louis,



violations of state and local law, and your office would forward any allegations relating to pattern or practice violations to the Justice Department's Civil Rights Division.⁴ We understand you stand by your predecessor's commitment to investigating potential violations of federal laws.⁵

We encourage you to undertake these measures and to initiate an investigation. To aid you in this effort we submit to you by this letter, a compendium of detailed accounts of potentially unlawful conduct by SLMPD officers in response to the demonstrations from September 15, 2017, to the present. We ask that you investigate each of these incidents as part of your review of the Department's conduct. We also urge you to expand any investigation to officers from the St. Louis County and Richmond Heights police departments and other police departments that responded to demonstrations conducted within St. Louis city limits.

Who We Are

LDF is the nation's oldest civil rights legal organization. Since our founding in 1940 by Thurgood Marshall, we have advanced equitable opportunities for African Americans and other communities of color in the areas of voting, education, economic justice, and criminal justice. For the past three years, we have partnered with activists and lawyers in St. Louis County to promote policing reforms in Ferguson, Missouri,⁶ and in the City of St. Louis in responding to the mistreatment of protestors in the wake of the *Stockley* verdict.

Since the acquittal of former officer Jason Stockley, LDF has monitored the responses of SLMPD leadership and rank and file officers to the thousands of protesters who continue to demonstrate against the outcome of the case. We will not parse words: the response by law enforcement has been in many instances militarized, violent, and

Missouri, Area Police Officer Pleads Guilty to Civil Rights Violations (July 28, 2010), <https://www.justice.gov/opa/pr/former-st-louis-missouri-area-police-officer-pleads-guilty-civil-rights-violations>.

⁴ 34 U.S.C.A. §12601.

⁵ See Robert Patrick, *New U.S. attorney vows increased focus on violent crime, opioids*, ST. LOUIS POST-DISPATCH, Oct. 11, 2017, http://www.stltoday.com/news/local/crime-and-courts/new-u-s-attorney-vows-increased-focus-on-violent-crime/article_670e567e-e0a5-5be8-ad4b-1831c56ae8df.html.

⁶ See, e.g., Written Testimony of NAACP LDF Regarding the Proposed Consent Decree between the City of Ferguson and the U.S. Department of Justice, *U.S. v. Ferguson*, No. 4:16-cv-180-CDP (E.D. Mo. Apr. 11, 2016), <http://www.naacpldf.org/press-release/ldf-provides-written-testimony-ferguson-consent-decree-advance-court-ordered-public-he>; see also Letter from Sherrilyn Ifill, Director-Counsel, NAACP LDF, to Judge Maura McShane, Presiding Judge, 21st Judicial Circuit (Jan. 5, 2015), <http://www.naacpldf.org/document/ldf-open-letter-judge-maura-mcshane>; NAACP LDF, *Ferguson in Focus* (2014), <http://www.naacpldf.org/publication/ferguson-in-focus>.

shocking. SLMPD has deployed riot police and SWAT teams to what have been, by and large, peaceful demonstrations. We are deeply concerned by the use of force deployed by officers of the SLMPD against protesters exercising their First Amendment rights. To be clear, this is not an instance of one or two incidents. The sheer number of allegations of police violence and constitutional violations in the past several weeks is alarming, and suggestive of deep and systemic problems and deficiencies within the SLMPD.

For this reason, we present, below, a list of such incidents for your review. Each of these incidents may individually violate federal, state and municipal laws, as well as internal SLMPD policies and procedures. Collectively they present a damning picture of law enforcement practices in the SLMPD. We encourage your careful and thorough review of each incident, and your recommendation of any disciplinary or legal action that should be taken to address conduct by police officers that violates laws or policies that govern the police department. We note that this list of incidents is not exhaustive. Many others have been identified by local activists and leaders, and should be similarly investigated.

Unlawful arrests and incidents of excessive use of force during arrests

Unlawful and violent arrests have been widely reported and continue to occur regularly. News reports indicate that SLMPD officers and other law enforcement agencies have wrongfully—and violently according to many victims—arrested hundreds of peaceful protesters, journalists, and bystanders. As indicated below, numerous victims and witnesses have attested in news reports, lawsuits, and social media to the brutal treatment of protesters and the unlawful arrests. For example:

- There have been consistent, widespread accounts of physical assault and unjustified and aggressive use of chemical agents against peaceful protesters, including against individuals after they were already restrained.⁷

⁷ Jessica Karins et al., *ACLU, protesters claim police used chemical agents, Tasers illegally*, THE ST. LOUIS AMERICAN, Oct. 5, 2017, http://www.stlamerican.com/news/local_news/aclu-protestors-claim-police-use-chemical-agents-tasers-illegally/article_fe514476-a967-11e7-a36f-db72049ab122.html; Jeremy Kohler, *Post-Dispatch demands charges be dropped against reporter covering protest*, ST. LOUIS POST-DISPATCH, Sept. 21, 2017, http://www.stltoday.com/news/local/crime-and-courts/p-d-demands-charges-dropped-against-reporter-covering-protest/article_bb15e07a-7147-56b3-8629-3ff9ae8eec0d.html; Jamiles Lartey, *St. Louis police condemned for 'alarming' attitude towards protesters*, THE GUARDIAN, Sept. 17, 2017, <https://www.theguardian.com/us-news/2017/sep/19/st-louis-police-condemned-alarming-behavior>; Doyle Murphy, et al., *Cops Mace Protesters as Scene in Downtown St. Louis Intensifies*, RIVERFRONT TIMES, Sept. 15, 2017, <https://www.riverfronttimes.com/newsblog/2017/09/15/cops-mace-protesters-as-scene-in-downtown-st-louis-intensifies>.

- A lawsuit by the ACLU of Missouri alleges that protesters who were wearing protective goggles had them removed by police officers who then pepper sprayed them in the face.⁸
- One protester gave a first-hand account and posted a picture on social media showing the aftermath of an incident in which he claims an officer laughed at him after he inquired about a fellow protester, and was then pepper-sprayed directly in his face.⁹ The picture shows the young man lying on the ground with his face completely covered in white foam.
- Another protester confined to a wheelchair gave a first-hand account of filming an arrest and then being sprayed with a chemical spray “out of nowhere.”¹⁰
- Several victims have reported physical abuse by officers who intentionally overtightened plastic zip ties used to restrain arrestees, which caused their fingers and hands to turn purple and nerve damage.¹¹
- A protest leader reported that he was assaulted with a taser, held in jail, and released without medical care. When he was released, the prong from the taser was still in his arm.¹²
- One victim, an Air Force lieutenant, who was a bystander and only observing the protests, reported being kicked in the face and peppered sprayed before being dragged away, despite being “train[ed] on how to arrest and be arrested” and “obey[ing] every command” that he was given.¹³

⁸ Complaint, Ahmad et al. v. St. Louis, No. 4:17-cv-02455 (E.D. Mo. Sept. 22, 2017), available at https://www.aclu-mo.org/files/2415/0609/7954/ahmad_dreith_complaint.pdf.

⁹ Rasheen Aldridge (@SheenBean32), TWITTER (Sept. 30, 2017, 6:40 AM), <https://twitter.com/SheenBean32/status/914122684468011009>.

¹⁰ Nassim Benchaabane (@NassimBnchabane), TWITTER (Sept. 29, 2017), <https://twitter.com/i/web/status/913965086955491328>.

¹¹ Interview by Janelle O’Dea with Mario Ortega, ST. LOUIS POST DISPATCH, Sept. 25, 2017, http://www.stltoday.com/news/local/crime-and-courts/undercover-cop-air-force-officer-med-student-among-those-police/article_e2dcc3de-f228-5311-a35f-e60e1bd9ebee.html; Interview by Janelle O’Dea with Marvin Malone, ST. LOUIS POST DISPATCH, Sept. 25, 2017, http://www.stltoday.com/news/local/crime-and-courts/undercover-cop-air-force-officer-med-student-among-those-police/article_e2dcc3de-f228-5311-a35f-e60e1bd9ebee.html

¹² ArchCityDefenders (@ArchCityDefense), TWITTER (Sept. 30, 2017, 2:15 PM), <https://twitter.com/ArchCityDefense/status/914237175012749313>.

¹³ Jeremy Kohler et al., *Undercover cop, Air Force officer, med student among those police swept up during last Sunday’s downtown protest*, ST. LOUIS POST-DISPATCH (Sept. 25, 2017),

- A documentary filmmaker who attested to a violent arrest stated during an interview: “I turned my camera off and asked if there was anywhere I could go, but I was denied the right to leave,” he said. “I didn’t want to be a part of this.” Officers ordered him to turn his camera off and get down on the ground, and he complied. “The only thing I cared about then was putting my arms around my wife,” he said. “I just kept saying: ‘It’s going to be OK.’” Burbridge said officers then grabbed him by both his arms and dragged him away. “I just said: ‘I am a member of the media, I am not protesting, I am not resisting,’” Burbridge said. An officer sprayed his face with a chemical, his head was forced into the ground and an officer ripped his camera from his neck. Burbridge claims his hands were then bound by zip ties before two officers started kicking him in the back, neck, arm and legs while he lay restrained on the ground. He said he was knocked unconscious on the pavement for about 10 to 30 seconds. After he came to, Burbridge said an officer lifted his head by his hair and pepper sprayed him in the face again.¹⁴
- An undercover police officer, who is African American, was arrested and bloodied.¹⁵
- The ACLU of Missouri has documented through legal observers numerous instances of officers arresting people with questionable probable cause.¹⁶
- Members of the Black clergy have also suffered police violence during the protests. Rev. Erin Counihan described her encounter with police to the Riverfront Times and the violent arrest of protest leader Rev. Darryl Gray: “At the back of the protest, when I used my voice to express concern that officers were putting citizens’ safety in danger, I was grabbed, and I

http://www.stltoday.com/news/local/crime-and-courts/undercover-cop-air-force-officer-med-student-among-those-police/article_e2dcc3de-f228-5311-a35f-e60e1bd9ebee.html.

¹⁴ Jeremy Kohler et al., *Undercover cop, Air Force officer, med student among those police swept up during last Sunday’s downtown protest*, ST. LOUIS POST-DISPATCH (Sept. 25, 2017), http://www.stltoday.com/news/local/crime-and-courts/undercover-cop-air-force-officer-med-student-among-those-police/article_e2dcc3de-f228-5311-a35f-e60e1bd9ebee.html.

¹⁵ See Rachel Lippmann, *Protesters’ new demand: St. Louis interim police chief must go*, ST. LOUIS PUBLIC RADIO, Sept. 25, 2017, <http://news.stlpublicradio.org/post/protesters-new-demand-st-louis-interim-police-chief-must-go#stream/0>; Jeremy Kohler et al., *Undercover cop, Air Force officer, med student among those police swept up during last Sunday’s downtown protest*, ST. LOUIS POST-DISPATCH, Sept. 25, 2017, http://www.stltoday.com/news/local/crime-and-courts/undercover-cop-air-force-officer-med-student-among-those-police/article_e2dcc3de-f228-5311-a35f-e60e1bd9ebee.html.

¹⁶ Letter from Anthony Rothert, Legal Director, ACLU of Missouri, to Lyda Krewson, et al. (Sept. 16, 2017), https://www.aclu-mo.org/files/7715/0561/1669/krewson_otoole_letter_day2_stockley_letterhead_v3.pdf.

was shoved by many officers,” Counihan told reporters. “When the Rev. Darryl Gray used his voice to express concern that officers were putting my safety in danger, he was swarmed, he was thrown to the ground, he was pepper-sprayed in the face and arrested with another man’s knee in his back.”¹⁷ Rev. Gray, who is 63 years old, was wearing his liturgical collar at the time of his arrest. Video showing police dragging Rev. Gray was posted onto Twitter by an activist.¹⁸

- A long-time activist told the St. Louis Post-Dispatch in an interview that his arrest was “the most brutal I’ve ever experienced... I thought I was going to die,” an account that came after his neck was pressed against the crossbar of his bike while he repeatedly told police officers he couldn’t breathe.¹⁹
- The St. Louis Post-Dispatch reported that one of its journalists who was covering the protests with displayed credentials was arrested and bloodied after he was forcefully pushed to the ground by police officers. After an officer held his head down with his boot, his wrists were bound with zip ties and while restrained in this manner a police officer deliberately sprayed him in the face with a chemical spray. During his interaction with police, an officer also reviewed the contents of the reporter’s phone.²⁰
- St. Louis County and Richmond Heights police officers are also implicated. The violent police response to protesters at the St. Louis Galleria mall became a national story when a crowd of protesters and bystanders reported that they were violently thrown to the ground,

¹⁷ Doyle Murphy, *Rev. Darryl Gray, Arrested Outside Ballpark Village Friday, Speaks Out*, RIVERFRONT TIMES, Oct. 2, 2017, <https://www.riverfronttimes.com/newsblog/2017/10/02/rev-darryl-gray-arrested-outside-ballpark-village-friday-speaks-out>; see also Erin Heffernan, *St. Louis faith leaders criticize arrest, pepper-spraying of clergyman at protest*, ST. LOUIS POST-DISPATCH, Oct. 3, 2017, http://www.stltoday.com/news/local/metro/st-louis-faith-leaders-criticize-arrest-pepper-spraying-of-clergyman/article_f065d923-634d-526a-8b0f-45dc443ec1cb.html.

¹⁸ Search4Swag (@Search4Swag), TWITTER (Sept. 29, 2017, 7:42 PM), <https://twitter.com/search4swag/status/913957256827424768>.

¹⁹ Doug Moore, *As arrests are made, protesters question the tactics used by St. Louis police*, ST. LOUIS POST-DISPATCH, Sept. 19, 2017, http://www.stltoday.com/news/local/metro/as-arrests-are-made-protesters-question-the-tactics-used-by/article_e58481b7-f7c2-541e-91d2-31a6379f272c.html; Jamiles Lartey, *St. Louis police condemned for ‘alarming’ attitude towards protesters*, THE GUARDIAN, Sept. 17, 2017, <https://www.theguardian.com/us-news/2017/sep/19/st-louis-police-condemned-alarming-behavior>.

²⁰Jeremy Kohler, *Post-Dispatch demands charges be dropped against reporter covering protest*, ST. LOUIS POST-DISPATCH, Sept. 21, 2017, http://www.stltoday.com/news/local/crime-and-courts/p-d-demands-charges-dropped-against-reporter-covering-protest/article_bb15e07a-7147-56b3-8629-3ff9ae8eec0d.html.

assaulted, and arrested. Victims and witnesses at the Galleria protest verified their experiences in testimony before St. Louis Board of Aldermen, describing both fear and violence as youth and elderly marchers were tackled and assaulted by police.²¹

- Parents of a college student who were at the Galleria buying their son a pair of shoes described how they were caught in a crowd of demonstrators, and as they were trying to leave they were shoved by police and then watched their son get thrown on the ground and arrested, despite not being a part of the protest.²²

Dispersal Orders

Local law enforcement leadership has defended the mass arrests that have occurred in St. Louis and surrounding cities, in part, by claiming individuals were violating a dispersal order or were not engaging in peaceful protests. We question the veracity of these claims. Numerous reports indicate that many of the protesters were arrested en masse for “failure to disperse” without police issuing a dispersal order.²³ Indeed, the ACLU of Missouri has already filed a lawsuit against the city alleging a failure by police to give a constitutionally adequate warning to protesters to disperse before making arrests.²⁴ Police officers’ alleged failure to give proper dispersal warnings throughout these protests have perpetuated the unlawful and mass arrests across the city.

Additionally, news reports have documented police blocking peoples’ ability to disperse using a military-style technique called “kettling,” in which police officers

²¹ See Doyle Murphy, *Elected Officials, Protesters and Clergy Demand Investigation Into Galleria Arrests*, RIVERFRONT TIMES, Sept. 27, 2017, <https://www.riverfronttimes.com/newsblog/2017/09/27/elected-officials-protesters-and-clergy-demand-investigation-into-galleria-arrests>; see also Sarah Fenske, *County Police Shut Down Protest at St. Louis Galleria*, RIVERFRONT TIMES, Sept. 23, 2017, <https://www.riverfronttimes.com/newsblog/2017/09/23/county-police-shut-down-protest-at-st-louis-galleria>.

²² KMOV.com Staff, *‘This is way wrong’; Columbia mom questions son’s Galleria protest arrest*, KMOV, Sept. 23, 2017, <http://www.kmov.com/story/36436290/police-make-22-arrests-during-protest-at-st-louis-galleri>.

²³ Denise Hollinshed, *Protesters arrested at Galleria are released; ACLU complains about force used in arrests*, ST. LOUIS POST-DISPATCH, Sept. 25, 2017, http://www.stltoday.com/news/local/crime-and-courts/protesters-gather-in-clayton-as-those-arrested-in-saturday-s/article_5a1ad180-4eff-5581-bc94-a9816723f967.html; Letter to the editor, *Alarming that police use violence to punish and intimidate*, ST. LOUIS POST-DISPATCH, Sept. 25, 2017, http://www.stltoday.com/opinion/mailbag/alarming-that-police-use-violence-to-punish-and-intimidate/article_ccdafb80-fc56-5245-b1c7-a488cee44997.html.

²⁴ Complaint, Ahmad et al. v. St. Louis, No. 4:17-cv-02455 (E.D. Mo. Sept. 22, 2017), available at https://www.aclu-mo.org/files/2415/0609/7954/ahmad_dreith_complaint.pdf.

surround and block individuals to prevent them from leaving a perimeter.²⁵ Witnesses have described how police trapped protesters, bystanders, and journalists by blocking off exit routes and then proceeding to use chemical agents against and physically assault individuals trapped by the police.²⁶ Video of one such incident shows the first-hand account by a documentarian caught in a kettle, showing individuals attempting to leave area, alarmed that they were trapped by police, complying with police orders to lie on the ground, and then, despite being on the ground in a submissive position, being sprayed in the face with a chemical agent.²⁷ The images of compliant individuals lying on the street being pepper sprayed are frightening and should alarm all who view them. Despite the public outcry and controversy of using these tactics against peaceful protesters, SMPLD reportedly has continued to use kettling to trap, assault, and make arrests.²⁸

The Role of Police Leadership and Senior Officers in Directing or Sanctioning Aggressive Tactics

Notwithstanding interim Commissioner O’Toole’s call for an independent investigation, it is clear that police leadership has contributed to the pattern of violations being reported. Accordingly, we believe your review should include an investigation into whether and to what extent Commissioner O’Toole and police supervisors in the chain of command directed or encouraged, implicitly or expressly, aggressive tactics against protesters in violation of federal civil rights laws. Several facts support this as a point of inquiry. First, as described, reporting indicates SLMPD officers assaulted and unlawfully arrested protesters, journalists, and bystanders with

²⁵ Jeremy Kohler et al., *Undercover cop, Air Force officer, med student among those police swept up during last Sunday’s downtown protest*, ST. LOUIS POST-DISPATCH, Sept. 25, 2017, http://www.stltoday.com/news/local/crime-and-courts/undercover-cop-air-force-officer-med-student-among-those-police/article_e2dcc3de-f228-5311-a35f-e60e1bd9ebee.html.

²⁶ Interview by Janelle O’Dea with Marvin Malone, ST. LOUIS POST DISPATCH, Sept. 25, 2017, http://www.stltoday.com/news/local/crime-and-courts/undercover-cop-air-force-officer-med-student-among-those-police/article_e2dcc3de-f228-5311-a35f-e60e1bd9ebee.html; Interview by Janelle O’Dea with Mark Gullet, Jr., ST. LOUIS POST DISPATCH, Sept. 25, 2017, http://www.stltoday.com/news/local/crime-and-courts/undercover-cop-air-force-officer-med-student-among-those-police/article_e2dcc3de-f228-5311-a35f-e60e1bd9ebee.html; Doug Moore, *As arrests are made, protesters question the tactics used by St. Louis police*, ST. LOUIS POST-DISPATCH, Sept. 19, 2017, http://www.stltoday.com/news/local/metro/as-arrests-are-made-protesters-question-the-tactics-used-by/article_e58481b7-f7c2-541e-91d2-31a6379f272c.html; Mike Faulk (@Mike_Faulk), TWITTER (Sept. 17, 2017, 9:24 PM), https://twitter.com/Mike_Faulk/status/909634150503735301.

²⁷ Ashley Lisenby, *Live streamers hit the streets of St. Louis along with protesters*, ST. LOUIS POST-DISPATCH, Sept. 22, 2017, http://www.stltoday.com/news/local/metro/live-streamers-hit-the-streets-of-st-louis-along-with/article_36f19a65-c5a6-506a-a26b-98bb13ddfe10.html.

²⁸ Tasneem Nashrulla, *This Is What’s Happening in St. Louis Where Cops Have Arrested Hundreds of People Protesting Police Brutality*, BUZZFEED NEWS, Oct. 6, 2017, https://www.buzzfeed.com/tasneemnashrulla/st-louis-protest-arrests?utm_term=.fs22nO8QY6#.suK8Lpk7DP.

impunity.²⁹ The widespread absence of adherence to professional—indeed constitutional—policing standards indicates that officers felt empowered to conduct themselves in this fashion without any apparent fear of reprimand or discipline.

To date we are not aware of any disciplinary action that has been taken against a single officer; not even against an officer who was caught on video reversing an unmarked police car through a crowd of protesters at high speed. In a statement, SLMPD actually *defended* the officer by claiming that the crowd of protesters started moving towards the car in a “threatening manner” and that road closures prevented the officer from driving forward.³⁰ The video of the incident contradicts this account, and protesters can be seen screaming and jumping out of the vehicle’s path as it reversed through the crowd.³¹

Incredibly, a photojournalism student reported a similar incident involving an unmarked police car driving at high speed through a crowd of media and demonstrators. At first, the student believed it to be an attack similar to the killing of a protester in Charlottesville until he was able to view uniformed police officers in the vehicle.³² In his account, he described people diving out of the way and police pepper spraying people from inside their vehicle. Responsible police leadership would unequivocally reject this kind of civilian endangerment.

The officer conduct displayed over the past several weeks is consistent with an extremely unfortunate pattern in which SLMPD leadership spreads an “us against them” policing philosophy. This is underscored by a series of troubling events, beginning with uniformed officers taunting protesters with chants of “whose streets, our streets” while arresting people,³³ coopting a phrase commonly used by protesters.

²⁹ See generally, *supra* notes 4-28.

³⁰ *St. Louis police car backs up towards protesters; it's on video*, CBS NEWS, Sept. 18, 2017, <https://www.cbsnews.com/news/st-louis-police-car-backs-up-toward-protesters-its-on-video/>.

³¹ Doyle Murphy(@DoyleMurphy), TWITTER (Sept. 17, 2017, 5:33 PM), <https://twitter.com/DoyleMurphy/status/909576172228550656>.

³² Davis Winborne, *COMMENTARY: Police posed a greater danger to journalists than demonstrators in St. Louis*, MISSOURIAN, Sept. 24, 2017, https://www.columbiamissourian.com/from_the_newsroom/commentary-police-posed-a-greater-danger-to-journalists-than-demonstrators/article_27e06384-a063-11e7-b27b-77c18c5bce7d.html.

³³ Susan Hogan, *St. Louis officers chant ‘whose streets, our streets’ while arresting protesters*, WASHINGTON POST, Sept. 18, 2017, https://www.washingtonpost.com/news/morning-mix/wp/2017/09/18/st-louis-officers-chant-whose-streets-our-streets-while-arresting-protesters-against-police-killing/?utm_term=.5422d748e9d6.

This incident was widely reported and caught on video.³⁴ Such conduct is, standing on its own, abhorrent; yet the police chanting followed a press conference held by Mayor Krewson and Commissioner O’Toole, in which Commissioner O’Toole stated that “the police owned the night,” asserted that “this is our city,” and took pains to repeatedly refer to protesters who purportedly violated the law as “criminals” even though it was not possible at that point to have prosecuted any of the individuals who had been arrested.³⁵ Commissioner O’Toole’s language was unacceptable, divisive, and, coming from the top law enforcement official in the city, sends an unambiguous message to rank and file officers of an “us versus them” mentality. This is a complete failure of police leadership and an indication that line officers lack responsible supervision and oversight in responding to protests.

Finally, while we understand there were some instances of property damage, and categorically condemn any acts of violence, we question the veracity of the police department’s representations of instances of nonpeaceful protests. St. Louis police fired pepper pellets and tear gas to dispel crowds they described as “violent” on their Twitter feed, yet a joint statement from highly respected local organizations ArchCity Defenders, St. Louis Action Council and Missourians Organizing for Reform and Empowerment countered that city officials were intentionally demonizing protesters by preemptively claiming they had turned violent.³⁶ SLMPD has continued to tweet images suggesting widespread violence among protesters, which has been largely disputed by the facts being reported.³⁷ For example, police posted photos and information regarding an arrest of two individuals involved in a car crash in which guns, drugs, and a mask was found in the vehicle with the hashtag “#stlverdict,”³⁸ even

³⁴ Osita Nwanevu, *St. Louis Police Chant “Whose Streets? Our Streets!” as Protesters Against Stockley Verdict Continue*, SLATE, Sept. 18, 2017, http://www.slate.com/blogs/the_slatest/2017/09/18/st_louis_police_chant_whose_streets_our_streets.html.

³⁵ St. Louis, MO Police (@SLMPD), TWITTER (Sept. 17, 2017, 11:00 PM), <https://twitter.com/SLMPD/status/909658289297801217>.

³⁶ Joint Statement, ArchCity Defenders, St. Louis Action Council, and Missourians Organizing for Reform and Empowerment, *Following Stockley’s Acquittal, Peaceful Protesters are Met with Militarized Police in Riot Gear, Pepper Spray, National Guard, and Threats to First Amend. Rights.* (Sept. 15, 2017 <http://www.archcitydefenders.org/2017/09/15/following-stockleys-acquittal-peaceful-protesters-are-met-with-militarized-police-in-riot-gear-pepper-spray-national-guard-and-threats-to-first-amendment-rights/>).

³⁷ See Nassim Benchaabane et al., *9 officers injured in day of protests downtown and in Central West End, mayor’s home damaged*, ST. LOUIS POST-DISPATCH, Sept. 16, 2016, http://www.stltoday.com/news/local/crime-and-courts/protesters-pepper-sprayed-arrested-by-police-as-stockley-protests-turn/article_e1ae8685-64bc-5833-8785-2859002b1276.html.

³⁸ St. Louis, MO Police (@SLMPD), TWITTER, (Sept. 17, 2017, 8:45 PM), <https://twitter.com/SLMPD/status/909624489805201408>.



though it was not clear that the individuals were connected with the protest.³⁹ In another tweet, the St. Louis County Police Department boasted a picture of police confiscating “bottles with unknown chemicals used against police,”⁴⁰ bottles which were clearly labeled “APPLE CIDER” and which in fact turned out to be apple cider and was being used by protesters to alleviate the effects of tear gas being used against them.⁴¹

Conclusion

The incidents summarized in this letter provide ample factual support for an investigation to be initiated by your office into specific incidents and actions committed by St. Louis area rank and file officers, supervisors in the chain of command, and interim Commissioner O’Toole himself. Unfortunately, the widespread allegations of unlawful police conduct reflect what appears to be a regional issue of abusive and unconstitutional policing by local law enforcement agencies. This cannot be permitted to continue; there must be accountability. We hope that you will act accordingly.

Thank you for considering this request. Please do not hesitate to contact me at 212-965-2201.

Sincerely yours,

A handwritten signature in cursive script that reads "Sherrilyn A. Ifill".

Sherrilyn A. Ifill
President and Director Counsel

cc: Lydra Krewson, Mayor, City of St. Louis
Lawrence O’Toole, Interim Police Commissioner, St. Louis Metropolitan Police Department
Kimberly M. Gardner, Circuit Attorney, St. Louis Circuit Attorney’s Office
Lewis E. Reed, President, Board of Aldermen, City of St. Louis

³⁹ Ashley Jost et al., *More than 80 arrested after protest violence downtown; ‘Police owned tonight,’ chief says*, ST. LOUIS POST-DISPATCH (Sept. 18, 2017), http://www.stltoday.com/news/local/govt-and-politics/police-make-multiple-arrests-after-protesters-break-windows-downtown/article_ebf53117-0396-515c-a6c2-84d50c6bbdfc.html.

⁴⁰ St. Louis County PD (@stlcountypd), TWITTER (Sept. 17, 2017, 9:38 PM), <https://twitter.com/stlcountypd/status/909607645195022336>.

⁴¹ Daniel Hill, *St. Louis County Police Finally Admit Apple Cider Vinegar Is Apple Cider Vinegar*, RIVERFRONT TIMES, Oct. 5, 2017, <https://www.riverfronttimes.com/newsblog/2017/10/05/st-louis-county-police-finally-admit-apple-cider-vinegar-is-apple-cider-vinegar>.