

**STATE OF MINNESOTA**  
**COUNTY OF HENNEPIN**

**DISTRICT COURT**  
**FOURTH JUDICIAL DISTRICT**

Cathy Spann; Aimee Lundberg; Jonathan Lundberg; Don Samuels; Sondra Samuels; Julie Oden; Audua Pugh; Georgianna Yantos,

Petitioners,

v.

Minneapolis City Council; Mayor Jacob Frey,

Respondents/Defendants.

Case Type: Civil/Other

Court File No. \_\_\_\_\_

**PETITION FOR A WRIT OF  
MANDAMUS**

1. Minneapolis is in a crisis. The city faces a violent crime rate that has skyrocketed this year. It is the responsibility of the City Council and the Mayor to make Minneapolis safe. Instead, the City Council and Mayor Jacob Frey have violated their duties to fund, employ and manage a police force as required by the City Charter. Rather than work to improve public safety, the City Council and Mayor Jacob Frey are making the city unsafe for its citizens, thus requiring this Court's intervention.

2. Violent crime, including homicides and shootings, have skyrocketed in Minneapolis. Residents observe that "[i]t's 24-hour crime," with "[g]un battles, drug dealing and prostitution" running rampant through the streets of the city, especially its embattled North Side.<sup>1</sup> As recently as August 15, violent demonstrators threw rocks and vandalized the Fifth Precinct in

<sup>1</sup> <https://minnesota.cbslocal.com/2020/07/16/its-24-hour-crime-neighbors-at-lowry-logan-in-north-minneapolis-fed-up-after-ongoing-violence/>

south Minneapolis, spray-painting the front of the precinct with phrases like “pig sty.” At the same time, there were multiple shootings that injured at least five people on the south side of the city.<sup>2</sup> During 2020, Minneapolis has experienced at least 44 homicides and a total of 3,077 violent crimes. The homicide rate in 2020 is more than double what it was in 2019, and the violent crime rate is running far ahead of last year’s total.

3. It doesn’t have to be this way. In fact, it *would not* be this way if the City Council and the Mayor did their jobs. The City Council and the Mayor are *required* by the City Charter to provide for public safety by funding and employing a working police force. The City Charter, in Article VII, section 7.3(c), requires the City Council to fund 0.0017 police per citizen in Minneapolis. Section 7.3(a) gives the Mayor “complete power over the establishment, maintenance, and command of the police department.” As a result of these two provisions, the City Council must fund, and the Mayor must employ, 743 officers based on the number of Minneapolis residents in 2020.<sup>3</sup>

4. At the beginning of the year, Minneapolis employed and deployed a police force of about 825 officers, in excess of the required minimum.<sup>4</sup> However, in just the first seven months of the year, at least 80 officers have retired or quit, up dramatically from the annual average of 45.<sup>5</sup>

5. This exodus continues unabated. In his 2021 Budget Address on August 14, Mayor Frey stated that he expects 100 police officers to retire from the force by year-end.<sup>6</sup> In addition,

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<sup>2</sup> <https://www.startribune.com/minneapolis-fifth-police-precinct-hit-with-rocks-graffiti/572131892/>.

<sup>3</sup> 2019 resident totals would require 730 officers.

<sup>4</sup> <https://www.startribune.com/what-you-need-to-know-about-proposal-to-end-the-mpls-police-department/571761992/>.

<sup>5</sup> <https://www.southwestjournal.com/news/2020/08/summer-crime-spree/>.

<sup>6</sup> <https://youtu.be/mzRWpSeuBSA?t=759> (12:39 onward); <https://www.startribune.com/minneapolis-mayor-proposes-keeping-vacant-100-police-jobs/572111892/>.

Mayor Frey said those eliminated positions would be “included in our hiring freeze,” meaning they will not be replaced.<sup>7</sup> Furthermore, all remaining Minneapolis’ police training academies for 2020 have been canceled, meaning the number of police on the force will continue to fall as current officers leave the force throughout the remainder of 2020 with no replacement hiring absent this Court’s intervention.<sup>8</sup>

6. As bad as that is, it’s only part of the massive current attrition of active duty Minneapolis police officers. The City Council and the Mayor have told the police unequivocally that their jobs will soon be eliminated and that their service will no longer be required or desired. As just one example of many, in June, a self-described “veto-proof majority” of the City Council announced that it would “dismantle” the police department and “end policing as we know it” by replacing police officers with community-based public safety programs.<sup>9</sup> In addition, both the City Council and Mayor Frey have made multiple public statements disparaging the police, with not a single public indication of support.

7. Due to the hostile working conditions created by Mayor Frey and the City Council, by the end of July, more than 200 officers had applied for disability—about 20% of the entire force.<sup>10</sup> According to a city spokesperson, on July 17 a total of 111 officers were on some type of medical leave, including 40 PTSD claims filed just since May 26.<sup>11</sup> According to the *Star Tribune*, the city could lose as many as one-third of its officers by year-end due to disability and medical

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<sup>7</sup> *Id.*

<sup>8</sup> <https://minnesota.cbslocal.com/2020/07/31/crime-is-out-of-control-minneapolis-officials-address-uptick-in-violence/>.

<sup>9</sup> <https://www.forbes.com/sites/tommybeer/2020/06/12/minneapolis-city-council-unanimously-votes-to-replace-police-with-community-led-model/#3dad0ea671a5>

<sup>10</sup> *See supra* n. 5; <https://thecrimereport.org/2020/07/22/20-of-minneapolis-police-officers-may-depart/>.

<sup>11</sup> <https://www.startribune.com/staggering-number-of-mpls-cops-are-filing-disability-claims/571809512/>.

leave.<sup>12</sup>

8. After its members, including Lisa Bender and Jeremiah Ellison, made public and radical “dismantle the police” pronouncements on June 7,<sup>13</sup> the City Council apparently realized for the first time that the City Charter requires a vote of the citizens before reducing the police force below the required minimum of 743. So, in addition to proposing wresting authority over the police from the Mayor, the City Council decided to defund the police incrementally. Thus, the City Council turned its eye to slashing the police budget, and the Mayor has complied. On July 24, the City Council diverted \$1.5 million from the Minneapolis Police to an Office of Violence Prevention.<sup>14</sup> In addition, the \$193 million police budget for 2020 will reportedly be cut by \$10 million.<sup>15</sup> With a hiring freeze, no training programs, and an encouragement of officers to leave the Minneapolis police force, the City Council is accomplishing its stated goal of a quick (but illegal) dismantling of the Minneapolis police force.

9. While the City Council claims that a sufficient number of armed police are not required for public safety, when it comes to their own safety, the City Council has protected themselves with armed guards at the citizens’ expense. Media reports indicate that the city has paid \$152,400 for armed protective agents for three City Council members—a private armed security force so the Council members do not need to rely on the disintegrating Minneapolis police force.<sup>16</sup> So while citizens are being terrorized by a crime spree and the City Council is proclaiming

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<sup>12</sup> <https://www.startribune.com/minneapolis-police-face-staffing-challenges-as-violence-rises/571982152/>.

<sup>13</sup> <https://www.cnn.com/2020/06/07/us/george-floyd-protests-sunday/index.html>.

<sup>14</sup> <https://www.startribune.com/minneapolis-council-approves-first-substantial-cuts-to-police/571891532/>.

<sup>15</sup> <https://thecrimereport.org/2020/07/27/1034044/>.

<sup>16</sup> <https://www.startribune.com/minneapolis-spent-152-400-for-private-security-for-3-city-council-members/571765432/>.

that police are not the answer, they hire their own special private police force at taxpayer expense. The people of Minneapolis deserve to be treated at least as well as the City Council members treat themselves.

10. The City Council and the Mayor have the unqualified duty to fund and employ the Minneapolis Police. They are failing in that duty. The Court should issue a writ of mandamus to require the City Council and the Mayor to do their jobs.

### **PARTIES**

11. Petitioner Cathy Spann is a resident and taxpayer of Minneapolis, Minnesota and Hennepin County.

12. Petitioner Aimee Lundberg is a resident and taxpayer of Minneapolis, Minnesota and Hennepin County.

13. Petitioner Jonathan Lundberg is a resident and taxpayer of Minneapolis, Minnesota and Hennepin County.

14. Petitioner Don Samuels is a resident and taxpayer of Minneapolis, Minnesota and Hennepin County.

15. Petitioner Sondra Samuels is a resident and taxpayer of Minneapolis, Minnesota and Hennepin County.

16. Petitioner Julie Oden is a resident and taxpayer of Minneapolis, Minnesota and Hennepin County.

17. Petitioner Audua Pugh is a resident and taxpayer of Minneapolis, Minnesota and Hennepin County.

18. Petitioner Georgianna Yantos is a resident and taxpayer of Minneapolis, Minnesota and Hennepin County.

19. Respondent Minneapolis City Council is the duly constituted city council for the City of Minneapolis, Minnesota. The Minneapolis City Council's office is located at Minneapolis City Hall, City Hall, Room 307, 350 South Fifth Street, Minneapolis, MN 55415.

20. Respondent Mayor Jacob Frey is the Mayor of Minneapolis. His office is located at Minneapolis City Hall, 350 Fifth St. S., Room 331, Minneapolis, MN 55415.

### **JURISDICTION AND VENUE**

21. The Court has jurisdiction over this petition pursuant to Minn. Stat. § 586.11.

22. Venue is proper in this Court because the Defendants are located in Hennepin County, Minnesota.

### **FACTS**

#### ***The City Council Must Fund, and the Mayor Must Employ, At Least 743 Peace Officers in Minneapolis***

23. The Minneapolis City Council exists and derives its authority from the Minneapolis City Charter, and pursuant to Article IV. § 4.1, which states, in relevant part:

- a. "The governing body is the City Council, in which the City's general legislative and policymaking authority resides." Section 4.1(a).
- b. "The Council may act on the City's behalf in any matter, except where—(1) this charter reserves the action for a different board, commission, or committee; or (2) the action is inconsistent with this charter or otherwise unlawful." Section 4.1(b).

24. The authority for the Minneapolis City Charter is derived from Minn. Stat. § 410.04.

25. The powers of the City Council are limited by the provisions of Minn. Stat. §§ 410.12 and 410.19.

26. Minn. Stat. § 410.12 limits the power of the Council to amend the Charter.

- a. Subdivision 5 of that statute requires that if the Council seeks amendment

through the city's voters, it must propose an amendment, which is submitted to the charter commission, and thereafter can be submitted for a vote to the people of the city.

- b. Subdivision 7 of that statute requires that for the charter to be amended by ordinance, the charter commission must recommend a charter amendment, which must then be publicly heard by the Council, and then may be enacted upon a unanimous vote of the Council and approval by the Mayor.

27. Minn. Stat. § 410.19 provides that the City Charter's provisions "defin[e] the powers and duties of the mayor and each member of the council."

28. The Charter imposes duties and obligations on the City Council and Mayor.

29. Among those duties and obligations, the City Charter, section 7.3, requires as follows:

- a. "The Mayor has complete power over the establishment, maintenance, and command of the police department. The Mayor may make all rules and regulations and may promulgate and enforce general and special orders necessary to operating the police department. Except where the law vests an appointment in the department itself, the Mayor appoints and may discipline or discharge any employee in the department (subject to the Civil Service Commission's rules, in the case of an employee in the classified service)." Section 7.3(a).
- b. "The City Council must fund a police force of at least 0.0017 employees per resident, and provide for those employees' compensation, for which purpose it may tax the taxable property in the City up to 0.3 percent of its value annually." Section 7.3(c).

30. Thus, the Charter unambiguously requires that Minneapolis fund and employ a "police force" of 743 employees, based on the 2020 number of residents in Minneapolis.

31. The "police force" consists of "a body of trained officers entrusted by a government with maintenance of public peace and order, enforcement of laws, and prevention and detection of crime." <https://www.merriam-webster.com/dictionary/police%20force>.

32. Thus, the "police force" in City Charter section 7.3 refers to licensed peace officers, and not other employees of the Minneapolis Police Department.

33. Based on public sources, at the beginning of 2020, Minneapolis employed approximately 825 licensed peace officers in its police force.

34. Based on public sources, as of the date of this Petition, 80 or more employees of the police force have retired during 2020.

35. Based on public sources, as of the date of this Petition, more than 200 employees of the police force had applied for disability leave during 2020.

36. Because Minn. Stat. § 176.011, Subd. 15(e) was added in 2019 to create the presumption that post-traumatic stress disorder and other mental impairments suffered by police officers are “presumptively an occupational disease,” there is a strong probability that virtually all of these leaves will be granted.

37. Based on public sources, as of the date of this Petition, at least 111 employees of the police force are on medical leave.

38. The Mayor publicly stated, on August 14, 2020, that about 100 employees of the police force are expected to retire by the end of 2020.

39. Minneapolis has instituted a hiring freeze, and the Mayor publicly stated, on August 14, 2020, that the hiring freeze would prevent Minneapolis from replacing the vacancies created by the retirement and termination of employees of the police force during 2020.

40. Minneapolis has canceled its police academies for August 2020, which are usually a source of new employees to be added to the police force.

41. Based on public sources, therefore, there are, at most, 634 (825, minus 80 retirees, minus 111 on medical/disability leave) employees of the police force employed by Minneapolis and working on the police force. However, given that the more than 200 applications for disability



leave already have been or likely will be granted, the number of employees of the Minneapolis police force is likely closer to 440.

42. Only having between 440 and 634 employees of the police force at any given time violates the Minneapolis City Charter, sections 7.3(a) and 7.3(c).

43. Because the Mayor and City Council have has instituted a hiring freeze and canceled Minneapolis' police academies, the Mayor and City Council will not be able to increase the number of employees of the police force to comply with the City Charter absent an order from this Court.

44. In addition, the City of Minneapolis and the Police Officers' Federation of Minneapolis have entered into a Collective Bargaining Agreement ("CBA") that is in effect and governs wages and benefits for employees of the Minneapolis police force.<sup>17</sup>

45. The City Council cannot reduce funding such that it would violate the CBA, and the City Council has a duty to fund the employment of at least 743 licensed peace officers at any given time.

46. Thus, if the Court orders the Mayor to hire licensed peace officers to increase the employment of the police force above the minimum, the City Council must ensure that the funding for those peace officers is consistent with the CBA.

47. Petitioners, through counsel, brought these matters to the attention of the City Council and Mayor via a letter on August 4, 2020. That letter is attached as Exhibit 1.

48. In response to that letter, Interim City Attorney Erik Nilsson did not dispute that the City Council is failing to fund 0.0017 employees of the police force, or that the Mayor is employing or maintaining fewer than 0.0017 employees of the police force. Instead, he claimed

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<sup>17</sup> [http://www2.minneapolismn.gov/hr/laboragreements/labor-agreements\\_police\\_index](http://www2.minneapolismn.gov/hr/laboragreements/labor-agreements_police_index).

that the Minneapolis City Charter “does not require that all of those positions be filled at any given time.” That response is attached as Exhibit 2.

***Petitioners Need Expedited Relief Due to the Increase in Crime in Minneapolis***

49. Petitioners need expedited relief pursuant to this Petition because of the ongoing increased crime and violence in Minneapolis caused by Respondents’ failures to fund and employ the police.

**LEGAL ARGUMENT**

50. Under Minn. Stat. § 586.01, a writ of mandamus may be issued to “any inferior tribunal, corporation, board, or person to compel the performance of an act which the law specifically enjoins as a duty resulting from an office, trust or station.”

51. The Petitioners, as taxpayers and residents of Minneapolis, are beneficially interested in the issuance of a writ of mandamus forcing the City Council to fund, and the Mayor to employ an adequate police force. *Scinocca v. St. Louis Cty. Bd. of Comm'rs*, 281 N.W.2d 659, 660 (Minn. 1979).

52. Petitioners have no plain, speedy, or adequate remedy in the ordinary course of law to enforce Respondents’ compliance with the City Charter. *E.g., Kaibel v. Municipal Bldg. Com’n*, 829 F. Supp. 2d 779, 784 (D. Minn. 2011).

53. Petitioners have a clear right for Respondents to comply with Section 7.3 of the Minneapolis City Charter as residents of Minneapolis who need police to protect them, especially given the substantial increase in crime in Minneapolis due to the Mayor and City Council’s failures to support and fund the police.

54. To obtain a writ of mandamus, a petitioner must establish that the official, person, corporation, or board had a clear and present official duty to perform a certain act. *McIntosh v. Davis*, 441 N.W.2d 115, 118 (Minn. 1989).

55. The Mayor is a person with a legal duty to maintain the police force such that it employs at least 0.0017 employees of the police force per resident of Minneapolis, or 743 licensed peace officers. City Charter § 7.3(a).

56. The City Council is the governing body of the municipal corporation that is Minneapolis, and it has a legal duty to fund the police force such that it employs at least 0.0017 employees of the police force per resident of Minneapolis, or 743 licensed peace officers. City Charter § 7.3(c).

57. The Mayor's duty to employ, and the City Council's duty to fund, at least 0.0017 employees of the police force per resident of Minneapolis, or 743 licensed peace officers, are present official duties to perform certain acts.

58. The Mayor has no discretion to employ fewer than 0.0017 employees of the police force per resident of Minneapolis, or 743 licensed peace officers, as of August 14, 2020.

59. Because the City is bound to a CBA with the Federation, the City Council has no discretion as to *how* to fund the employment of the minimum 0.0017 employees of the police force per resident of Minneapolis, or 743 licensed peace officers, as of August 14, 2020.

60. The Mayor has failed to employ at least 0.0017 employees of the police force per resident of Minneapolis, or 743 licensed peace officers, pursuant to City Charter § 7.3. The current number employed on the police force is 634 or fewer.

61. The City Council has failed to fund at least 0.0017 employees of the police force per resident of Minneapolis, or 743 licensed peace officers, force pursuant to City Charter § 7.3. The current number of employees of the police force funded by the City Council is 634 or fewer.

62. There is no valid excuse for Respondents' nonperformance.

63. The Court should issue a peremptory writ of mandamus ordering Respondents to comply with Section 7.3 of the Minneapolis City Charter and employ and fund at least 0.0017 employees of the police force per resident of Minneapolis, or 743 licensed peace officers.

### **PRAYER AND DEMAND FOR RELIEF**

64. Petitioners pray that the Court find, adjudge, and decree that Respondents have failed and refused to perform their legal duty to fund and employ the Minneapolis police, as described herein.

65. Petitioners pray for a peremptory writ of mandamus compelling Respondents to immediately comply with City Charter section 7.3 and fund and employ the police force such that there are 0.0017 licensed peace officers per resident of Minneapolis, consistent with the number of residents currently in Minneapolis and the city's CBA with the Federation. Minn. Stat. § 586.03.

66. Petitioners demand that the Respondents, immediately after the receipt of a copy of the writ of mandamus, comply with Section 7.3 of the Minneapolis City Charter and fund and employ at least 0.0017 licensed peace officers to police the City of Minneapolis consistent with the number of residents currently in Minneapolis and the city's CBA with the Federation.

67. Alternatively, the Petitioners pray for an alternative writ of mandamus and demand that the Respondents show cause, at a time and place as soon as possible, on an expedited basis, to be determined by the Court, why Respondents have not complied with their obligations described herein. Minn. Stat. § 586.03.

68. If the Court issues an alternative writ, Petitioners pray that the Court direct the time and manner of service for any Order to Show Cause or Writ.

69. Petitioners pray that, upon prevailing, the Court award them their costs and disbursements incurred in this action.

70. Petitioners pray that the Court award them such other and further relief as may be just, lawful, and appropriate.

**UPPER MIDWEST LAW CENTER**

Dated: August 17, 2020

/s/ James V. F. Dickey  
Douglas P. Seaton (#127759)  
James V. F. Dickey (#393613)  
8421 Wayzata Blvd., Suite 105  
Golden Valley, Minnesota 55426  
doug.seaton@umwlc.org  
james.dickey@umwlc.org  
(612) 428-7000  
*Attorneys for Petitioners*

**ACKNOWLEDGMENT**

The undersigned hereby acknowledges that costs, disbursements, and reasonable attorney and witness fees may be awarded pursuant to Minn. Stat. § 549.211, subd. 2, to the party against whom the allegations in this pleading are asserted.

Dated: August 17, 2020

/s/ James V. F. Dickey  
James V. F. Dickey (#393613)



August 4, 2020

**Via U.S. Mail and E-mail**

Minneapolis City Council  
City Hall  
350 South 5<sup>th</sup> Street, Room 307  
Minneapolis, MN 55415

**Via U.S. Mail and E-mail**

Minneapolis Mayor Jacob Frey  
City Hall  
350 South 5<sup>th</sup> Street, Room 331  
Minneapolis, MN 55415

**Re: Your Illegal Failure to Maintain the Police Force, Illegal Hiring of Private Security,  
and Ill-Advised Charter Amendment Effort**

Dear Minneapolis City Council Members and Mayor Frey:

We represent Cathy Spann, Aimee Lundberg, Jonathan Lundberg, Don Samuels, Sondra Samuels, Julie Oden, David Haddy and Amy Haddy. Our clients are longtime residents and local community activists in Minneapolis who have seen firsthand the dangerous negative effects of your recent attempts to “dismantle” the Minneapolis Police. In short, because of your words and actions, you have failed to maintain and fund the required 0.0017 officers per citizen required by the Minneapolis City Charter (the “Charter”). You have made Minneapolis a more dangerous place, especially for its residents in higher crime areas.

You have also violated the Charter by declining to use the Minneapolis Police and instead using armed protective agents to protect council members. The use of armed protective agents instead of the duly constituted Minneapolis Police for the purpose of protecting council members violates Minnesota law.

Finally, your recent words and actions disparaging the Minneapolis Police Department, your failing to abide by the Charter, and your pushing of Charter Amendments to abandon the peace officer formula commitment, are making the City of Minneapolis unsafe. Your rhetoric is causing police officers to take leave, make disability claims, retire, and quit the force. Your proposals to “dismantle” the Minneapolis police force would actually harm the city’s residents. Because of your rhetoric and proposed actions alone, murders and shootings in Minneapolis have substantially increased. And as a sad reminder of the deadly impact of your words and actions, a seventeen year-old boy just recently became the thirty-seventh Minneapolis homicide victim this year. Homicide is now up 56% this year over the previous five-year average.

Minneapolis is bleeding. The city needs its police.

Please take action now: (1) to comply with the Charter on peace officer deployment; (2) to adhere to Minnesota law, barring your private security details; (3) abandon your charter amendment push, and confirm in writing by close of business on Tuesday, August 11, 2020, that you will do these things. If you fail to do so, our clients have authorized legal action to enforce your compliance with the law.

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Mayor Jacob Frey  
August 4, 2020  
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### **Minneapolis' Failure to Fund and Employ the Police Violates the Charter**

First, the Charter requires that there be at least 0.0017 peace officers on the police force per resident. Minneapolis City Charter, § 7.3(c). As of 2019, there were 429,606 residents in Minneapolis. Therefore, the Mayor must ensure the employment of, and the City Council must fund, at least 730 full-time peace officers at any given time.

Because of the Council's recent hostility toward and disparagement of Minneapolis' police, the number of police protecting Minneapolitans has fallen below the mandated number. As of July 21, 2020, as reported by the New York Times, the number of full-time peace officers actually working in the Minneapolis police force was well below 730. The Department has recently deployed about 850 officers, but at least 65 have left the Department already this year (well above average for a full year), and nearly 200 officers have filed disability claims for post-traumatic stress. The Sunday, August 2, 2020, *StarTribune* story on page 1 predicts that the City could lose one-third of its officers by year-end.

It appears that the Minneapolis Charter Commission recognized that the Council was failing its obligations to fund the police, and the Mayor was failing to employ them, by its recent proposal to eliminate Charter § 7.3(c). Nonetheless, section 7.3(c) is the law (and we hope will remain so), and the Council and Mayor must comply with it.

Minneapolis' police are retiring early, using their vacation time, making disability claims at a rate never before seen, and attempting to transfer or seek other employment in order to get away from a city whose government they perceive not to want them. As the number of full-time peace officers dwindles, crime will only increase and the remaining police will be left to cover for the losses of their former colleagues on the force. Please stop disparaging the police, start upholding your obligations to your law-abiding citizens and stop pandering to the vocal minority attacking them.

### **Using Armed Protective Agents Instead of Police is Both Unfair to Citizens and Illegal**

Second, by declining to use Police Department protection and instead using armed protective agents to protect council members, not only is the Council showing disdain for the residents it claims to represent, and giving the lie to your claims that police are "not needed," but it is violating Minnesota law.

The Council recently hired private firms Aegis and Belcom to provide security for three members of the Council. The cost to the City was \$152,400. Aegis and Belcom do not offer licensed peace officers for protective services; they offer armed "protective agents." "Protective agents" are individuals licensed under Minn. Stat. § 326.338. However, Minn. Stat. § 626.84 provides that no individual employed or acting as an agent of Minneapolis may carry firearms while on duty unless the individual is a licensed peace officer or security guard as defined by Minn. Stat. § 626.88. However, the Aegis and Belcom "protective agents" could not be "security guards" as defined by statute, because Minn. Stat. § 626.88 defines security guards to specifically exclude "(iv) personnel temporarily employed . . . by political subdivisions to provide protective services at social functions." Because the armed "protective agents" Minneapolis is employing are neither security guards nor licensed peace officers, the Council is violating § 626.84 by hiring them to guard their members at any social function.

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Thus, the Council's use of armed protective agents by Minneapolis for the purpose of protective services at social functions is illegal. I would further note that the amount paid for the services was apparently under \$175,000, but if the City were to hire additional private security in violation of Minnesota law, it would exceed that \$175,000 minimum for public bidding and Council approval required by Minn. Stat. § 471.345. The Council should be on notice that further attempts to hire private security will not avoid this public bid requirement just because the contracts are successive, as opposed to the same contract.

Instead of breaking Minnesota law and arrogating to themselves the privilege of private security that its citizens cannot personally afford, while the police are reduced in number and told to "stand down," the Council should instead comply with Minnesota law and use licensed peace officers for any security needed.

### **Attempting to "Dismantle" the Police Harms Minneapolis**

Last, but perhaps most important, because you are using rhetoric such as "dismantling" and "defunding" the Minneapolis police, law-abiding citizens and criminals alike believe that law enforcement services will cease being provided to their neighborhoods. Violent crime rates have risen despite the lockdowns keeping people in their homes. Your proposals to "dismantle" and "defund" the police and the charter amendments you have promoted have made Minneapolitans feel less safe and criminals feel more emboldened.

You have not yet expressly called for firing a large number of police officers or significantly reducing police resources. However, the amendments currently proposed by the Council and the Charter Commission would give the Council a blank check to dismantle and destroy the Police Department with no recourse for citizens. Some are searching for \$45 million in cuts to the Police Department, and you just recently initiated a police hiring freeze and approved a cut of \$1.5 million. Pursuing the Charter amendments and the policies you are pursuing makes Minneapolis a more, not less, dangerous place, especially for those already living in higher crime areas.

Please stop the actions and rhetoric that are hurting Minneapolis. Instead, follow the Charter and the law, drop your charter amendment efforts, and focus on keeping Minneapolis safe.

### **Demands**

Our demands are the following: (1) to comply with the Charter and Minnesota law, the Council must immediately fund, and the Mayor must immediately ensure the full employment and deployment of a minimum of 730 full-time peace officers by the Minneapolis Police Department, as required by Charter § 7.3(c) (and more if crime levels require more police!); (2) the Council must immediately terminate any further hiring of illegal private security forces for Council members or their staff; (3) Minneapolis citizens demand that you abandon any effort to amend the police officer provisions in the Charter and continue to comply with those provisions; and (4) for the sake of Minneapolis, stop the dangerous actions and rhetoric and assure your citizens that you intend to protect them from violent crime.



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Please confirm in writing to me by the close of business on Tuesday, August 11, 2020, that you will accept these demands.

Very truly yours,



Doug Seaton, President  
Upper Midwest Law Center  
Attorney for Cathy Spann, Aimee Lundberg, Jonathan Lundberg, Don Samuels,  
Sondra Samuels, Julie Oden, David Haddy and Amy Haddy

cc: Police Chief Medaria Arradondo - (via U.S. mail and email) – City Hall, Room 130  
Minneapolis Charter Commission - (via U.S. mail and email) – City Hall, Room 304

**From:** "Nilsson, Erik A." <[Erik.Nilsson@minneapolismn.gov](mailto:Erik.Nilsson@minneapolismn.gov)>  
**Date:** August 11, 2020 at 3:51:53 PM CDT  
**To:** "[Doug.Seaton@umwlc.org](mailto:Doug.Seaton@umwlc.org)" <[Doug.Seaton@umwlc.org](mailto:Doug.Seaton@umwlc.org)>  
**Subject:** 8//4/2020 "demand" letter to Mpls City Council & Mayor

Dear Mr. Seaton:

I was forwarded your August 4, 2020, letter to the Minneapolis City Council and Mayor Frey. On August 5, 2020, the City's Charter Commission exercised its statutory right to extend the time for review of the City Council's proposal to remove the Police Department as a Charter Department and create a new Charter "Department of Community Safety and Violence Prevention." This action made the proposal ineligible to be placed on the November 2020 general election ballot. As much of your letter makes policy arguments to City leadership (urging them to refrain from doing and/or saying certain things), it is not susceptible to a legal response. I will just note that there is a statutorily-authorized method to amend the City's Charter, robust debate around police reform in a variety of fora, and an annual City budgeting process that all provide ample opportunity for you and other members of the public to engage in a policy debate.

On the remaining issues, you refer to Section 7.3(c) of the Charter as addressing "peace officer deployment" and requiring the City to ensure the employment of a minimum number of peace officers. This is not an accurate reading of Section 7.3(c) (titled "Funding"), which is a minimum funding provision. It requires the City Council "fund" a police force of at least 0.0017 employees per resident, but does not require that all of those positions be filled at any given time. The provision does not address the deployment of those employees either, which would be at the sole discretion of the Mayor and Police Chief.

On the issue of private security and as reported in the media, three Council Members were furnished with a security detail in the aftermath of the extensive and unprecedented civil unrest following the murder of George Floyd. This security detail began on June 7<sup>th</sup> and ended for two of the three Council Members on June 22<sup>nd</sup> and on June 29<sup>th</sup> for the third Council Member. There has not been any other provision of private security and, to my knowledge, none is contemplated. The City acknowledges and understands the law regarding contracting and Council approval for any such action going forward (of which none is contemplated).

Thank you-

**Erik Nilsson** | Interim Minneapolis City Attorney | Phone: 612.673.2192

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