



**VIA EMAIL**

December 4, 2023

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**Re: The Minneapolis City Council's Defiance of the Police Funding Minimum of the City Charter, Section 7.3**

Dear Ms. Anderson:

I am writing to urgently demand that the City Council take immediate and necessary action to comply with the Minneapolis City Charter, section 7.3, which it is currently failing to do.

As you know, in *Spann v. Minneapolis City Council*, the Minnesota Supreme Court definitively established that the City Council has an “uncontested clear legal duty to fund at least 731 sworn police officers under section 7.3(c) of the Minneapolis City Charter.” 979 N.W.2d 66, 77 (Minn. 2022). The Court also held that the Mayor has a clear legal duty to “actually employ 731 officers.” *Id.* The Court’s decision upheld the issuance of the alternative writ of mandamus, which has been effective since July 1, 2021. The City Council is required by law to provide funding that makes it possible for the Mayor to comply with his duty.

When the Court decided *Spann*, our clients and the City had stipulated that the 2021 budget provided “actual funding” for 770 officers. *Id.* Despite an apparent misunderstanding between the parties as to the meaning of “actual funding,” as opposed to “target” funding, the Court relied on that stipulation to decide that the City Council was—at that time and for that 2021 budget only—in compliance with the Charter. *Id.* at 77 n.8.

Intervening events make it clear that the City Council’s “funding” calculations, expressed in its budget documents, do **not** provide actual funding for 731 sworn officers.

As of August 2023, the Minneapolis Police Department employed 585 sworn active officers, down 32% from 864 in August 2020 and 146 under the 731 currently required by the Charter. The City has had 28 months to come into compliance with the order. Despite the Mayor’s efforts, the City is now further away from the goal than the day the order was issued.

This problem is self-inflicted. It is directly caused by lack of funding and efforts to demoralize the MPD. Since June 7, 2020, when a veto-proof majority of the City Council announced to the world that they would defund and dismantle the MPD, they have taken every opportunity to do so. In 2020 and 2021, when the number of police were dwindling, the City Council proposed cuts to the

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MPD budget even though the City did not have to. Deposition of Mayor Jacob Frey, Mar. 25, 2021, pp. 19-20. And the MPD expressly stated, in response to a question from former Council Member Schroeder, that those cuts hurt officer retention and recruiting. *See Spann Stipulated Exhibit 33*. These cuts have, as the MPD has also expressly told the Council, disproportionately affected minority residents of Minneapolis. *Spann Stipulated Exhibit 31*.

Because of the Council's failure to stop the problem they created as it was occurring, police numbers have dwindled by 32% since August 2020. Even after Mayor Frey proposed substantial increases to the MPD budget for 2023, the City Council still found ways to whittle away at that budget with amendments that funneled non-sworn personnel to other departments.

At the same time, the City Council has not had any issue with appropriating other funds *not* required by the Charter for public-safety efforts, such as millions for "violence interrupters." While aspirational, these efforts are ineffective without adequate police presence in the City. Only a "both/and" solution will work to stop Minneapolis' crime epidemic—not a one-sided approach chosen by the City Council.

Despite the dire situation for our clients and other residents of the North Side of Minneapolis, who continue to be plagued by preventable criminal violence, the Council continues to "defund the police" by inaction. On November 17, 2023, despite direct pleas by Mayor Frey and Chief O'Hara that \$15.3 million in additional funds from a \$19 million state appropriation for hiring and retention bonuses are absolutely necessary to stop the MPD's personnel flight and restore the force, the City Council voted to reject that essential funding. The City Council's rejection of this tentative agreement with the union representing Minneapolis police officers is plainly a violation in that it rejects the agreement of the Mayor and the union on compensation proposals designed to enhance recruitment of new police officers to meet the Charter requirement and the Mayor's legal obligation thereunder. The City Council, that is, is not prepared to fund the necessary steps for compliance with the order, in violation of its clear legal duty to fund at least 731 police officers.

Instead of prioritizing spending of state Public Safety Aid on real safety priorities—retaining officers and incentivizing hires—it appears that the Council withheld about 30% from that fund for its future determination. Community Safety Commissioner Todd Barnette cast doubt on the office's ability to implement what the Council put on its plate, and while Budget Chair Koski noted that there is a "high likelihood" that some money goes toward officer incentives, it won't go toward raising pay.

This is, unfortunately, common for the Council in its entirely unreasonable negotiating strategy with the police union. Instead, Council Members are proposing spending millions on untested and unproven public safety alternatives.

The reasoning for Mayor Frey and Chief O'Hara's pleas could not be clearer. Police won't come to Minneapolis, and more police will leave, if Minneapolis isn't competitive in the police labor market. Minneapolis isn't even close to a top paying police job in Minnesota or the Twin Cities metro. Minneapolis is number 18 in starting pay. Minneapolis is 21st in paying veteran officers.

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New officers in Blaine make about \$22,000 a year more than Minneapolis. Veteran officers in Inver Grove Heights make about \$9,000 more than Minneapolis.

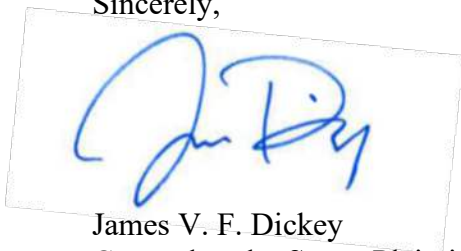
So while the City Council can try to close its eyes to the realities of the market and the detrimental effects of its ongoing crusade against the MPD, any reliance on a budget document which—only on paper—claims to “fund” 731 officers is totally unfounded. The courts in Minnesota, including the Supreme Court, will find, if the City Council does not reverse course, that it has not adequately funded the MPD.

We are also concerned that this recent reinvigoration of the “defund the police” movement is due in part to incorrect speculations by certain members of the City Council that they are free to ignore the order because *Spann* is now concluded. Nothing could be further from the truth. The City remains subject to the Supreme Court’s interpretation of the Charter, as you know.

We anticipate that the Council might object that the *Spann* Court held that “having sufficient funds for a certain number of positions does not mean that all funded positions will necessarily be filled.” 979 N.W.2d at 77. We of course agree with the Court on this point. But where Minneapolis has repeatedly, for years, used flawed assumptions as to the market cost of officers, and the City Council has artificially depressed salaries by refusing to negotiate salaries and wages in good faith to keep Minneapolis competitive with other jurisdictions, and has refused the Mayor’s and Chief’s desperate pleas and clear statements that additional funding is *necessary* to restore the police force, the Court’s observation is of no use to the City Council.

There is no room for genuine argument that the City is compliant with the City Charter as definitively interpreted by the Minnesota Supreme Court in *Spann*. The Mayor has tried, but now the City Council refuses to fund the necessary compensation levels and hiring incentives to comply. If we are not informed in writing by December 22, 2023, of concrete measures that would bring the City into Charter compliance, such as rescission of the City Council’s disapproval of the tentative CBA, we will proceed with legal remedies.

Sincerely,



James V. F. Dickey

Counsel to the *Spann* Plaintiffs

cc: Gregory P. Sautter, Esq. (via email)  
Douglas P. Seaton (via email)