



November 23, 2015

Chief Janeé Harteau,  
Minneapolis Police Department  
350 South 5th Street, Room 130  
Minneapolis, MN 55415-1389

Dear Chief Harteau,

Thank you for releasing the names of the officers involved in the fatal shooting of Jamar Clark. Thank you also for seeking out an independent investigation of the incident and for allowing protestors to occupy space at the Fourth Precinct. However; the ACLU of Minnesota has also received numerous reports of police using excessive force, including pepper spray and rubber bullets, against demonstrators at the Fourth Precinct who are peacefully protesting the killing of Jamar Clark. Perhaps most disturbingly, we have heard from numerous witnesses that police have shot marker rounds *only* at people of color, even though the protestors are a diverse group. In addition, we have been told that officers are using pepper spray repeatedly against peaceful demonstrators – including journalists – and that peaceful demonstrators have had bicycles shoved into them to move their line, thereby crushing them because there was no room for them to move back. The Minneapolis NAACP has also reported that two women were beaten by police in an alley near the precinct and that police drew guns on City Council members who were at the demonstration.

We have also received reports that police have been unclear and arbitrary in their expectations for demonstrators, making the situation more chaotic than necessary because demonstrators do not know what rules police expect them to follow from one moment to the next. For example, one video<sup>1</sup> shows a police officer pepper spraying a stationary group of chanting people simply because they have not moved back away from the line of officers as requested. Video posted by the Star Tribune showing the same incident from a broader perspective confirms that the group was peaceful and the use of chemical irritants in that instance was out of proportion to the demonstrators' conduct.

These reports raise a troubling specter of excessive police force in violation of demonstrators' First and Fourth Amendment rights. The fact that some individuals have damaged police property does not give police carte blanche to broadly undermine the constitutional right to assemble. When police use heavy-handed tactics against peaceful demonstrators and people damaging property alike, they are punishing the misdeeds of the few through the theft of constitutionally protected rights of the many. From the founding of our Nation, the people have taken to the streets and sidewalks, in good times and bad, in times

<sup>1</sup> Available online at [https://twitter.com/Delo\\_Taylor/status/667192873297838080](https://twitter.com/Delo_Taylor/status/667192873297838080)

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of peace and times of war, to express their opinions to the public and to the government. Punishing peaceful protesters for exercising this most fundamental of all American values is not a solution to the protests that have erupted in the wake of the police killing of Jamar Clark. We need more protest, expression, discussion, and debate—not less.

The heavy-handed treatment of non-violent protestors by police is part of a larger pattern of Minneapolis police treating communities of color as the problem rather than an indispensable part of the solution. It continues this community's experience of law enforcement as there to control and dictate, rather than to serve and protect.

People have a right to know when and where their conduct is lawful under all circumstances, but especially when the government is restricting activities that are protected by the First Amendment. People have a right to know where they can stand and raise their voices without fearing arrest or military-style assault. But thus far, police have been unclear in what is allowed and what is not. That lack of clarity will only serve to infringe on constitutional rights and will further damage the relationship between police and the community. We all want to ensure the safety and welfare of all members of the community, but that cannot come at the expense of constitutional freedoms. We can balance the interest in safety with the rights of lawful protesters.

We respectfully request that you severely restrict the use of pepper spray, rubber bullets and physical force. There should be clear guidance given to officers that they should not arbitrarily spray protestors for what they are saying or for getting too close to a barricade. You have an opportunity to show that the Minneapolis Police Department recognizes its faults and is working hard on fixing them. The people from whom you derive your powers are trying to tell you a very important message and we hope you will lead the Department to rise above knee jerk reactions, listen, and move forward towards the common goal of ensuring equal safety and equal treatment for everyone in Minneapolis.

Sincerely,



Charles Samuelson  
Executive Director