

Exhibit 2

Legal Rights Center, Inc.

A LAW FIRM OF AND FOR THE PEOPLE
1611 Park Avenue South, Minneapolis, Minnesota 55404-1683
agordon@legalrightscenter.org

Phone: (612) 677-2137

Fax: (612) 337-0797

September 2, 2020

Afsheen Foroozan
Chair, Minneapolis Police Conduct and Oversight Commission
Department of Civil Rights
350 S. 5th St., Room 239
Minneapolis, MN 55415

Dear Commissioner Foroozan,

My name is Andrew Gordon. I am the Deputy Director of Community Legal Services at the Legal Rights Center—a non-profit public defender corporation that works alongside communities to represent indigent individuals charged with crimes in Hennepin County. Our clients—predominantly from communities of color and other marginalized communities—are routinely subject to over-policing and continue to suffer from the brunt of police officer misconduct. Though the general public is slowly catching on to the historic frustrations of our communities, we remain deeply angered by the role the city of Minneapolis plays in the lack of accountability for police officer misconduct.

On August 25, 2020 the Star Tribune published an article on the Minneapolis Police Department’s use of “coaching” as a form of private discipline.¹ The article noted that the City’s position is that “coaching” is not discipline, and that information related to the underlying complaint that necessitated the “coaching” is thus private data. Ms. Velma Korbelt, the director of the Minneapolis Department of Civil Rights, describes the designation of such information as private as an intentional act.² Not only does the City’s position fly in the face of its own rules,³ but the intentional decision to hide otherwise

¹ Andy Mannix, *Proposal to unseal hundreds of misconduct allegations against Minneapolis police officers moves forward*, Star Tribune (August 25, 2020), <https://www.startribune.com/mps-official-s-proposal-to-unseal-claims-of-police-misconduct-moves-forward/572217352/> (last accessed Sept. 2, 2020)

² *Id.* (Korbelt said the city has been “very intentional in designating coaching as a nondisciplinary corrective action. . .”)

³ Discipline for the officers of the Minneapolis Police Department is governed by the police department’s policy and procedure manual. MPD Policy Manual §101-1. In the event that the policies outlined in the MPD Manual differ from those of another division of the City, the MPD Manual controls. *Id.*

public information will only continue to erode what little trust the residents of Minneapolis have in their public servants.

“Coaching” is discipline that amounts to an oral reprimand—or ‘oral correction’ as it’s called in the Minneapolis Police Department Policy and Procedure Manual (‘MPD Manual’)—imposed “if the officer is found to have committed the [A-level] violation”.⁴ The City has, by its own defense, intentionally chosen to ignore the clear direction of the MPD Manual and instead has designated that these violations that result in coaching are not considered discipline. Even after the complaint has been investigated, sustained, and the involved officer disciplined, the City closes the case out as ‘Closed - No Discipline’.⁵ That resolution means that the information regarding the complaint, the investigation, and the discipline is kept private. This is problematic because the majority of complaints received by the City about its officers are resolved as A-level complaints. Between 2013 and 2019, the City received 2013 complaints about its police officers.⁶ Those complaints resulted in 373 disciplinary actions.⁷ Of those, 334 were resolved by coaching.⁸ In other words, between 2013 and 2019, the city of Minneapolis publicly reported only about 10% of all disciplinary decisions against its police officers. In that same time frame it hid approximately 90% of its disciplinary decisions.

Community organizations like Communities United Against Police Brutality (‘CUAPB’) have warned this Commission before that it fears that coaching referrals are being made for police misconduct that goes beyond an A-level complaint.⁹ In one documented instance an on-duty officer exhibited unprofessional conduct by using indecorous language.¹⁰ The Minneapolis Police Department Discipline Matrix notes that this is a

⁴ MPD Manual §1-102.01, http://www2.minneapolismn.gov/police/policy/mpdpolicy_1-100_1-100 (A-level violations of the MPD Manual require disciplinary action in the form of training, counseling, and/or documented oral correction.) (last accessed Sept. 2, 2020) *and see* MPD Complaint Process Manual §XI at pg. 15, <http://www2.minneapolismn.gov/www/groups/public/@civilrights/documents/webcontent/wcmsp-195180.pdf> (The Complaint Process Manual also describes the disciplinary process as involving a “coaching investigation” as “[a]n investigation of an A-level complaint conducted by the focus officer’s supervisor that may lead to an oral reprimand (coaching session), policy violation, or additional training.”) (last accessed Sept. 2, 2020)

⁵ *Minneapolis Dept. of Civil Rights - Responsive Date to KARE11* at pg. 2 (attached)

⁶ *Id.* at 3.

⁷ *Id.*

⁸ *Id.*

⁹ *Cases from the OPCR: Lessons on how to avoid disciplining police misconduct*, Director of Civil Rights Public Comments (April 25, 2018), <https://lms.minneapolismn.gov/Download/File/1030/Civil%20Rights%20Director%20Public%20Comments%20-%20Received%20at%20Meeting%20Combined%201.pdf> (last accessed Sept. 8, 2020).

¹⁰ *Id.* at pg. 5 (. . . Officer 1 stated in his interview with the OPCR investigators that he did “start the confrontation” and that he referred to the children as “little pukes.” Officer 1 was given coaching as discipline.)

B-level offense and that any discipline should be public.¹¹ Instead, the officer in that case was disciplined using coaching, and the record of that discipline hidden from the public. Nothing the Office of Police Conduct Review or this Commission has done since these concerns were first raised has addressed this community's concerns that police misconduct is being hidden from the public.

For attorneys like myself, disciplinary decisions made against police officers are subject to disclosure in criminal matters. When prosecutors withhold evidence they are duty-bound to turn over, they undermine the Constitution, the Supreme Court's case law, and the premise of justice. When the City aids in that failure to disclose by hiding these disciplinary decisions it undeniably contributes to the perversion of our criminal legal system. How many individuals charged with crimes pled or were found guilty because it was their word against that of a Minneapolis police officer: an officer who may very well have a number of sustained complaints that resulted in discipline hidden from the public? For our community members and residents, hiding disciplinary records is further evidence of the indifference with which the city and its servants treat their lives. The city is evidently more interested in protecting its police officers (92% of whom live outside of Minneapolis¹²) than its residents, and has deliberately ignored its own policies in order to do just that.

Just a quarter of Minneapolis residents hold a favorable opinion of the Minneapolis Police Department¹³ and the City's actions undoubtedly contribute to a police culture that prioritizes protecting officers by shielding them from accountability for their misconduct. The Police Conduct and Oversight Commission has the power to recommend that the City stop this practice. You should exercise this power and begin the process of requiring the City to follow the plain meaning of the MPD Manual and to publicly disclose disciplinary information regarding sustained A-level violations by its police officers.

¹¹ Minneapolis Police Department Discipline Matrix, <http://www2.minneapolismn.gov/www/groups/public/@civilrights/documents/webcontent/wcms1p-152148.pdf> (Code of Conduct violations under 5-105.10 are B-level offenses) (last accessed Sept. 8, 2020).

¹² Pat Kessler, *With Only 8% Of Minneapolis Police Officers Living In City, Residency Requirement Push Gaining Traction*, WCCO CBS Minnesota (June 17, 2020), <https://minnesota.cbslocal.com/2020/06/17/with-only-8-of-minneapolis-police-officers-living-in-city-residency-requirement-gaining-traction/>

¹³ Jon Collins, *Poll: Only a quarter of Mpls. residents favor city's Police Department*, MPR News (August 16, 2020), <https://www.mprnews.org/story/2020/08/16/poll-only-a-quarter-of-mpls-residents-favor-citys-police-department> (last accessed Sept. 2, 2020).

Sincerely,



Andrew S. Gordon
Deputy Director of Community Legal Services
The Legal Rights Center

And joined by the following concerned individuals and organizations:

/s/ Angela Myers

Angela Myers
Second Vice-President
NAACP-Minneapolis

/s/ Kevin Reese

Kevin Reese
Director of Criminal Justice
Voices for Racial Justice

/s/ Michelle Gross

Michelle Gross, President
Communities United Against Police
Brutality

/s/ Jordan Kushner

Jordan Kushner
National Lawyers Guild -- Minnesota
Chapter

/s/ Marecca Vertin

Marecca Vertin
National Lawyers Guild -- Minnesota
Chapter