

OHCHR Submission on Law Enforcement Surveillance and Harassment of Anti-Police Brutality Human Rights Defenders Outside of Protest Settings in Minnesota

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Introduction

In the aftermath of the murder of George Floyd in Minneapolis, the world witnessed the ways in which police across the United States brutalized protesters demanding justice. This was brought to the attention of United Nations High Commissioner for Human Rights Michelle Bachelet who wrote the following in reference to the Human Rights Council report, “Promotion and protection of the human rights and fundamental freedoms of Africans and of people of African descent against excessive use of force and other human rights violations by law enforcement officers”:

“Our report also examines Government responses to peaceful anti-racism protests. We found credible allegations of unnecessary and disproportionate use of force against some protests, and differences in how racial justice protests were policed compared with other demonstrations. The clampdown on anti-racism protests in some countries should be seen within a broader context in which the voices of people of African descent, and people combatting racism, are stifled, and human rights defenders of African descent face reprisals, including harassment, threats, criminal prosecutions, violence and killings (Bachelet 2021).”

This report correctly identified the disproportionate use of force against anti-police brutality activists, the differential handling of anti-racism protests and counter-protests, the militarized response to protests, the surveillance of protesters, the scale of arrests and detention, and other abuses experienced by protesters at the time of protests and demonstrations.

This project was undertaken to support the work of the Office of the High Commissioner of Human Rights (OHCHR) to expand their understanding of police harassment and surveillance of police brutality protesters in the following ways:

- 1) Provide additional evidence to demonstrate that police harassment and surveillance also take place *outside* of the context of a protest or demonstration.
- 2) Provide additional evidence that surveillance of activists is taking place systemically outside of protest settings.
- 3) Demonstrate the extent of social organization, networks of deviant officers as well as organizational and institutional failures that perpetuate this misconduct.

Literature Review: Digital Surveillance

History in Brief

There is a clear pattern over the last 100 years of law enforcement officers infringing upon the First Amendment rights of activists defending the human rights of Black people in the United States. Starting over 100 years ago in 1919, J Edgar Hoover, founder and leader of the Federal Bureau of Investigation (FBI), hired the first African American FBI agent to infiltrate the Universal Negro Improvement Association (UNIA). Their target was UNIA leader Marcus Garvey. By creating an investigation under false pretenses, the FBI was able to convict Garvey of one count of mail fraud for which he was incarcerated and deported (Mian 2020: 57). This began the FBI's campaign to surveil police brutality activists to criminalize dissent thereby maintaining the status quo.

Between 1956 and 1971, the FBI conducted the Counter Intelligence Program, also known as "COINTELPRO," a program that would allow domestic covert operations under the guise of

anti-terrorism (Gibbons 2019: 18). This program included over 2,000 domestic counterintelligence operations. FBI tactics included infiltration of agents into activist organization, wiretapping, blackmailing, raids, and even murder (Mian 2020: 56-60). According to Gibbons, the program was developed to completely quell legal political activism because the Supreme Court was becoming more liberal and, therefore, it was becoming more difficult to convict communists of crimes. For this reason, they sought to suppress the party within the purview of their own national security power as provided by Roosevelt in the 1930s (18). The program was ultimately used to subvert a variety of dissenting political activism beyond communism, including the movement for Black liberation.

While the FBI claimed their surveillance only targeted those that were violent extremists, there is unequivocal evidence that this was untrue. In fact, they monitored peaceful groups such as the Student Nonviolent Coordinating Committee, the Southern Christian Leadership Conference, Revolution Action Movement, and more. Hoover himself shared that there was no evidence of these groups' participation in violent activities (Mian 2020: 60). The result of this fabrication is the continued violation of the First Amendment rights of activists under surveillance.

At times, the violations were of more than First Amendment rights. The FBI actually attempted and, at times, succeeded in inciting violence, and when that did not work, they became violent themselves. In San Diego, 1969, the COINTELPRO program intentionally created hostility between the Black Panther Party and the United Slaves that created unrest and, ultimately, ended in the murder of two leaders of the Black Panther Party, Alprentice “Bunchy” Carter and Jon Huggins (62-63). They attempted to do something similar in Chicago in 1969, when the FBI created a falsified letter relating to the murder plans of the gang leader to sow discord between the Black Panther Party and a street gang, the Blackstone Raiders, who were close to making an

alliance. When their plan did not work, they partnered with the Chicago police to raid Fred Hampton's apartment, shoot, and kill him in his sleep. According to Mian, "When efforts to induce gang members like Fort to neutralize Hampton did not work, it appears the FBI decided to simply complete the job themselves" (Mian 2020:62).

In 1976, the COINTELPRO program came to public attention when the Senate Select Committee to Study Government Operations with Respect to Intelligence Activities issued a report after an investigation. It stated that COINTELPRO included "thousands of illegal and unconstitutional operations conducted by the FBI...and numerous other federal agencies over several decades, operations explicitly designed to destroy political movements these agencies viewed as threats to the status quo" (Mian 2020: 59). As a result of the report, the program was officially terminated. However, as noted below, the surveillance of activists for Black liberation by the FBI continues to this day (Mian 2020: 59).

Evidence of the continued pursuit of these activities by the FBI comes in the 1980s with the development of "Joint Terrorism Task Forces" that, once again, use the guise of anti-terrorism to surveil activists. These task forces are partnerships between the FBI and other law enforcement agencies. The members of the agreements can be local, state, or federal agencies, Department of Homeland Security (DHS), the US military, and/or Immigration and Customs Enforcement (ICE). There are more than 175 task forces in US cities (Gibbon 2019: 16). With these agreements, the FBI has access to additional tools and resources to conduct covert operations aimed at subverting dissenters.

In the Era of Black Lives Matter

Despite mainstream attention to police brutality and the injustices of COINTELPRO's actions during the civil rights movement, surveillance by law enforcement of anti-racism activists has far from ceased. Regulations placed on FBI investigations through the 1980s and 90s were quickly subverted as anti-racist protesting gained renewed vigor in the 2010s. In 2008, the US Attorney General lowered regulations so that "the FBI can investigate individuals without any reason to suspect them of criminal wrongdoing or of posing a national security threat" (Gibbons 2019; 22). Beginning in 2010, this relaxation facilitated the "political surveillance of Occupy Wall Street, Black Lives Matter, School of the Americas Watch, anti-pipeline protesters, Palestine solidarity activists, and immigration rights groups" that continues to the time of this report's writing (*ibid* 22). This increased surveillance became especially relevant to the movement for Black liberation when, in response to growing numbers of anti-racist activists, in 2017 the FBI disseminated a "'Black Identity Extremists Likely Motivated to Target Law Enforcement Officers Threat Assessment' to 18,000 tribal, state and local police agencies, and launch[ed the] Iron Fist operation to neutralize the supposed threat" (*ibid* 22). This new term, "Black Identity Extremists," or "BIE," has since become a key identifier to justify FBI surveillance of anti-racist and anti-police brutality protesters, especially Black, Indigenous, and other activists of Color.

Mian outlines how the Black Lives Matter (BLM) movement developed in response to the murder of teenager Trayvon Martin by a police officer who was subsequently acquitted on all charges (Mian 2020). As BLM grew, so too did law enforcement's surveillance of Black activists. Taking advantage of technological developments in the digital age, this surveillance has reached new heights and has sparked conversations around privacy, including protections under

First and Fourth Amendment rights, and has highlighted political motives behind surveillance by law enforcement.

Current FBI Tactics and Procedures

Though regulations have changed over the decades, the 2020s have thus far been an era in which the FBI has enjoyed increased legal power to conduct operations. There is a marked lack of regulation on investigations, which Gibbons (2019) illuminates through a detail of FBI investigative tactics:

“Even though the standards for opening an assessment are extraordinarily low, the FBI is allowed to use extremely intrusive investigative techniques in performing them. These include physical surveillance, use of informants, and pretextual interviews. During a pretextual interview, the FBI can misstate the purpose of the interview in order to elicit incriminating statements from the parties. An FBI agent can even conceal their status as a federal official. An agent can open an assessment for 30 days without supervisory approval.” (Gibbons 2019: 23).

These low standards facilitate unlawful investigations of law-abiding citizens that infringe upon their constitutional and human rights.

While there is much discussion of First Amendment rights to speech and assembly, legal scholar Hannah Fuson has brought the Fourth Amendment into the conversation with the expansion of internet and social media usage. Law enforcement can use online information for surveillance because “The public nature of the internet strips Fourth Amendment protections from the content of postings that an individual or organization voluntarily releases into the public sphere” (Fuson 2019: 273). Technology is changing faster than policy, which leaves holes like this in constitutional protections. With shaky privacy laws and assumptions of public knowledge, law enforcement’s power only grows.

Despite the law’s slow pace, law enforcement surveillance tactics advanced quickly. “In the modern era, it is relatively easy for undercover officers to create fake online identities, use

unregistered cell phone numbers, and employ other technological tools to infiltrate activist groups” (Fuson 2019: 276). These tactics demonstrate the growing dependence of law enforcement on digital surveillance techniques, and their heightened ability to manipulate people and breach privacy.

The path that the FBI has taken in response to police brutality and white supremacist actions demonstrates bias against Black liberation activists. Mian (2020) points out, “rather than directing available FBI resources to combatting the forces that contribute to institutional racism in the United States, the FBI uses tactics such as the BIE assessment to characterize Black activists and movements as violent [...] to disrupt their ability to express dissent of law enforcement,” (68). This perspective argues that there is clearly a political motive behind this direction in action on behalf of the FBI, which points to systemic racism within these institutions meant to protect citizens and uphold the law. With this acknowledgement, the lack of regulation around FBI investigations becomes all the more frightening.

The invasive tactics used by the FBI and other law enforcement agencies coupled with an apparent racial and political bias in activities points toward the necessity of immediate reform measures. Fuson (2019) has proposed a joint effort including litigation as well as policy change to achieve adequate solutions facing up to the magnitude of the issue at hand (277). Yet these solutions cannot be considered without addressing the extent of the problem within not only law enforcement but all structures in the United States.

Local use of surveillance: the Minneapolis Police Department

These tactics of discriminatory surveillance are used by local police forces, as demonstrated by recent public information about the discriminatory activities of the Minneapolis Police

Department (MPD). The Minnesota Department of Human Rights (MDHR) released a report in April 2022 on their investigation of the MPD's patterns and practices, finding probable cause of racially discriminatory practices, ranging from stopping drivers of color at higher rates to using social media to surveil and negatively engage with Black activists and elected officials supportive of anti-police brutality activism.

The report explained that its review of MPDs covert social media accounts from January 2010, through December 2020, “demonstrates that MPD officers used covert, or fake, social media accounts to surveil and engage Black individuals, Black organizations, and elected officials unrelated to criminal activity, without a public safety objective.” (Minnesota Department of Human Rights 2022, 35). For instance, a MDP covert social media profile posing as a Black community member messaged the Minneapolis NAACP to criticize the organization and its branch. (Ibid.) In contrast, the MDHR report stated that MDP spent no time leveraging these social media tactics to surveil white nationalist or white supremacist groups active in Minneapolis. The report also showed that there was no oversight of MDP's social media surveillance or accountability measures for misuse or improper use of social media or data retrieved from social media. (Ibid.)

Case Study: Operation Safety Net

During the time of protest after George Floyd's murder, law enforcement in Minnesota created “Operation Safety Net” (OSN). OSN had two public goals: to “preserve and protect lawful First Amendment non-violent protests and demonstrations;” and to “prevent large-scale violent civil disturbances, assaultive actions, property damage, fires, and looting to government buildings, businesses, and critical infrastructure.” (Minneapolis City of Lakes 2021). However, in a recent investigation completed by MIT Technology, journalists found that OSN expanded well beyond

its original scope by creating a massive surveillance system that targeted protestors and journalists not suspected of any crime. Notably, this program - intended to end in April of 2020 - continued operations until at least October 2021, with no confirmed end date (Richards & Ryan-Mosley 2022a).

OSN included representatives from Hennepin County Sheriff's Office, Metro Transit, Minneapolis Police Department, Minnesota Department of Natural Resources, Minnesota Homeland Security and Emergency Management, Minnesota National Guard, Minnesota State Patrol, Ramsey County Sheriff's Office, and the Saint Paul Police Department. Largely in secret, OSN also had the extensive support of the US Department of Homeland Security and the FBI. The inclusion of multiple bodies of law enforcement enabled OSN to access the surveillance resources of the various agencies, while “policy shopping” to be governed by the agency that had the least restrictive privacy policies (Richards & Ryan-Mosley 2022a).

Their surveillance program included a “watch list” of journalists and people attending protests. They then shared this data across multiple offices with an app called “Intrepid Response,” which allowed immediate data sharing including video, images, and geolocation from drones.

Photojournalist J.D. Duggan obtained his file which consisted of three pages of photos, time stamps, media credentials, and maps. At least 6 other journalists were similarly monitored (Richards & Ryan-Mosley 2022b). Other surveillance tools included face recognition software Clearview AI, cell-phone site simulators for location tracking, license plate readers, drones, and social media surveillance. They also sought Google’s support in gathering data when a warrant was issued to them to provide geolocation of people present at a Minneapolis protest.

Information was shared and analyzed in “fusion centers,” intelligence hubs that exist across the country (Richards & Ryan-Mosley 2022a).

OSN demonstrates that law enforcement agencies have the power, resources, and protection to perform unconstitutional surveillance on journalists and activists in Minnesota. Journalists Tate Ryan-Mosley and San Richards (2022a) explain the civil rights impact of this immense and growing surveillance apparatus on first amendment rights:

Documents unearthed as part of this investigation shine a light on secretive surveillance programs, new technology vendors, murky supply chains used to arm riot police, and several watch lists, as well as other previously unreported information. Taken together, they reveal how advanced surveillance techniques and technologies employed by the state, sometimes in an extra-legal fashion, have changed the nature of protest in the United States, effectively bringing an end to Americans' ability to exercise their First Amendment rights anonymously in public spaces. The Supreme Court has consistently upheld the right to anonymous free speech as a core tenet of the First Amendment, particularly when it comes to unpopular speech. [. . .] But a wild proliferation of technologies and tools have recently made such anonymous free speech nearly impossible in the United States (Richards & Ryan-Mosley 2022a).

This dissonance between the Supreme Court's rulings on anonymous free speech and operations such as OSN evidences the gap between the promise of the law and the reality experienced throughout the history of federally sanctioned First and Fourth Amendment rights violations (Fuson 2019). Justice for the American people requires both exposure and action to address this violation of core constitutional and human rights.

Interviews

In producing this report, our team conducted multiple in-depth interviews with prominent local anti-police brutality activists, focusing on their interactions with the Minneapolis Police Department *outside* of protest settings. Despite our small sample size, we believe that these interviews represent the experiences of many human rights defenders with the Minneapolis Police Department due to our interview subjects' positionality and expertise as leaders of locally prominent anti-police brutality activist organizations. Through these interviews, distinct patterns

emerged of surveillance and harassment of anti-police brutality activists by the Minneapolis Police Department and other Minnesota law enforcement agencies.

Interview Methodology

Our team conducted two interviews of prominent local leaders of the anti-police brutality movement in the Twin Cities.¹ Interviews were conducted either in person or via Zoom and were recorded following consent by the interviewees; we later transcribed these recordings using auto-transcription software (Otter). All interviews were conducted by a team of two researchers: a primary interviewer focused solely on asking questions, and a support interviewer taking supplementary notes.

Before and during the interview process, the researchers asked questions to gain the informed consent of the interviewees, ensuring that interviewees understood the conditions of their participation, data privacy practices, and the potential audience of data gathered through interviewing. Each of the two interviews ran between 60-90 minutes, with three individual participants in total.

Interview #1: Michelle Gross & David Bicking, Communities United Against Police Brutality (CUAPB)

The first interview our team conducted was with Michelle Gross and David Bicking, although a technical issue limited the participation of Bicking. Both Gross and Bicking are long-time anti-police brutality activists in the Twin Cities affiliated with Communities United against Police Brutality (CUAPB), with Gross serving as the current president of the organization and Bicking serving as a board member.

¹ Due to both time constraints and resultant Institutional Review Board constraints, we decided to restrict our interviewing to prominent local leaders of anti-police brutality activist organizations in the Twin Cities.

Gross and Bicking articulated a pattern of surveillance and harassment of anti-police brutality activists by the Minneapolis Police Department and other Minnesota law enforcement agencies that they had observed since the founding of CUAPB in December of 2000. The experiences of harassment and surveillance by law enforcement they detailed had two main components: one legal and one physical.

(1) Legal Component: Gross and Bicking spoke of multiple instances of law enforcement officers leveraging their legal powers in a discretionary manner to harass anti-police brutality activists. A common strategy for this is over-ticketing and over-charging activists. In one instance, an activist had twenty-seven outstanding tickets at once for various offenses, including rollerblading in a public park (Regan 2008). In another instance, law enforcement officers cited a man for trespassing when the man entered the Minneapolis Police Department's 5th Precinct building and asked to speak with a supervisor about being pulled over repeatedly for "nonsensical reasons." Additionally, Gross and Bicking alleged that law enforcement officers in Minnesota instrumentalized this legal component to discourage participation in protest, citing among other instances the mass arrest of protesters on I-94 on November 4, 2020. This incident saw over 600 protesters (the largest mass-arrest in Minnesota history by a factor of three) given misdemeanor and petty misdemeanor charges, many of which were not resolved until over a year later (Walsh 2020, Duggan 2021). Similar tactics have a history extending long before the murder of George Floyd and subsequent protests in 2020 (ACLU 2016). Charges pressed by law enforcement officers, however spurious, often result in court costs, missed work, and other hardships for activists; Gross and Bicking believed this to be a form of harassment and/or retaliation.

(2) Physical Component: Gross and Bicking described multiple instances where anti-police brutality activists were surveilled or harassed physically by the Minneapolis Police Department and other Minnesota law enforcement agencies. A tactic that they had seen and heard of in multiple instances was law enforcement officers sitting in squad cars outside of human rights defenders' homes, shining headlights and spotlights through the windows; in at least one instance, this was done by a law enforcement officer outside of his jurisdiction. Law enforcement officers also commonly follow activists when they drive, pulling them over frequently with little justification. A second tactic of harassment and/or surveillance detailed by Gross and Bicking was raiding the homes of activists, often under allegedly fabricated pretenses, such as suspicion of domestic violence or, in one instance, the alleged theft of a pet despite insistence by the owner that the targets of the raid had no connection to said theft. Thirdly, Gross and Bicking relayed multiple instances where law enforcement detained anti-police brutality activists for extended periods on mere suspicion of a crime, including one instance where Bicking's own daughter was jailed for a week on terrorism charges (Schmickle 2009) before the 2008 Republican National Convention in Saint Paul; this was despite the fact that Bicking's daughter was not going to be in attendance at protests of the Republican National Convention, and was instead coordinating childcare.

Interview #2: Toshira Garraway, Families Supporting Families Against Police Violence (FSFAPV)

Our second interview was with Toshira Garraway, the founder of [Families Supporting Families Against Police Violence \(FSFAPV\)](#). Garraway works closely with Michelle Gross and Communities United Against Police Brutality to support the families of those affected by police brutality in Minnesota. Garraway and FSFAPV provide funding, mental health resources, and referrals to legal advice and representation as well as moral support, life and birthday

celebrations for those who have been killed, and a pipeline to connect families in Minnesota to others across the nation who have experienced similarly horrifying murders of loved ones.

Overall, Garraway and FSFAPV have helped over thirty families who have experienced police violence.

Garraway has a first-hand account as a victim of harassment and surveillance by the Saint Paul Police Department in connection with the 2009 killing of her fiancé, Justin Teigen.

(1) Physical Component: Toshira Garraway has personally experienced harassment and intimidation by the police officers suspected in the killing of her fiancé. The intimidation she outlined in our interview ranged from being followed, to being watched by an officer sitting outside her home, as well as pulling her over and towing her vehicle without just cause. This coercion has lasted for years and continues to this day. During Teigen's funeral in 2009, the procession and church were surrounded and "swarmed" by police cars, seemingly trying to intimidate the family and funeral goers. She named one particular officer, Joshua Lego, who had previously sat outside her home watching her and Justin Teigen's mother Tania Teigen; most recently, Officer Lego has shown up to protests and attempted to approach Garraway as she was working to support the mothers and families of people killed. She also noted that over the last few years at protests after the deaths of George Floyd, Daunte Wright and Amir Locke she has been watched and singled out to be followed by the police upon departure. The surveillance of Garraway might have been part of Operation Safety Net (OSN), previously mentioned, which targeted Civil Rights activists, as well as journalists and peaceful protesters, (Richards & Ryan-Mosley 2022a).

Garraway's fiancé, Justin Teigen, was also followed and harassed many times before the fateful night of August 19, 2009 when he was chased, beaten, killed and thrown into a public dumpster. The week before his killing he was pulled over for no reason, allegedly, and his vehicle, which was a "really nice car" was impounded to harass Teigen. Upon the killing and eventual discovery of Justin's body, video obtained from the scene was withheld from the family and was allegedly edited to exclude important details. In conversations with the forensics pathologist, Dr. Lindsay Thomas, after the autopsy, Garraway and Tania Teigen (Justin's mother) struggled to get answers; Thomas refused to comment on the cause of death until she viewed the video from the scene. This sounded suspect to family members, as forensic pathologists routinely work without access to video documenting a death and should be able to conclude the cause of death without such evidence. After Dr. Thomas had viewed the video—Garraway and Teigen's family members also were able to watch the recording—she concluded that the cause of Justin Teigen's death was asphyxia, due to suffocation from being crushed in the trash dumpster. During the viewing, Garraway stated that there was a blank space, seemingly edited, where the police officers caught up with Justin after the foot chase. There was no footage of the altercation between Justin and the police officers in the video.

Garraway also noted the numerous instances of protesters being hurt, maimed and harassed during her many years in the movement. As noted in the *Protecting What Matters, Hillard-Heintz - Internal Audit Report* concerning the response to the protests in response to George Floyd's murder: "Community members were dismayed at the lack of leadership and planning from the City and the MPD and expressed their overall distrust of City and MPD officials. Although not well documented, we learned that some people who participated in the protests were injured during the unrest" (2022). In particular, Garraway discussed the case of Soren

Stevenson, a protester who lost his eye during the protests when a Minneapolis police officer fired a 40mm blunt impact projectile at his face, blinding him (Sepic 2022). Garraway stated that her organization has assisted and supported Sorenson, and that he is now a member of Families Supporting Families Against Police Violence organization.

(2) Trauma Component: This component, while the most difficult to document and understand, was clearly present throughout our interview with Garraway. During the conversation she spoke of how she has become numb to the pictures and memories of this appalling event, as it is her only way to deal with it, while also telling Justin's story. According to Garraway, trauma comes in many different forms and experiences. Garraway spoke of families who lost their jobs due to mental health issues. Families and loved ones were unable to work and support their family after the devastation that followed the killing of their loved one. This loss is not the only discernible damage: self-esteem, fear for personal safety and the lack of a desire to live become concerns for these families who have no monetary or physical support from the local government, including from the Minnesota Crime Victims Reparations Board or police organizations.

(3) Legal Component: Providing the family with a virtual checklist of what to do to protect your family after the killing and /or harassment of a loved one is an important role FSFAPV plays. One of the most important steps on this list is legal representation. Toshira Garraway has worked alongside CUAPB in offering resources and assistance to families whose loved ones have been killed or harassed, even hurt. She has worked directly with two lawyers, one local - Jeff Storms and one known nationally, Ben Crump, an advocate and attorney who specializes in civil rights cases and wrongful death lawsuits. As a high-profile representative of the African American community Crump brings eyes and media to these cases which helps with getting the officers involved investigated. When possible, Garraway pays for the families to be represented and

encourages them to tell their stories to the media. Finally, Garraway’s organization, Families Supporting Families Against Police Violence, has worked alongside other activist groups in Minnesota to compile a list of nine bills that they are pushing to be introduced in the Minnesota State Legislature. In April 2021, the Minnesota House approved the *George Floyd Justice in Policing Act*, which ended qualified immunity for local law enforcement officers. This bill is still tied up in end of the session negotiations in the divided Minnesota legislature. One success in the immediate aftermath of the horrific murder of George Floyd was the July 2020 Minnesota bill to ban the use of chokeholds by law enforcement (Swartzler 2021).

Systemic, Political and Social Factors that Perpetuate Misconduct

Minneapolis Police Department Misconduct

Major barriers to achieving justice and addressing police misconduct are the social, organizational, and cultural dynamics within police departments. Normalized practices that are created at the organizational group level set the generalized code of conduct within police departments across the country, but particularly in the Minneapolis Police Department and other Minnesota law enforcement agencies. These practices are rooted in group-created morality that provides the justification for the activities of groups of officers. Especially in disorganized organizations or departments, the reliance on such normative orders offers officers structure in times of chaos or reduced efficiency.

During interviews with local activists as referenced in the earlier part of the paper, activists Michelle Gross and Toshira Garraway noted the physical component of harassment, especially citing the common practice of officers “swarming” protests or following protesters as they leave the action. We need to track whether this surveillance and harassment happens while on duty.

The Minnesota Department of Human Rights (2022) report documented that supervisors not only tolerated such behavior, but modeled it, demanding “unquestioned compliance” by which “veteran officers set the tone that MPD officers take with community members – positioning community members as the enemy” (40).

The activists we interviewed also emphasized the legal power officers wield over their victims. Through manipulation of evidence and intimidation, officers use their position of power to silence truth-tellers and anti-police brutality activists. This breaks trust between communities, particularly communities of color that face high rates of police misconduct, and the criminal legal system. The Judiciary is a pillar in the governance and preservation of peace in our nation. By undermining the justice system, officers have worked for years to destabilize our democracy. A 2006 FBI report detailed the intentional infiltration of law enforcement by white supremacists who intentionally “avoid overt displays of their beliefs to blend into society and covertly advance white supremacist causes” (Speri 2017). In comparison with the military, police departments across the country did not act when given this news; the Department of Defense created stricter screening and monitoring of recruits, police departments did virtually nothing. In 2021, the Minnesota Board of Peace Officer Standards and Training created a policy that prohibited law enforcement officers from “affiliating with, supporting, or advocating for white supremacist groups, causes, or ideologies” (Montemayor 2021). The law was originally a bill that did not pass the state legislature (Walker 2021); yet, the Minnesota Board of Peace Officer Standards and Training has yet to actualize their policy through providing guidance or requirements on screening, monitoring, or enforcing this policy.

The distrust between Minneapolis community members and the MPD began long before the May 2020 murder of George Floyd. The community’s frustration was not only with the officers

convicted in the killing, but also towards the city government that took little to no action to support its community, and hold officers accountable despite decades of reported abuse.

Specifically, the assessment, *After-Action Review of City Agencies' Responses to Activities Directly Following George Floyd's Death on May 25, 2020*, examined the lack of preparation and follow-through on behalf of the city to support Minneapolis residents, anti-police brutality protesters and Black liberation activists. (Internal Audit, 2022)

Key findings of the report were that the City and Minneapolis Police Department failed to engage their emergency response protocols or adhere to proper centralized command. The lack of communication and structure with the MPD exacerbated training and personnel issues, leading to some groups of officers taking it upon themselves to address the demonstrators, leading to continued harassment and mistreatment of protestors. During this time, the Strategic Information Center (SIC) provided MPD intelligence and information on demonstrations through camera surveillance, social media monitoring and intelligence sharing with other agencies in the state. The report states that the information and intelligence gathered was given to a designated command post, but other procedures for dissemination were not followed. This is evidence of digital surveillance being used to monitor the protests with no end line of communication on how that information would be used and no guarantee as to by whom. A potential cause for concern for the civil liberties of protestors and their freedom of speech. (ibid)

Digital Surveillance in Minnesota

In 2015, Hennepin County paid \$26,000 for Meltwater, a software that scans social media conversations, blogs, and posts. It tracks topics while “finding and connecting key influencers” geographically (Map: Social Media Monitoring by Police Departments, Cities, and Counties, 2019). Over the course of 2014 and 2015, the County paid \$29,000 to Geofeedia, a software

company that scans geolocation data to posts to help “law enforcement to respond to immediate threats to public safety.” (*ibid*). Geofeedia representatives have noted that their product has been used to monitor Black Lives Matter activists at the Mall of America. (*ibid*).

A 2016 case study published by Geofeedia about its work for the Baltimore County Police during the Freddie Gray riots describes police use of Geofeedia’s “real-time, location-based social media monitoring” to run social media photos through facial recognition technology, identify rioters with outstanding warrants, and “arrest them directly from the crowd.”

“There is no legal framework in place around the police monitoring of social media,” said Faiza Patel, co-director of the Brennan Center’s Liberty & National Security Program. “One of the big issues we have is very little transparency around what they are doing, what tools they are using” (Solon, 2020).

Anti-Police Brutality Activists are being surveilled and potentially targeted due to their associations and political ideology.

The MPD policy does not clearly indicate the ethics of deciding who to surveil in their department policy. Surveillance technology bought and paid for by Minnesota residents should be utilized with clear procedures and ethics practices.

Conclusion and Recommendations

Community distrust of the Minneapolis Police Department existed long before the murder of George Floyd. His outrageous murder further ignited deep community frustrations about discriminatory policing and instead of rectifying the problems, the response of the MPD was to further criminalize, surveil and harass anti-police brutality protesters and black liberation activists.

As we continue to address these violations in our community, this study seeks to bring the OHCHR's attention, in particular, to the Minneapolis Police Department's surveillance and harassment of anti-police brutality and black liberation activists, with a specific focus on these violations outside of protests. By documenting these discriminatory practices, aimed at silencing human rights defenders, including whistleblowers and activists, we seek to add information to the High Commissioner's Agenda towards transformative change for racial justice and equality (A/HRC/47/53).

Law enforcement accountability in our community absolutely must be conducted beyond the City's and police force's own internal systems. As a result of its recent study confirming the discriminatory patterns and practices of the MPD, the Minnesota Department of Human Rights recently pledged to work with the City of Minneapolis to develop a consent decree –a court-enforceable agreement -- that identifies specific changes that must be made to end these practices and creates timelines for those changes to occur. The report notes, “As part of this process, the Minnesota Department of Human Rights will meet with community members, MPD officers, City staff, and other stakeholders to gather feedback on what should be included in a consent decree to address racial discrimination in policing in Minneapolis” (Minnesota Department of Human Rights 2022). While we support this step forward to accountability, we will work with these entities and we urge the OHCHR to liaise with these entities to share expertise and add the weight of international legal scrutiny to this critical process.

As our community works toward ensuring respect for human rights by law enforcement, we will recommend other accountability practices, including citizen review boards, community healing circle practices and truth commissions, in place of inner structural investigations that, historically, resulted in no accountability at all.

We appreciate the High Commissioner's attention to these issues, which have caused deep harm in our community, and stand ready to work with your office moving forward on your important Agenda towards transformative change.

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Addendum 1

Policy and Procedures on Covert use of Social Media Sites

Excerpted from Minneapolis Police Department Policy and Procedure Manual, Section 7-119, Social Media Sites MPD, <https://www.minneapolismn.gov/media/-www-content-assets/documents/MPD-Policy-and-Procedure-Manual.pdf>

C. Covert use of social media sites

The MPD recognizes that the use of covert social media profiles can be a useful tool in the investigation of criminal activity.

1. Profile registration

a. All covert social media profiles shall be registered with the Commander who oversees the Strategic Information Center (SIC). The information provided shall include:

- The name & web address of the social media site
- The username and screen name of the covert social media profile, and

- The MPD employee responsible for maintaining the covert social media profile.

b. The Commander or their designee shall conduct yearly audits to ensure that the covert profiles are still active.

c. When a covert social media profile is no longer needed it shall be deactivated or deleted from the social media site, to the extent permitted by the social media site, and the Commander shall be notified.

2. Employee responsibility

- a. The MPD employee registered as the maintainer of a covert social media profile is responsible for all content posted online under that profile.
- b. The employee shall maintain their own covert social media profile, and shall not share the access information with other employees, except that:
 - i. The employee shall provide the password to their registered profile upon request from the Commander or their designee or for auditing purposes.

3. No promotion of violence or criminal activity

MPD employees shall not post any information through a covert social media profile that promotes violence or criminal activity.