# U.S. COMMISSION ON CIVIL RIGHTS

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#### BUSINESS MEETING

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FRIDAY, JANUARY 19, 2024

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The Commission convened via

Video/Teleconference at 10:00 a.m. EST, Rochelle Garza, Chair, presiding. PRESENT:

> ROCHELLE GARZA, Commissioner VICTORIA F. NOURSE, Vice Chair J. CHRISTIAN ADAMS, Commissioner STEPHEN GILCHRIST, Commissioner GAIL HERIOT, Commissioner MONDAIRE JONES, Commissioner PETER N. KIRSANOW, Commissioner GLENN D. MAGPANTAY, Commissioner

MAURO MORALES, Staff Director SHERYL COZART, General Counsel

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STAFF PRESENT:

BETH COMMERS, Chair, Minnesota Advisory Committee TINALOUISE MARTIN, Director, OM DAVID MUSSATT, Director, RPCU

COMMISSIONER ASSISTANTS PRESENT:

NATHALIE DEMIRDJIAN-RIVEST

ALEXIS FRAGOSA

JOHN K. MASHBURN

CARISSA MULDER

THOMAS SIMUEL

IRENA VIDULOVIC

STEPHANIE WONG

YVESNER ZAMAR

# UNE DITED

I. APPROVAL OF AGENDA	5
II. BUSINESS MEETING	6
A. Presentation of Minnesota State Advisory Committee by Beth Commers, Chair, on Committee Report, Civil Rights Implications of Policing1	8
B. MANAGEMENT AND OPERATIONS	
Staff Director's Report 4	0
III. ADJOURN MEETING	1

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2	(10:06 a.m.)
3	MR. HARRIS: Good day and welcome to the
4	January 2024 Business Meeting. Today's conference is
5	being recorded. At this time I would like to turn the
6	conference over to Chair Rochelle Garza.
7	Please go ahead.
8	CHAIR GARZA: Good morning, everyone. I'm
9	the Chair of the Commission Rochelle Garza. Let's go
10	ahead and get started.
11	This Business Meeting of the U.S.
12	Commission on Civil Rights comes to order at 9:06 a.m.
13	Central Time in Texas, 10:06 a.m. Eastern Time on the
14	East Coast, on Friday, January 19th of 2024.
15	This meeting is taking place via telephone
16	conference. And since we are all appearing by phone,
17	I would like to start with a roll call. So please
18	confirm your presence when I say your name.
19	Vice Chair Nourse.
20	VICE CHAIR NOURSE: Present.
21	CHAIR GARZA: Commissioner Adams.
22	COMMISSIONER ADAMS: Here.
23	CHAIR GARZA: Commissioner Gilchrist.
24	COMMISSIONER GILCHRIST: Present.
25	CHAIR GARZA: Commissioner Heriot.

JNEDITED 5 COMMISSIONER HERIOT: I am here. 1 2 CHAIR GARZA: Commissioner Jones. 3 COMMISSIONER JONES: Present. CHAIR GARZA: Commissioner Kirsanow. 4 5 COMMISSIONER KIRSANOW: Here. 6 CHAIR GARZA: Commissioner Magpantay. 7 COMMISSIONER MAGPANTAY: Here. CHAIR GARZA: Thank you. 8 So based on that 9 roll call, a quorum of the Commissioners is present. 10 Is the court reporter present? 11 COURT REPORTER: Present. 12 CHAIR GARZA: Thank you. Is the 13 parliamentarian present? MS. COZART: 14 Yes. 15 CHAIR GARZA: Thank you. Is the staff 16 director present? 17 MR. MORALES: I am present. 18 Ι. APPROVAL OF AGENDA CHAIR GARZA: Wonderful. So now we're 19 20 going to go ahead and proceed with today's agenda as 21 posted on the Federal Register. We shall consider the 2.2 following agenda items that were notified. 23 First we have the presentation by the Minnesota Advisory Committee Chair on the civil rights 24 25 implications of policing, followed by the Staff

UNEDITED 6 Director's report. 1 2 Are there any motions to amend the current 3 agenda? 4 COMMISSIONER KIRSANOW: Madam Chair, 5 Kirsanow here. CHAIR GARZA: Yes, Commissioner Kirsanow. 6 7 COMMISSIONER KIRSANOW: Thank you, Madam I'd amend, move to amend the agenda to 8 Chair. 9 continue the presentation by the Minnesota SAC until 10 such time as the dissenters Larry Purdy and/or Ian 11 Maitland have an opportunity to present also. 12 COMMISSIONER HERIOT: This is Gail. Ι 13 would, I would second that motion. 14 CHAIR GARZA: Okay. Discussion? 15 We have a, we have a motion, and we have Is there any discussion on this? 16 a second. 17 COMMISSIONER HERIOT: Madam Chair. 18 CHAIR GARZA: Yes, Commissioner Heriot. 19 COMMISSIONER HERIOT: I would like to read 20 the letter that we got from Mr. Purdy, who is a member 21 of the Minnesota SAC. And he wrote this message I 2.2 believe last night. 23 Dear Ms. Fragosa, when our Minnesota State 24 Advisory Committee 2022 Report on Policing was 25 finalized it was my understanding that I would be

asked to appear and answer any questions the Commission members might have regarding my written dissent.

I am disappointed that that will not happen, but respectfully ask that you offer the following in lieu of my appearance before the Commission.

8 First, I stand by my dissent. And should 9 any Commissioner have any questions regarding my 10 dissent, I invite him or her to submit them to me in 11 writing. I will do my best to provide a timely 12 response to any such inquiries.

13 Second, I wish to emphasize that, in my 14 opinion, the committee's eventual heavy-handed --15 heavy reliance on the April 27th, 2022, Minnesota 16 Department of Human Rights Report, that is the MDHR 17 2022 Report, was inappropriate. As I made clear in my 18 dissent, we were afforded no opportunity to hear from, 19 much less question, the MDHR commissioner or anyone 20 involved in the preparation of the MDHR's heavily 21 ideological 2022 document.

Finally, I urge every member of this honorable Commission to take the time to review the recent documentary entitled, The Fall of Minneapolis, in order to expand your knowledge and understanding of

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### how the events of May 25th, 2020, impacted the

Minneapolis Police Department. I believe each member of this honorable Commission owes it to him or herself, and especially to the citizens of Minneapolis and the members of the now greatly depleted police force to watch this documentary.

If each Commissioner does that in good faith and with an open mind, and irrespective of your final conclusions, you will be better educated about what actually happened the day that George Floyd died, and the consequences for law enforcement agencies everywhere, as well as for the communities they are hired to protect and serve.

14 Thank you. Larry Purdy, Member, Minnesota15 State Advisory Committee, to the USCCR.

16 So that was his email. Personally, I 17 would very much like to hear from Mr. Purdy and from 18 Mr. Maitland. That's what we have been doing before. 19 I remember that with the California SAC we had, we had 20 dissents also presenting. Or, rather, I was reminded 21 of that this morning by some of my colleagues. I 22 don't actually remember it myself really, no.

But I think it's a good idea when we have dissents from SAC reports, we should have both sides presenting and not just one. I know that an effort

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UNFDITED 9 was made to, to expand this. And we received word 1 2 back from the Chair's Special Assistant that we wouldn't be able to do that. 3 And that's why I think Commissioner 4 5 Kirsanow's motion is a good idea. We should continue this until we can have both sides. 6 7 CHAIR GARZA: Okay. Thank you for, for your comments, Commissioner Heriot. You know, while 8 9 I appreciate this desire to hear both sides, I just want to remind the Commissioners just the purpose of 10 11 the SAC presentations that we're hearing. 12 The purpose is to hear from our colleagues 13 what they are doing on reports that they have passed, 14 and to educate us and further provide information to, 15 to us about what they have, have accomplished in their 16 respective committees. So I just wanted to --17 COMMISSIONER HERIOT: That's why we want 18 to hear from both sides. 19 CHAIR GARZA: Yeah. I do want to be, I do 20 want to be clear. I don't see this as a debate 21 necessarily. This is about hearing from the Chair of 2.2 the Commission. And the purpose is pretty clear, it's 23 just for us to, to understand the work that they were 24 doing and have -- give them the opportunity to present 25 on that work.

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3 the way these things work. 4 CHAIR GARZA: Are there any other commendation of the commissioners or should we go ahead and move to call the question? 7 COMMISSIONER ADAMS: Adams. 8 CHAIR GARZA: Yes, Commissioner Adams.	v we
4 CHAIR GARZA: Are there any other comme 5 from other Commissioners or should we go ahead and 6 move to call the question? 7 COMMISSIONER ADAMS: Adams. 8 CHAIR GARZA: Yes, Commissioner Adams.	:'s
<ul> <li>from other Commissioners or should we go ahead and</li> <li>move to call the question?</li> <li>COMMISSIONER ADAMS: Adams.</li> <li>CHAIR GARZA: Yes, Commissioner Adams.</li> </ul>	
6 move to call the question? 7 COMMISSIONER ADAMS: Adams. 8 CHAIR GARZA: Yes, Commissioner Adams.	ents
7 COMMISSIONER ADAMS: Adams. 8 CHAIR GARZA: Yes, Commissioner Adams.	
8 CHAIR GARZA: Yes, Commissioner Adams.	
9 COMMISSIONER ADAMS: Ouestion: I don't	
COMMISSIONER ADAMS: QUESCION: I don t	:
10 know the answer, but I have some recollection, perh	naps
11 the Staff Director remembers, and maybe it was	
12 Missouri, I can't remember, but in the last couple	of
13 years has it been or has it not been the practice t	0
14 hear dissent occasionally?	
15 I I can't remember for sure, but I h	nave
16 some recollection, and for some reason Missouri sti	lcks
17 out, perhaps Alabama, and I'm not sure. What has h	been
18 the practice, the empirical practice? I just can't	
19 remember for sure.	
20 COMMISSIONER HERIOT: California.	
21 California we heard from the dissent.	
22 COMMISSIONER ADAMS: Well, my question	was
23 directed to the Chair and potentially the Staff	
24 Director, also. I'm curious.	
25 MR. MORALES: This is Staff Director	

UNFDITED 11 We have heard some dissent. 1 Morales. They are 2 usually requested in advance. And, and then the individual who is dissenting will be allowed to 3 participate under a certain time period, as they all 4 5 are. So, yeah, we have had dissent. And it's 6 7 up to you, Commissioners, whether you feel that this is appropriate at this point. 8 9 The dissents are always available because 10 they're in the reports for the most part. So you can 11 proceed and then have the dissent attached to the, to 12 the transcript, in order that we at least hear from 13 the chair of the committee who's currently on the line. We, obviously, don't want to censor dissents. 14 15 But since we're ready to go, it seems 16 rather silly to try to push it off to the next meeting 17 and then end the meeting. And then we could have, and 18 then we could have them submit it. 19 But it's up to the Commissioners. 20 COMMISSIONER ADAMS: Madam Chair, one 21 quick follow-up for the Staff Director, please. 2.2 Was it Missouri or Alabama? Is mv 23 recollection correct? And what, what happened in this 24 I don't know, was there a request to be heard case? 25 or no request? Does anybody know?

UNEDITED 12 MR. MORALES: I don't know. I wasn't 1 2 involved in the discussions. But I think Commissioner Heriot's correct, California did have a dissent. 3 CHAIR GARZA: Well, thank you. Thank you 4 5 for that, Staff Director Morales. And I appreciate 6 the questions. 7 We do have the chair who is the spokesperson for the Minnesota Commission here. 8 And 9 they represent the views of the Commission. So, you 10 know, I'm sure that the chair can answer any questions 11 the Commissioners have following her presentation. 12 COMMISSIONER HERIOT: Madam Chair. 13 CHAIR GARZA: Yes? Commissioner Heriot. 14 COMMISSIONER HERIOT: There's one more 15 thing that I think is a problem here. And that is 16 that the report's table of contents doesn't even 17 mention that there are dissents. Rather, it refers to 18 the dissents simply as Appendix A, Appendix B. 19 I think that's a very bad practice. We 20 need to make sure that when people look at the table 21 of contents of a report that it's clear that there are 2.2 dissents, particularly one like this one, which is 23 very controversial in its nature. VICE CHAIR NOURSE: This is Vice Chair 24 25 Nourse. Chair Garza, is it appropriate for me to

UNEDITED 13 speak at this point? 1 2 CHAIR GARZA: Yes. Go ahead, Vice Chair. 3 VICE CHAIR NOURSE: I just want to say we 4 have -- I was not aware of any of this controversy. 5 And so I really don't feel like we can put on a proper notice about it. I perfectly -- this is in the public 6 7 record. No one wants to censor dissenting views. But I don't think this motion is 8 9 appropriately posed at this point in time. So, and I 10 do think we are being very rude to the chair. And you 11 can, you know, Commissioner Heriot and everybody else 12 can ask the chair about the dissenting report. That's 13 perfectly appropriate. So let's get on to the motion. I call the 1415 question. 16 CHAIR GARZA: All right. Motion to -- on 17 the table is the motion to amend the agenda. I'm 18 going to go ahead and just do a roll call vote. 19 Vice Chair Nourse, how do you vote? 20 VICE CHAIR NOURSE: No. 21 CHAIR GARZA: Commissioner Adams. 2.2 COMMISSIONER ADAMS: Yes. 23 CHAIR GARZA: Commissioner Gilchrist. 24 COMMISSIONER GILCHRIST: Yes.

CHAIR GARZA: Commissioner Heriot.

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1	COMMISSIONER HERIOT: I vote yes.
2	And I would point that Commissioner
3	Nourse's SA was informed of this issue on Wednesday.
4	CHAIR GARZA: Commissioner Jones.
5	COMMISSIONER JONES: No.
6	CHAIR GARZA: Commissioner Kirsanow?
7	COMMISSIONER KIRSANOW: Yes.
8	CHAIR GARZA: Commissioner Magpantay.
9	COMMISSIONER MAGPANTAY: No.
10	CHAIR GARZA: And the chair votes no.
11	Motion does not pass. So we will go ahead
12	and now turn to the business meeting. And
13	COMMISSIONER KIRSANOW: I have a second
14	motion.
15	CHAIR GARZA: Yes, Commissioner Kirsanow.
16	COMMISSIONER KIRSANOW: Thank you. The
17	previous motion was that to have this presentation
18	continue until such time as the dissenter has an
19	opportunity to present also.
20	In lieu of continuing this, as that was
21	voted down, I would move that the dissent has an
22	opportunity to present at some point in the near
23	future, whether it be the next meeting or the meeting
24	thereafter.
25	COMMISSIONER HERIOT: I second that
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UNEDITED 15 motion. 1 2 CHAIR GARZA: I have a point of order 3 question for the parliamentarian. But I believe I just moved on to the 4 5 business meeting after the motion. Am I, am I doing 6 this correctly? 7 MS. COZART: I believe you are. I'm not an expert on Robert's Rules, but I believe you have, 8 9 you have. There was a motion on the table that did 10 11 Now we have moved on to the agenda that is not pass. 12 present today. 13 CHAIR GARZA: Okay. Thank you very much. 14 So I appreciate the Commissioner's request. We will discuss that offline. And I am 15 16 happy to figure out something that is amenable so that 17 we can make sure folks can be heard. 18 So we'll go ahead and just move on to the 19 business meeting. 20 BUSINESS MEETING II. 21 CHAIR GARZA: I do, I just want to at 2.2 least say to everyone Happy New Year. I mean, this is the first official business meeting that we've had of 23 24 the year. And I just want to welcome everyone back. 25 And if you could please mute yourself,

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Commissioner. Thank you.

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So I want to welcome everyone back. And give a special thanks to all of the Commissioners, and special assistants, and staff, especially at the Office of Civil Rights Evaluation, OCRE, that worked tirelessly through the end of the year to make sure that we solidified on 2024 report topics and planning document.

Since our last official business meeting 9 the Commission has been working diligently. And we've 10 11 had two notational votes that have taken place.

12 The first was on November the 24th of last 13 The Commission unanimously approved the 2024 vear. 14 Statutory Enforcement Report entitled, Facial 15 Recognition Technology and Civil Rights, FRT, and a 16 briefing with report to update the Commission, 2008 17 report, Enforcing Religious Freedom in Prison.

18 And then on December 22nd, 2023, the 19 planning documents for the 2024 Statutory Enforcement 20 Report on Facial Recognition, Technology, and Civil 21 Rights; and the briefing report to update the 2.2 Commission, 2008 report, Enforcing Religious Freedom 23 in Prison, were passed by a majority vote.

24 And so, again, I commend everyone for 25 moving these important reports forward. And I know,

UNEDITE 17 1 I know that I look forward to continuing this 2 important work, and I know that all of you do as well. And I look forward to a wonderful year this year. 3 So with that, we will now hear from our 4 5 Minnesota Advisory Committee Chair Beth Commers on the committee's report, Civil Rights Implications of 6 7 Policing. Thank you, Chair Commers, for your 8 9 dedication and continued investigation into the policing practices in Minnesota, especially in 10 11 considering the civil rights violations stemming from 12 what has occurred in the Minneapolis Police 13 Department. 14 As many of you may recall, at the height 15 of the pandemic there was a large riot and civil 16 unrest. And at the root of this was the Minneapolis 17 Police Department's former Officer Derek Chauvin, a 18 White male who has since been found guilty of 19 tragically killing George Floyd, a Black American 20 male. 21 George Floyd's murder sparked a global 2.2 movement, as many of you recall, to address deep-23 rooted racial issues in American society. Ιt 24 galvanized a global movement. And it sparked 25 significant changes in both policy and public

UNEDITED 18 1 consciousness regarding civil rights, police brutality, and racial justice. 2 3 And it's for this reason that I'm glad that the Minnesota Advisory Committee took leadership 4 5 in compiling this comprehensive report. And we look forward to hearing from your commission about --6 Commission's report, including recommendations on 7 8 these critical issues. 9 So, Chair Commers, the floor is yours. 10 II. A. PRESENTATION OF MINNESOTA STATE ADVISORY COMMITTEE BY BETH COMMERS, CHAIR, ON COMMITTEE 11 12 REPORT, "CIVIL RIGHTS IMPLICATIONS OF POLICING" 13 MS. COMMERS: Thank you, Chair Garza. And 14 good morning to you, and good morning, Commissioners. 15 My name is Beth Commers. I'm Chair of the 16 Minnesota State Advisory Committee. It is truly an 17 honor to be with you today to present our 2022 report. 18 Why this topic? It is a follow-up to our 19 2018 Report on Civil Rights in Policing Practices in 20 Minnesota. 21 Minnesota is home to the largest 22 disparities in the nation, on every -- in every 23 indicator, whether it's from education, to housing, to 24 income, health -- you name it -- policing, 25 incarceration we top the nation, for those, those

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1	gaps.
2	In addition, we have had several high
3	profile deaths at the hands of police in the last
4	decade: Jamar Clark, Philando Castile, George Floyd,
5	Justine Damond, Daunte Wright.
6	Long before George Floyd was murdered
7	under the knee of Derek Chauvin for all the world to
8	see, the Minneapolis Police Department was notorious
9	on the streets for its discriminatory practices. So
10	it is no wonder that the previous committee dove into
11	this topic, and that we revisited it to see if any of
12	our findings and recommendations were received and
13	implemented.
14	The main findings of the 2022 report:
15	Number one, a lack of political will at
16	all levels to enforce the limits. And I would also
17	add, a lack of will to move toward meaningful change;
18	Decisions about policing policy value
19	choices;
20	Aggressive tactics. There's the
21	assumption that aggressive tactics deter crime. And
22	the data does not bear that out;
23	And the Minneapolis Police Department
24	discipline structure is not transparent. 90 percent
25	of it happens out of the public eye.

### UNEDITED I'm going to flip the order of this a

little bit and give you some examples to highlight the depth of the issue of each. First, I want to address policies. And when we say policies we also have to say training.

I can give you an example that a chief said to me. They, meaning the Civilian Review Board, do not -- and not the Minneapolis chief, a different chief -- do not understand the use of force policy, our use of force policy.

And I would respond to that that maybe, yes, maybe that is true. Maybe they don't understand the use of force policy. And maybe it's more complex than that.

15 There are some considerations. Maybe the 16 chief's use of force policy is vague because he first 17 learned it for his role. Maybe the community 18 expectations, tolerance, and definition of use of 19 force has changed and it's become more modern. You know, the world changed when George Floyd was 20 21 murdered, and maybe the community expectations around that use of force did too. 22

How has that definition, the chief's definition, whether it is the mind of the community, how has that been carried out and conveyed through the

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JNEDITED 21 1 ranks? How has that been given to lower level 2 managers? 3 You know, inevitably you get to be on the 4 telephone. Unfortunately, what kind of system has 5 been set up in that police department to measure whether the theory and the practice is exactly in line 6 7 with the chief from what the boots on the ground are 8 getting. Yeah, what checks and balances are there 9 that exist? 10 There are lots of things that impact that. 11 Promotions, for example, impact how a policy is put 12 into place with its training, the promotions of the officers that are doing those trainings. Yeah, it's 13 14 extremely, extremely complex. 15 Looking at data, one of the issues around 16 transparency and civilian oversight, police 17 discipline, police have an immense amount of data. 18 But the question is do they make it available to the 19 public? 20 Police can, one person or entity can 21 disaggregate by the officer internally, but what do 22 they show to the public? It kind of goes back to the 23 notion of political will. When you think about discipline, it's very 24 25 complex. We often go to the -- for arbitration

1	reform, like our report did. And while that's true,
2	we also can look at the arbiters themselves, what is
3	their background and how did they get in this role?
4	Lack of political will is also
5	intertwined. Is there political will to change that
6	system? Why do we have one arbiter just making the
7	decision on whether an officer loses their job or not?
8	Why don't we have a system of three?
9	Thinking of discipline and transparency,
10	about 90 percent of the Minneapolis police incidents
11	are not transparent. That goes back to political will
12	as well. Minnesota statute, our practices statute, we
13	are allowed to show or to, to publicly list closed
14	cases, even involving employees and involving police
15	officers. So why don't we? Because of the lack of
16	will.
17	There is an inherent conflict. When you
18	think about discipline and transparency within the
19	Police Department, they look at employees they look
20	at officers as employees, which clashes with the
21	community's perception of the public role, the
22	community role of officers.
23	What else can I tell you about our ah,
24	there's just a simple clash in that process between
25	employee protections and the community protections.

UNEDITED 23 1 When Mayor Jacob Frey started to push back on the Police Department in Minneapolis, response times 2 3 slowed incredibly. There are numerous reports written 4 about it in the public eye. 5 I was told in the Civilian Oversight National Conference that civilian oversight and 6 7 changes to policing have to be done with these 8 officers instead of to police officers, which goes 9 back to the will. A police chief can make decisions 10 to change things internally if he, she, or they choose to. And a mayor can also make those changes if they 11 12 choose to. So with that, if you'll look on page 39 13 14 and you'll see the recommendations that we give you. 15 We do have the dissent in our report. 16 Thank you for addressing that issue up 17 front. 18 I am available to take questions, if you 19 have any. 20 CHAIR GARZA: So we will go ahead and turn 21 to questions. Thank you so much. Thank you so much, 22 Chair Commers. 23 I do, I do want to -- I'm going to take a point of personal privilege and ask the first question 24 25 and then open it up to other Commissioners.

1	But I did want to ask, I'll ask my shorter
2	question first. How does this report's findings
3	compare with previous reports on similar issues?
4	And has there been any progress, and where
5	are the most critical gaps that still need to be
6	addressed?
7	MS. COMMERS: Yeah. Thank you, Chair.
8	This, this report's findings are simply
9	the next step. One of the critical gaps that it
10	addressed was with our state law. It's referred to as
11	PODPA, the Peace Officer Discipline Procedures Act.
12	At the time of this report PODPA had not been changed.
13	And it has now. It was changed in our last
14	legislative session.
15	And it was changed to allow a couple
16	things. It was changed to allow civilian oversight
17	entities to do their own independent investigation.
18	And that's new in Minnesota.
19	It also has been changed to allow civilian
20	oversight entities to, to make a finding rather than
21	just a recommendation. And the part of the problem
22	and part of the lack of community trust in the process
23	is that, is that as it stands in Minnesota up until
24	last year, the police chief could choose to accept
25	civilian oversight's recommendation or not.

## And now that PODPA has been changed, the

civilian oversight entity, if there's political will within the department to accept it, and within the enterprise of the municipality to allow it. Right?

So if there's political will to allow it, the oversight board can make a finding, and that sticks. And the chief cannot overturn it. The chief can only decide the discipline for an officer. That's a radical shift in Minnesota. I don't know if it was because of this report. There has been a lot that has been changing since George Floyd was murdered.

CHAIR GARZA: Thank you, Chair. One, one other question I have is just about what the report identifies, that there are notable racial disparities in aspects such as traffic stop searches and use of force. And I know that there is a dissenting, there is a dissent acknowledging these disparities. And there is skepticism about the sufficiency of data to support these conclusions. Could you specify the policies or practice

21 in the -- in the Minnesota Police Department, 22 Minneapolis Police Department that might be leading to 23 these disparities?

And, additionally, what, what changes do you recommend, and kind of digging into the

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UNEDITED 26 1 recommendations here? 2 MS. COMMERS: Yeah. 3 CHAIR GARZA: What changes do you 4 recommend to address these issues effectively, considering the dissenting views on the data 5 6 conclusiveness? MS. COMMERS: I know that one of our 7 8 members challenged the data, but none of the other committee members did, because our eyes are wide open 9 10 in Minnesota where we top the nation for disparities 11 on every indicator, and policing is no different. It 12 is frequently in Minnesota that people of color make 13 up, you know, 20 percent of our population, for 14 example, but they account for 80 percent of, in this case, police stops, arrests, incarceration, you name 15 it. 16 17 Can I say that there is any one policy that causes the disparities in the Minneapolis Police 18 Department or, you know, the disparities in the 19 20 outcomes? No. I don't think it's as simple as that. 21 I think that one thing that we hit on in the report is implicit bias. They also hit on it in 22 23 the 2018 report. I think it goes back to culture and 24 climate. It goes back to training. It goes back to 25 it's all so intertwined.

#### UNEDITED You know, it's all rooted in the culture

and climate of the organization, and what you tolerate, and how you train, and how that training is carried through with that fidelity, how those policies, the values associated with the policies trickle down from the chief on through the ranks, and how that theory is put into practice, and how it comes out on the streets.

So, no, I'm sorry, Chair, I can't just identify one policy that would hit the nail on the head because it's a, it's a deeply rooted problem. And until there is the political will to change, to really change, until we, you know, kind of let go of the, the institution of the past I don't see it changing.

16 There are things that we can do to 17 increase transparency. Our transparency statute, 18 Minneapolis Statute 13.43, Subdivisions 1 and 2, Numbers 4 through 6, do allow for police departments 19 to talk about closed cases, like I said. A police 20 21 chief, even if a Civilian Review Board makes a 22 recommendation only, a police chief can choose to 23 accept that or not.

We had one chief that in my hometown that considered 90 recommendations from the civilian

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JNEDITED 28 1 oversight, the Review Board, and only disagreed with one of those. That's pretty impressive. 2 3 There are ways that police departments can institute checks and balances to see if that policy is 4 5 being carried through with training, with fidelity. And the number of hours of training 6 7 matters. My -- in the city in which I live, we have 8 three times as many more hours of training for our 9 police department than does the Minneapolis Police 10 Department. So, again, there's no one quick fix. I 11 12 wish there was. But, if there is political will, they can begin to, I believe, what I would describe is peel 13 14 the layers of the onion off. Right? And peel back 15 all of those things at the same time, simultaneously, 16 and slowly, slowly get to the real issue. CHAIR GARZA: Thank you for your answer. 17 18 It sounds like it's a constellation of --MS. COMMERS: Yeah. 19 CHAIR GARZA: -- of recommendations or 20 21 things to address this issue. 22 Well, thank you. Are there any other 23 questions from, from other Commissioners? 24 COMMISSIONER KIRSANOW: Madam Chair, 25 Kirsanow.

1	COMMISSIONER GILCHRIST: Gilchrist.
2	CHAIR GARZA: I heard two voices. I think
3	that was Commissioner Kirsanow and then Commissioner
4	Gilchrist. We can start with Commissioner Kirsanow,
5	if that works.
6	COMMISSIONER GILCHRIST: Go right ahead.
7	COMMISSIONER KIRSANOW: Thank you,
8	Commissioner Gilchrist, and thank you, Madam Chair.
9	Chair Commers, thanks very much for your
10	hard work on this. In going through this you had
11	mentioned that there were significant racial
12	disparities in policing. To what extent did the SAC
13	adduce evidence that these disparities were due to
14	racial discrimination?
15	MS. COMMERS: Commissioner, I think that
16	data or, I'm sorry, disparities in data like the
17	kind we see in Minneapolis, they highlight the exactly
18	what you're talking about. I don't know that there
19	can be any other factor attributed to them, sir.
20	Yeah, I, I don't Yeah, go ahead.
21	COMMISSIONER KIRSANOW: Did you adduce any
22	evidence with respect to the percentage of crimes
23	committed by racial minorities versus that of, say,
24	Whites?
25	MS. COMMERS: Yeah.

#### UNEDITED COMMISSIONER KIRSANOW: You said there's

a racial disparity in arrests or convictions. Doesn't necessarily mean that there is racial discrimination. That's what I'm trying to get at.

MS. COMMERS: Yeah. How do I answer that question? I think the report addresses it at the very beginning when it discusses the fact that there are lots of factors that impact crime. And to simply say that people of color commit more crimes than White people, you could say that. Or you could question if they're over-policed.

You could question the quality of education and what are the paths that the -- that have been created for those individuals. You can look at all the overlapping indicators.

16I don't think that you can make any other17conclusion when you look at all of the disparities in18Minneapolis, from home ownership to incarceration, to19income, to educational attainment. They all overlap.20None of these racial disparities are anomalies.21Nothing pops out as being unique in Minneapolis. It's22all intertwined and it's all the same.

23 So I don't know that you could make any 24 other logical conclusion, so.

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COMMISSIONER KIRSANOW: Well, the

1	conclusion could be that perhaps Blacks engage in
2	crimes at a higher rate than other racial groups and,
3	therefore, perhaps there may be more arrests of
4	Blacks. Is there any evidence to refute that
5	proposition?
6	MS. COMMERS: With all due respect, sir,
7	to me that's a dog whistle one.
8	COMMISSIONER KIRSANOW: How so?
9	MS. COMMERS: I think that quite often we
10	hear in society that we didn't exactly hear that
11	argument but when the structures, the structures of
12	government that we have built for people, to support
13	the people, and our society, and our systems on all
14	levels, when they all are producing the same results,
15	sir, I think that it is about time and long overdue
16	that we acknowledge that they are real, and that they
17	exist, and that they are very powerful.
18	COMMISSIONER KIRSANOW: And that's what
19	I'm getting at. I want to know what exists.
20	To what extent does the percentage of
21	Black arrests depart from the percentage of crimes
22	committed by Black offenders?
23	MS. COMMERS: Yeah, so it would be really
24	great if there was more transparency because you
25	could, it would be I'm sure there are studies about

UNEDITED 32 it nationwide -- it would be a very brilliant study if 1 Minneapolis would allow folks to get under the hood a 2 3 little bit more. 4 And I think the MDHR report did get into 5 They examined thousands and thousands of cases this. and they spoke with community members. They did 6 thousands of hours of interviews. And I think they 7 8 were able to show in the MDHS case that there, or MDHR 9 investigation, that two like situations, right, if 10 there were only differences in race and ethnicity the outcomes were different for the offender, so to speak, 11 12 which is why MDHR came to the conclusion that they did. 13 14 They didn't just arbitrarily look at the 15 outcomes that look at those gaps, but they looked case 16 by case. And they did interview by interview. They 17 had thousands of hours of interviews with officers. 18 So to disregard their report I think would be convenient, but I don't think it would be 19 acknowledging that they actually did dig in and do the 20 21 work of examining exactly what kind of outcomes that 22 you are asking. 23 CHAIR GARZA: Thank you so much, Chair. Any further questions? 24 25 I see that Vice Chair Nourse has had her

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1	hand up. We'll go ahead and go to her. And then we
2	can go to Commissioner Gilchrist.
3	VICE CHAIR NOURSE: Thank you, Chair
4	Commers. My mom grew up in Minneapolis, so can you
5	all hear me?
б	MS. COMMERS: Yes, ma'am.
7	VICE CHAIR NOURSE: I'm just delighted
8	that you've followed the great Minneapolis tradition
9	of public service. So thank you very much for all
10	your work. It is very difficult work.
11	There are no these kinds of problems
12	persist because there is no easy answer. There's no
13	one thing that one can do. But I appreciate the
14	detail that you have raised in terms of things like
15	police discipline.
16	You note, in fact, that often departments
17	have bad actors, just as we know that very few people
18	in this country actually commit crime, and they commit
19	a lot of crime. But we've got bad actors in Wall
20	Street, we've got bad actors in Main Street, and bad
21	actors sometimes in police departments.
22	That doesn't explain it either, though,
23	because we have these persistent trends. And, you
24	know, I'm a law professor. I care about that. Why
25	are we seeing this? And I think that, you know,

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1	Professor not professor but distinguished
2	Commissioner Kirsanow
3	COMMISSIONER KIRSANOW: I was a professor
4	once.
5	VICE CHAIR NOURSE: posed a legitimate
6	question about that.
7	Having said that, I just want to say to
8	you something about political will, because I've been
9	in this business a long time.
10	I guess my question is, is this because
11	you want the mayor, or the governor, or the police
12	chiefs to listen more to citizens? What exactly do
13	you mean by political will?
14	MS. COMMERS: Yeah. Thank you, Vice
15	Chair.
16	What do I mean by political will? When
17	Mayor Jacob Frey publicly pushed back against the
18	Police Department and decisions, policies, practices,
19	response time slowed, police response time. It's well
20	documented in our papers, lots of articles written
21	about it.
22	The power in policing is immense. And we
23	saw in Minneapolis that when there was public
24	discourse challenging that institution, the
25	consequences were great for community members.

UNEDITED 35 1 Do I think that policing can improve when the community is involved? Yes, absolutely. 2 3 Yeah, I mean, the -- any time the people who something is done to are actually a part of the 4 5 decision-making and a part of the planning, the decision-making, any time their voices are heard the 6 outcome's going to be better, you know, will be 7 8 better. 9 I mean, you can simply look at if I make 10 dinner for my children and I decide what to make for them, they may or may not like it. But if I go to 11 12 them and discuss what they want for dinner and we come 13 to a consensus, chances are there are going to be less 14 complaints around that dining room table. I mean, and 15 I -- you know. 16 VICE CHAIR NOURSE: I agree. I agree. 17 And that's the kind of spirit I think the reform has 18 to go forward in. You need to tell stories as much as 19 get data, because that's what moves people. And that's why George Floyd did more than 20 21 all the data in the world that those of us in the 22 field who study crime, criminology, know, have known 23 for a really long time. And that's very sad because 24 it was a very sad day. 25 But moving forward, the problem is that

UNEDITED 36 1 you need cooperation from the very people that you want to watch. And that's very, very hard because you 2 3 have to -- you're angry, you're mad, you don't want to cooperate. But, ultimately, there are reforms that 4 5 can be done. The National Academies of Science just 6 7 issued a report on the scientific evidence of how 8 police training to respect communities actually 9 increases safety. So there are things that many 10 people can get behind. 11 And I, I think that with your good will 12 and bringing the community in, you can make progress. I'm sorry that they didn't want to talk to you. But 13 14 I think you've got to keep pushing. 15 So I'll ask a final question. I just read 16 published in a law review on immunity and state 17 officer sexual assault. Do you know of anyone who's 18 working on immunity with regard to state officer sexual assault, which is a violation of the 19 Constitution according to federal courts? It is a 20 21 part of the problem for both young men and women of 22 color, and not women of color. 23 Across the nation Heritage Foundation itself has found that this is the second leading 24 25 problem, but it seems to get less attention.

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1	Have you focused on that at all?
2	MS. COMMERS: No, ma'am. And I just want
3	to highlight that I'm not an expert in this field.
4	You are the expert in this field. And I would sit at
5	your feet before sitting at encouraging you to sit
6	at mine.
7	Being the chair of the committee is
8	different than being expert in the field. I will tell
9	you that when I was at the NACo Conference I was at
10	the international oversight group, I was just at their
11	conference in Chicago and I was learning about this
12	issue.
13	And it was something that they talked
14	about, the sexual assault among officers and in
15	prison.
16	VICE CHAIR NOURSE: Yeah.
17	MS. COMMERS: And I was really surprised.
18	It is not something we, we talk about. That's
19	something that we hear about.
20	And going back to your question about
21	political will, we can within our existing systems,
22	even without radical change we can be more transparent
23	and we can talk about these issues once cases are
24	closed if we choose to.
25	But if we continue to not choose to from

UNEDITED 38 1 the highest ranks, whether it's the mayor, or the governor, or the police chief, then it will always be 2 3 under cloak. And with that cloak will come a certain 4 level of permissiveness. 5 So, you know, when we rip the band-aid off and we show it for all the world to see, just like we 6 saw when George Floyd was murdered, the whole world 7 8 was able to see him murdered. And it radically 9 changed everybody's perspective. 10 So if we want to change sexual assaults, 11 we can within the boundaries that we already have, 12 talk about those. We just need to choose to. VICE CHAIR NOURSE: Okay. I'd just note 13 for the record that the Justice Department, the 14 15 Federal Justice Department has a pattern and practice 16 of investigation which will apply the existing civil 17 rights laws to determine what is going on in the 18 Minneapolis Police Department. Thank you very much, Chair Commers. 19 20 CHAIR GARZA: Well, thank you so much. 21 We're going to turn to Commissioner 22 Gilchrist. This will be the last question so we can 23 be respectful of your time, Chair Commers, and we can also move on with the rest of our agenda. 24 25 So, Commissioner Gilchrist.

> Neal R. Gross and Co., Inc. Washington DC

	UNEDITED <sup>39</sup>
1	COMMISSIONER GILCHRIST: Madam Chair,
2	thank you so much. And, Chair Commers, thank you for
3	a very insightful report. I just want to pick up on
4	what Commissioner Nourse was alluding to. In your
5	report it made statements that the Minneapolis police
6	did not participate in providing any commentary or
7	witnesses to the report.
8	Did you get any response as to why they
9	could not or would not participate?
10	MS. COMMERS: No, sir, we just got
11	silence.
12	COMMISSIONER GILCHRIST: Thank you. And
13	at the time of the investigation was there, was the
14	department, do you know, under investigation by the
15	Justice Department? Were you aware of that
16	MS. COMMERS: Yes, sir.
17	COMMISSIONER GILCHRIST: or not aware?
18	MS. COMMERS: Yes, sir.
19	Yes. And that was something that we
20	talked about. And during our investigation during our
21	exploration of this issue is when the state Department
22	of Human Rights finished their investigation. And we
23	did discuss the fact that the DOJ, that their
24	investigation was ongoing.
25	So it did not surprise me as an individual
-	Neal R. Gross and Co., Inc.

UNEDITED 40 1 that the Minneapolis Police Department was going through investigation. 2 3 COMMISSIONER GILCHRIST: Okay, Madam Chair, that's all I have. Again, thank you so much, 4 5 Chair Commers, for your report. CHAIR GARZA: Wonderful. Well, thank you 6 so much, Chair Commers, for coming here and presenting 7 8 today on the report that, that the Minneapolis 9 Advisory Committee put together on this very important 10 topic. Appreciate your time, your insight, and your availability for questions. 11 12 So we're going to go ahead and move on to 13 our next agenda item. Staff Director Morales, we will 14 now turn to you for the monthly staff director's 15 report. The floor is yours. 16 II. B. MANAGEMENT AND OPERATIONS 17 STAFF DIRECTOR'S REPORT 18 MR. MORALES: Thank you, Madam Chair. 19 As I usually say, in the interests of time I don't have anything further to add than what's 20 21 already included in the report. And I'm always 22 available to speak to the Commissioners about any 23 particular item you have that's in the report that 24 you'd like to discuss. 25 Having said that, I do want to tell you

all that we have instituted a new process in which I			
can get you the staff director's report in time a week			
before the business meeting. So we're working at that			
goal.			
I know I missed several deadlines in the			
past, and we're getting better at it, and we'll have			
a new process. So with that, Madam Chair, I have			
nothing further to add. And thank you.			
CHAIR GARZA: Thank you, Staff Director			
Morales.			
III. ADJOURN MEETING			
CHAIR GARZA: So this concludes all of the			
business items on our agenda for today's meeting.			
And if there is nothing further, I'm going			
to hereby adjourn the meeting at 9:55 a.m. Central			
Time in Texas.			
And thank you all so much. Have a			
wonderful weekend.			
(Whereupon, the above-entitled matter went			
off the record at 10:55 a.m.)			

Α **a.m** 1:8 4:2,12,13 41:15 41:20 able 9:3 32:8 38:8 above-entitled 41:19 absolutely 35:2 Academies 36:6 accept 24:24 25:3 27:23 accomplished 9:15 account 26:14 acknowledge 31:16 acknowledging 25:17 32:20 Act 24:11 actors 33:17,19,20,21 Adams 1:13 4:21,22 10:7,7,8,9,22 11:20 13:21,22 add 19:17 40:20 41:8 addition 19:2 additionally 25:24 address 17:22 20:3 26:4 28:21 addressed 24:6,10 addresses 30:6 addressing 23:16 adduce 29:13,21 adjourn 3:8 41:11,15 advance 11:2 Advisory 2:2 3:4 5:24 6:24 8:15 17:5 18:4 18:10,16 40:9 afforded 7:18 agencies 8:11 agenda 3:2 5:18,20,22 6:3,8 13:17 15:11 38:24 40:13 41:13 aggressive 19:20.21 agree 35:16,16 **ah** 22:23 ahead 4:7,10 5:20 10:5 13:2.18 14:11 15:18 23:20 29:6,20 33:1 40:12 Alabama 10:17 11:22 **ALEXIS** 2:8 allow 24:15,16,19 25:4 25:5 27:19 32:2 allowed 11:3 22:13 alluding 39:4 amenable 15:16 amend 6:2,8,8 13:17 American 17:19,23 amount 21:17 and/or 6:10 angry 36:3 anomalies 30:20

28:17 30:5 33:12 anybody 11:25 appear 7:1 appearance 7:6 appearing 4:16 **Appendix** 12:18,18 apply 38:16 appreciate 9:9 12:5 15:14 33:13 40:10 appropriate 11:8 12:25 13:13 appropriately 13:9 **APPROVAL** 3:2 5:18 approved 16:13 April 7:15 arbiter 22:6 arbiters 22:2 arbitrarily 32:14 arbitration 21:25 argument 31:11 arrests 26:15 30:2 31:3 31:21 articles 34:20 asked 7:1 asking 32:22 aspects 25:15 assault 36:17,19 37:14 assaults 38:10 Assistant 9:2 assistants 2:6 16:4 associated 27:5 assumption 19:21 attached 11:11 attainment 30:19 attention 36:25 attributed 29:19 availability 40:11 available 11:9 21:18 23:18 40:22 aware 13:4 39:15,17 В **B** 3:6 12:18 40:16 back 9:2 15:24 16:2 21:22 22:11 23:1,9 26:23,24,24 28:14 34:17 37:20 background 22:3 bad 12:19 33:17,19,20 33:20 balances 21:8 28:4 band-aid 38:5 based 5:8

bear 19:22

beginning 30:7

15:8 28:13

believe 6:22 8:2 15:4,7

Beth 2:2 3:4 17:5 18:11 18:15 better 8:9 35:7,8 41:6 bias 26:22 **bit** 20:2 32:3 **Black** 17:19 31:21,22 Blacks 31:1.4 board 20:7 25:6 27:21 28:1 boots 21:7 boundaries 38:11 briefing 16:16,21 brilliant 32:1 bringing 36:12 brutality 18:2 built 31:12 business 1:3 3:3 4:4,11 14:12 15:5,19,20,23 16:9 34:9 41:3,13 С C 4:1 California 8:19 10:20 10:21 12:3 call 4:17 5:9 10:6 13:14 13:18 care 33:24 **CARISSA** 2:10 carried 20:25 27:4 28:5 case 11:24 26:15 32:8 32:15.16 cases 22:14 27:20 32:5 37:23 Castile 19:4 causes 26:18 censor 11:14 13:7 **Central** 4:13 41:15 certain 11:4 38:3 chair 1:9,12 2:2 3:4 4:6 4:8,9,19,20,21,23,25 5:2,4,6,8,12,15,19,24 6:4,6,8,14,17,18 9:7 9:19,21 10:4,8,23 11:13,20 12:4,7,10,12 12:13,24,24,25 13:2,2 13:3,10,12,16,19,20 13:21,23,25 14:4,6,8 14:10,10,15 15:2,13 15:21 17:5,8 18:9,11 18:13,15 23:20,22 24:7 25:12,12 26:3 27:9 28:17,20,24 29:2 29:8,9 32:23,23,25 33:3,3,7 34:5,15 35:16 37:7,16 38:13 38:19,20,23 39:1,2 40:4,5,6,7,18 41:7,9

41.12 Chair's 9:2 challenged 26:8 challenging 34:24 chances 35:13 change 19:17 22:5 23:10 27:12,13 37:22 38:10 changed 20:19,20 24:12,13,15,16,19 25:1 38:9 changes 17:25 23:7,11 25:24 26:3 changing 25:11 27:15 Chauvin 17:17 19:7 checks 21:8 28:4 Chicago 37:11 chief 20:6,8,9 21:7 23:9 24:24 25:7,7 27:6,21 27:22,24 38:2 chief's 20:16,23 chiefs 34:12 children 35:10 choices 19:19 choose 23:10,12 24:24 27:22 37:24,25 38:12 CHRISTIAN 1:13 citizens 8:4 34:12 city 28:7 civil 1:1 3:5 4:12 5:24 16:5,15,20 17:6,11,15 18:1,12,19 38:16 civilian 20:7 21:16 23:5 23:6 24:16,19,25 25:2 27:21.25 **Clark** 19:4 clash 22:24 clashes 22:20 clear 7:17 9:20,22 12:21 climate 26:24 27:2 cloak 38:3,3 closed 22:13 27:20 37:24 Coast 4:14 colleagues 8:21 9:12 **color** 26:12 30:9 36:22 36:22 come 35:12 38:3 comes 4:12 27:7 coming 40:7 commend 16:24 commentary 39:6 comments 9:8 10:4 **Commers** 2:2 3:4 17:5 17:8 18:9,11,13,15 23:22 24:7 26:2,7 28:19 29:9,15,25 30:5

42

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31:6,9,23 33:4,6 34:14 37:2,17 38:19 38:23 39:2,10,16,18 40:5.7 **commission** 1:1,7 4:9 4:12 7:2,7,23 8:3 9:22 12:8,9 16:10,13,16,22 18:6 Commission's 18:7 commissioner 1:11,13 1:14,15,16,17,18 2:6 4:21,22,23,24,25 5:1 5:2,3,4,5,6,7 6:4,6,7 6:12,17,18,19 7:9,19 8:7 9:4,8,17 10:1,7,8 10:9,20,22 11:20 12:2 12:12,13,14 13:11,21 13:22,23,24,25 14:1,2 14:4,5,6,7,8,9,13,15 14:16,25 16:1 28:24 29:1,3,3,4,6,7,8,15,21 30:1,25 31:8,18 33:2 34:2,3 38:21,25 39:1 39:4,12,17 40:3 Commissioner's 15:14 Commissioners 5:9 9:10 10:5 11:7,19 12:11 16:3 18:14 23:25 28:23 40:22 **commit** 30:9 33:18,18 committed 29:23 31:22 committee 2:2 3:4.4 5:24 6:24 8:15 11:13 17:5 18:4.11.11.16 19:10 26:9 37:7 40:9 committee's 7:14 17:6 committees 9:16 communities 8:12 36:8 community 20:17,21,24 22:22.25 24:22 32:6 34:25 35:2 36:12 community's 22:21 compare 24:3 compiling 18:5 complaints 35:14 complex 20:13 21:14 21:25 comprehensive 18:5 concludes 41:12 **conclusion** 30:17,24 31:1 32:12 conclusions 8:9 25:19 conclusiveness 26:6 **conference** 4:4,6,16 23:6 37:9,11 confirm 4:18 conflict 22:17 consciousness 18:1

consequences 8:11 34:25 consider 5:21 considerations 20:15 considered 27:25 considering 17:11 26:5 constellation 28:18 Constitution 36:20 contents 12:16,21 continue 6:9 9:5 14:18 37:25 continued 17:9 continuing 14:20 17:1 controversial 12:23 controversy 13:4 convened 1:7 convenient 32:19 conveyed 20:25 convictions 30:2 cooperate 36:4 cooperation 36:1 correct 11:23 12:3 correctly 15:6 Counsel 1:21 country 33:18 couple 10:12 24:15 court 5:10,11 courts 36:20 **COZART** 1:21 5:14 15:7 created 30:14 crime 19:21 30:8 33:18 33:19 35:22 crimes 29:22 30:9 31:2 31:21 criminology 35:22 critical 18:8 24:5,9 culture 26:23 27:1 curious 10:24 current 6:2 currently 11:13 D **D** 1:18 3:1 4:1 Damond 19:5 data 19:22 21:15,17 25:19 26:5,8 29:16,16 35:19,21 Daunte 19:5 **DAVID** 2:4 day 4:3 8:10 35:24 deadlines 41:5 Dear 6:23 deaths 19:3 debate 9:20 decade 19:4 **December** 16:18 decide 25:8 35:10

decision-making 35:5 35:6 decisions 19:18 23:9 34:18 dedication 17:9 deep- 17:22 deeply 27:11 definition 20:18,23,24 delighted 33:7 **DEMIRDJIAN-RIVEST** 2:7 depart 31:21 department 7:16 8:2 17:13 19:8,23 21:5 22:19 23:2 25:3,21,22 26:19 28:9,10 34:18 38:14,15,18 39:14,15 39:21 40:1 Department's 17:17 departments 27:19 28:3 33:16,21 depleted 8:5 depth 20:3 Derek 17:17 19:7 describe 28:13 desire 9:9 detail 33:14 deter 19:21 determine 38:17 died 8:10 differences 32:10 different 20:8 26:11 32:11 37:8 difficult 33:10 diq 32:20 digging 25:25 diligently 16:10 dining 35:14 dinner 35:10.12 directed 10:23 director 1:20 2:3,4 5:16 10:11,24,25 11:21 12:5 40:13 41:9 director's 3:7 6:1 40:14 40:17 41:2 disaggregate 21:21 disagreed 28:1 disappointed 7:4 discipline 19:24 21:17 21:24 22:9,18 24:11 25:8 33:15 discourse 34:24 discrimination 29:14 30:3 discriminatory 19:9 discuss 15:15 35:12 39:23 40:24

discusses 30:7 discussion 6:14.16 discussions 12:2 disparities 18:22 25:15 25:18,23 26:10,18,19 29:12,13,16 30:17,20 disparity 30:2 disregard 32:18 dissent 7:3,8,10,18 10:14,21 11:1,6,11 12:3 14:21 23:15 25:17 dissenter 14:18 dissenters 6:10 dissenting 11:3 13:7,12 25:17 26:5 dissents 8:20,24 11:9 11:14 12:17,18,22 distinguished 34:1 document 7:21 16:8 documentary 7:24 8:6 documented 34:20 documents 16:19 dog 31:7 doing 8:18 9:13,24 15:5 21:13 **DOJ** 39:23 dove 19:10 due 29:13 31:6 Е E 3:1 4:1,1 East 4:14 Eastern 4:13 easy 33:12 educate 9:14 educated 8:9 education 18:23 30:13 educational 30:19 effectively 26:4 effort 8:25 either 33:22 email 8:16 emphasize 7:13 empirical 10:18 employee 22:25 employees 22:14,19,20 encouraging 37:5 enforce 19:16 enforcement 8:11 16:14,19 **Enforcing** 16:17,22 engage 31:1 enterprise 25:4 entities 24:17,20 entitled 7:24 16:14 entity 21:20 25:2 especially 8:4 16:4

43

17:10 **EST** 1:8 ethnicity 32:10 Evaluation 16:5 events 8:1 eventual 7:14 everybody 13:11 everybody's 38:9 evidence 29:13,22 31:4 36:7 exactly 21:6 29:17 31:10 32:21 34:12 examined 32:5 examining 32:21 example 20:6 21:11 26:14 examples 20:2 exist 21:9 31:17 existing 37:21 38:16 exists 31:19 expand 7:25 9:1 expectations 20:18,21 expert 15:8 37:3,4,8 explain 33:22 exploration 39:21 extent 29:12 31:20 **extremely** 21:14,14 eye 19:25 23:4 eves 26:9 F **F** 1:12 Facial 16:14.20 fact 30:7 33:16 39:23 factor 29:19 factors 30:8 faith 8:8 Fall 7:24 federal 5:21 36:20 38:15 feel 11:7 13:5 feet 37:5 fidelity 27:4 28:5 field 35:22 37:3,4,8 figure 15:16 final 8:9 36:15 finalized 6:25 Finally 7:22 finding 24:20 25:6 findings 19:12,14 24:2 24:8 finished 39:22 first 5:23 7:8 15:23 16:12 20:3,16 23:24 24:2 fix 28:11 flip 20:1 floor 18:9 40:15

20:20 25:11 35:20 38:7 Floyd's 17:21 focused 37:1 folks 15:17 32:2 follow-up 11:21 18:18 followed 5:25 33:8 following 5:22 7:6 12:11 force 8:6 20:9,10,13,16 20:19,22 25:16 former 17:17 forward 16:25 17:1.3 18:6 35:18,25 found 17:18 36:24 Foundation 36:23 Fragosa 2:8 6:23 Freedom 16:17,22 frequently 26:12 Frey 23:1 34:17 Friday 1:5 4:14 front 23:17 FRT 16:15 further 9:14 32:24 40:20 41:8,14 future 14:23 G G 3:1 4:1 Gail 1:15 6:12 galvanized 17:24 gaps 19:1 24:5,9 32:15 Garza 1:9,11 4:6,8,9,21 4:23,25 5:2,4,6,8,12 5:15,19 6:6,14,18 9:7 9:19 10:4,8 12:4,13 12:25 13:2,16,21,23 13:25 14:4,6,8,10,15 15:2,13,21 18:13 23:20 25:12 26:3 28:17,20 29:2 32:23 38:20 40:6 41:9,12 General 1:21 George 8:10 17:19,21 19:4,6 20:20 25:11 35:20 38:7 getting 21:8 31:19 41:6 **Gilchrist** 1:14 4:23,24 13:23,24 29:1,1,4,6,8 33:2 38:22,25 39:1,12 39:17 40:3 give 9:24 16:3 20:2,6 23:14 given 21:1 glad 18:3 **GLENN** 1:18

11:15 13:2,18 14:11 15:18 21:25 23:20 27:13 29:6,20 33:1,1 33:2 35:11,18 40:12 goal 41:4 goes 21:22 22:11 23:8 26:23,24,24 going 5:20 13:18 20:1 23:23 29:10 35:7,13 37:20 38:17,21 40:1 40:12 41:14 **good** 4:3,8 8:7,23 9:5 18:14,14 36:11 government 31:12 governor 34:11 38:2 great 31:24 33:8 34:25 greatly 8:5 grew 33:4 ground 21:7 group 37:10 groups 31:2 guess 34:10 guilty 17:18 н hand 33:1 hands 19:3 happen 7:5 happened 8:10 11:23 happens 19:25 happy 15:16,22 hard 29:10 36:2 **HARRIS** 4:3 head 27:11 health 18:24 hear 7:18 8:17 9:9,12 9:18 10:2,14 11:12 17:4 31:10,10 33:5 37:19 heard 10:21 11:1,24 15:17 29:2 35:6 hearing 9:11,21 18:6 heavily 7:20 heavy 7:15 heavy-handed 7:14 height 17:14 Heriot 1:15 4:25 5:1 6:12,17,18,19 9:8,17 10:1,20 12:12,13,14 13:11,25 14:1,25 Heriot's 12:3 Heritage 36:23 high 19:2 higher 31:2 highest 38:1 highlight 20:2 29:17 37:3

hired 8:13 hit 26:21,22 27:10 home 18:21 30:18 hometown 27:24 honor 18:17 honorable 7:23 8:3 hood 32:2 hours 28:6,8 32:7,17 housing 18:23 Human 7:16 39:22 L lan 6:10 idea 8:23 9:5 identifies 25:14 identify 27:10 ideological 7:21 **II** 3:3 15:20 18:10 40:16 **III** 3:8 41:11 immense 21:17 34:22 **immunity** 36:16,18 impact 21:10,11 30:8 impacted 8:1 implemented 19:13 implications 3:5 5:25 17:6 18:12 implicit 26:22 important 16:25 17:2 40:9 impressive 28:2 improve 35:1 inappropriate 7:17 incarceration 18:25 26:15 30:18 incidents 22:10 included 40:21 including 18:7 income 18:24 30:19 increase 27:17 increases 36:9 incredibly 23:3 independent 24:17 indicator 18:23 26:11 indicators 30:15 individual 11:3 39:25 individuals 30:14 inevitably 21:3 information 9:14 informed 14:3 inherent 22:17 inquiries 7:12 insight 40:10 insightful 39:3 institute 28:4 instituted 41:1 institution 27:14 34:24 interests 40:19 internally 21:21 23:10

44

global 17:21,24

international 37:10 intertwined 22:5 26:25 30:22 interview 32:16,16 interviews 32:7,17 investigation 17:9 24:17 32:9 38:16 39:13,14,20,22,24 40:2 invite 7:10 involved 7:20 12:2 35:2 involving 22:14,14 **IRENA** 2:12 irrespective 8:8 issue 14:3 20:3 23:16 28:16,21 37:12 39:21 issued 36:7 issues 17:23 18:8 21:15 24:3 26:4 37:23 item 40:13,23 items 5:22 41:13 J **J** 1:13 Jacob 23:1 34:17 Jamar 19:4 January 1:5 4:4,14 iob 22:7 **JOHN** 2:9 Jones 1:16 5:2.3 14:4.5 justice 18:2 38:14,15 39:15 Justine 19:5 κ **K** 2:9 **keep** 36:14 **killing** 17:19 kind 21:4,22 25:25 27:13 29:17 32:21 35:17 kinds 33:11 Kirsanow 1:17 5:4,5 6:4 6:5,6,7 14:6,7,13,15 14:16 28:24,25 29:3,4 29:7,21 30:1,25 31:8 31:18 34:2.3 Kirsanow's 9:5 knee 19:7 know 8:25 9:8 10:2,10 11:24,25 12:1,10 13:11 16:25 17:1,2 20:20 21:3 25:9,16 26:7,13,19 27:1,13 29:18 30:23 31:19 33:17.24.25 35:7.15 35:22 36:17 38:5 39:14 41:5

## known 35:22 L lack 19:15,17 22:4,15 24:22 large 17:15 largest 18:21 Larry 6:10 8:14 law 8:11 24:10 33:24 36:16 laws 38:17 lavers 28:14 leadership 18:4 leading 25:22 36:24 learned 20:17 learning 37:11 legislative 24:14 legitimate 34:5 let's 4:9 13:14 letter 6:20 level 21:1 38:4 levels 19:16 31:14 lieu 7:6 14:20 limits 19:16 line 11:14 21:6 list 22:13 listen 34:12 little 20:2 32:3 live 28:7 logical 30:24 long 19:6 31:15 34:9 35:23 look 12:20 17:1,3 18:5 22:2.19.19 23:13 30:14,17 32:14,15 35:9 looked 32:15 Looking 21:15 loses 22:7 lot 25:10 33:19 lots 21:10 30:8 34:20 lower 21:1 Μ ma'am 33:6 37:2 mad 36:3 Madam 6:4.7.17 11:20 12:12 28:24 29:8 39:1 40:3,18 41:7 Magpantay 1:18 5:6,7 14:8,9 main 19:14 33:20 Maitland 6:11 8:18 majority 16:23

managers 21:2 **MARTIN 2:3** MASHBURN 2:9 matter 41:19 matters 28:7 **MAURO** 1:20 mayor 23:1,11 34:11,17 38:1 MDHR 7:16,19 32:4,8 32:12 MDHR's 7:20 **MDHS** 32:8 mean 15:22 30:3 34:13 34:16 35:3,9,14 meaning 20:7 meaningful 19:17 measure 21:5 meeting 1:3 3:3,8 4:4 4:11,15 11:16,17 14:12,23,23 15:5,19 15:20,23 16:9 41:3,11 41:13.15 member 6:20 7:22 8:2 8:14 members 7:2 8:5 26:8,9 32:6 34:25 men 36:21 mention 12:17 mentioned 29:11 message 6:21 mind 8:8 20:24 mine 37:6 **Minneapolis** 7:24 8:2,4 17:12,16 19:8,23 20:8 22:10 23:2 25:22 26:18 27:18 28:9 29:17 30:18,21 32:2 33:4,8 34:23 38:18 39:5 40:1.8 Minnesota 2:2 3:4 5:24 6:9,21,23 7:15 8:14 12:8 17:5,10 18:4,10 18:16,20,21 22:12 24:18,23 25:9,21 26:10.12 minorities 29:23 **missed** 41:5 Missouri 10:12,16 11:22 modern 20:19 mom 33:4 **MONDAIRE** 1:16 monthly 40:14 Morales 1:20 5:17 10:25 11:1 12:1,5 40:13,18 41:10 morning 4:8 8:21 18:14

18:14 motion 6:13,15 9:5 13:8 13:14,16,17 14:11,14 14:17 15:1,5,10 motions 6:2 move 6:8 10:6 14:21 15:18 19:17 38:24 40:12 moved 15:4.11 movement 17:22,24 moves 35:19 moving 16:25 35:25 **MULDER** 2:10 municipality 25:4 murder 17:21 murdered 19:6 20:21 25:11 38:7,8 MUSSATT 2:4 mute 15:25 Ν N 1:17 3:1 4:1 NACo 37:9 nail 27:10 name 4:18 18:15,24 26:15 NATHALIE 2:7 nation 18:22.25 26:10 36:23 National 23:6 36:6 nationwide 32:1 nature 12:23 near 14:22 necessarily 9:21 30:3 need 12:20 24:5 35:18 36:1 38:12 new 15:22 24:18 41:1,7 night 6:22 notable 25:15 notational 16:11 note 33:16 38:13 notice 13:6 notified 5:22 notion 21:23 notorious 19:8 Nourse 1:12 4:19,20 12:24,25 13:3,19,20 32:25 33:3,7 34:5 35:16 37:16 38:13 39:4 Nourse's 14:3 November 16:12 number 19:15 28:6 Numbers 27:19 numerous 23:3 Ο **O**4:1

45

making 22:6

male 17:18.20

MANAGEMENT 3:6

obviously 11:14 occasionally 10:14 occurred 17:12 **OCRE** 16:5 offender 32:11 offenders 31:22 offer 7:5 **Office** 16:5 officer 17:17 21:21 22:7 24:11 25:8 36:17,18 officers 21:13 22:15,20 22:22 23:8,8 32:17 37:14 official 15:23 16:9 offline 15:15 Okay 6:14 9:7 15:13 38:13 40:3 **OM** 2:3 once 34:4 37:23 ongoing 39:24 onion 28:14 open 8:8 23:25 26:9 **OPERATIONS** 3:6 40:16 opinion 7:14 **opportunity** 6:11 7:18 9:24 14:19,22 order 4:12 7:25 11:12 15:2 20:1 organization 27:2 outcome's 35:7 outcomes 26:20 32:11 32:15.21 over-policed 30:11 overdue 31:15 overlap 30:19 overlapping 30:15 oversight 21:16 23:5,6 24:16,20 25:2,6 28:1 37:10 oversight's 24:25 overturn 25:7 owes 8:3 ownership 30:18 Ρ **P** 4:1 page 23:13 pandemic 17:15 papers 34:20 parliamentarian 5:13 15:3 part 11:10 24:21,22 35:4,5 36:21 participate 11:4 39:6,9 particular 40:23 particularly 12:22 pass 14:11 15:11

paths 30:13 pattern 38:15 Peace 24:11 peel 28:13,14 people 12:20 26:12 30:9,10 31:12,13 33:17 35:3,19 36:1,10 percent 19:24 22:10 26:13,14 percentage 29:22 31:20 31:21 perception 22:21 perfectly 13:6,13 period 11:4 permissiveness 38:4 persist 33:12 persistent 33:23 person 21:20 personal 23:24 Personally 8:16 perspective 38:9 **PETER** 1:17 Philando 19:4 phone 4:16 **pick** 39:3 place 4:15 16:11 21:12 planning 16:7,19 35:5 please 4:7,17 11:21 15:25 PODPA 24:11.12 25:1 point 11:8 13:1.9 14:2 14:22 15:2 23:24 police 8:2,5 17:12,17 18:1 19:3,8,23 21:5 21:16,17,20 22:10,14 22:19 23:2,8,9 24:24 25:21,22 26:15,18 27:19,20,22 28:3,9,9 33:15,21 34:11,18,19 36:8 38:2,18 39:5 40:1 policies 20:4,4 25:20 27:5,5 34:18 policing 3:5 5:25 6:24 17:7,10 18:12,19,24 19:18 23:7 26:11 29:12 34:22 35:1 policy 17:25 19:18 20:9 20:10,13,16 21:11 26:17 27:10 28:4 political 19:15 21:23 22:4,5,11 25:2,5 27:12 28:12 34:8,13 34:16 37:21 **pops** 30:21 population 26:13 posed 13:9 34:5

potentially 10:23 power 34:22 powerful 31:17 practice 10:13,18,18 12:19 21:6 25:20 27:7 38:15 practices 17:10 18:19 19:9 22:12 34:18 preparation 7:20 presence 4:18 present 1:10 2:1,6 4:20 4:24 5:3,9,10,11,13 5:16,17 6:11 9:24 14:19,22 15:12 18:17 presentation 3:4 5:23 6:9 12:11 14:17 18:10 presentations 9:11 presenting 8:20,25 40:7 presiding 1:9 pretty 9:22 28:2 previous 14:17 19:10 24.3 prison 16:17,23 37:15 privilege 23:24 problem 12:15 24:21 27:11 35:25 36:21,25 problems 33:11 Procedures 24:11 proceed 5:20 11:11 process 22:24 24:22 41:1,7 producing 31:14 professor 33:24 34:1,1 34:3 profile 19:3 progress 24:4 36:12 promotions 21:11,12 **proper** 13:5 proposition 31:5 protect 8:13 protections 22:25,25 provide 7:11 9:14 providing 39:6 public 13:6 17:25 19:25 21:19,22 22:21 23:4 33:9 34:23 publicly 22:13 34:17 published 36:16 Purdy 6:10,20 8:14,17 purpose 9:10,12,22 push 11:16 23:1 pushed 34:17 pushing 36:14 put 13:5 21:11 27:7 40:9

Q quality 30:12 question 7:19 10:6.9.22 13:15 15:3 21:18 23:24 24:2 25:13 30:6 30:10,12 34:6,10 36:15 37:20 38:22 questions 7:1,9 12:6,10 23:18,21 28:23 32:24 40:11 quick 11:21 28:11 quite 31:9 **quorum** 5:9 R **R** 4:1 race 32:10 racial 17:23 18:2 25:15 29:11,14,23 30:2,3,20 31:2 radical 25:9 37:22 radically 38:8 raised 33:14 ranks 21:1 27:6 38:1 rate 31:2 read 6:19 36:15 ready 11:15 real 28:16 31:16 really 8:22 13:5 27:13 31:23 35:23 37:17 reason 10:16 18:3 recall 17:14,22 received 9:1 19:12 Recognition 16:15,20 recollection 10:10,16 11:23 recommend 25:25 26:4 recommendation 24:21 24:25 27:22 recommendations 18:7 19:12 23:14 26:1 27:25 28:20 record 13:7 38:14 41:20 recorded 4:5 referred 24:10 refers 12:17 reform 22:1 35:17 reforms 36:4 refute 31:4 regard 36:18 regarding 7:2,9 18:1 Register 5:21 reliance 7:15 **Religious** 16:17,22 **remember** 8:19,22 10:12.15.19 remembers 10:11 remind 9:10

46

reminded 8:20 **report** 3:5,7 6:1,24 7:16 7:17 12:21 13:12 16:7 16:14,16,17,20,21,22 17:6 18:5,7,12,17,19 19:14 22:1 23:15 24:12 25:10,14 26:22 26:23 30:6 32:4,18 36:7 39:3,5,7 40:5,8 40:15,17,21,23 41:2 **report's** 12:16 24:2,8 reporter 5:10,11 reports 8:24 9:13 11:10 16:25 23:3 24:3 represent 12:9 request 11:24,25 15:15 requested 11:2 respect 29:22 31:6 36:8 respectful 38:23 respectfully 7:5 respective 9:16 respond 20:11 **response** 7:12 23:2 34:19,19 39:8 rest 38:24 results 31:14 review 7:23 20:7 27:21 28:1 36:16 revisited 19:11 **right** 13:16 25:4 28:14 29:6 32:9 rights 1:1 3:5 4:12 5:24 7:16 16:5,15,21 17:6 17:11 18:1,12,19 38:17 39:22 riot 17:15 **rip** 38:5 **Robert's** 15:8 **Rochelle** 1:8,11 4:6,9 role 20:17 22:3.21.22 roll 4:17 5:9 13:18 room 35:14 root 17:16 rooted 17:23 27:1,11 **RPCU** 2:4 rude 13:10 **Rules** 15:8 S **S** 4:1 **SA** 14:3 **SAC** 6:9,21 8:19,24 9:11 29:12 sad 35:23,24 **safety** 36:9 saw 34:23 38:7 **Science** 36:6 scientific 36:7

JNFDITF second 6:13,16 7:13 14:13,25 36:24 see 9:20 19:8,11 23:14 27:14 28:4 29:17 32:25 38:6,8 seeing 33:25 serve 8:13 service 33:9 session 24:14 set 21:5 sexual 36:17,19 37:14 38:10 **SHERYL** 1:21 shift 25:9 shorter 24:1 show 21:22 22:13 32:8 38:6 sides 8:24 9:6,9,18 10:2 significant 17:25 29:11 silence 39:11 **silly** 11:16 similar 24:3 simple 22:24 26:20 simply 12:18 24:8 30:8 35:9 **SIMUEL** 2:11 simultaneously 28:15 sir 29:19 31:6,15 39:10 39:16,18 sit 37:4.5 sitting 37:5 situations 32:9 skepticism 25:18 **slowed** 23:3 34:19 **slowly** 28:16,16 society 17:23 31:10,13 solidified 16:7 sorry 27:9 29:16 36:13 sounds 28:18 sparked 17:21,24 **speak** 13:1 32:11 40:22 special 9:2 16:3,4 specify 25:20 spirit 35:17 spoke 32:6 spokesperson 12:8 staff 1:20 2:1 3:7 5:15 5:25 10:11.23.25 11:21 12:5 16:4 40:13 40:14,17 41:2,9 stand 7:8 stands 24:23 start 4:17 29:4 started 4:10 23:1 state 3:4 6:23 8:15 18:10,16 24:10 36:16 36:18 39:21

statute 22:12,12 27:17 27:18 **Statutory** 16:14,19 stemming 17:11 step 24:9 STEPHANIE 2:13 **STEPHEN** 1:14 sticks 10:16 25:7 stop 25:16 stops 26:15 stories 35:18 Street 33:20,20 streets 19:9 27:8 structure 19:24 structures 31:11,11 studies 31:25 study 32:1 35:22 Subdivisions 27:18 submit 7:10 11:18 sufficiency 25:19 support 25:19 31:12 sure 10:15,17,19 12:10 12:20 15:17 16:6 31:25 surprise 39:25 surprised 37:17 system 21:4 22:6,8 systems 31:13 37:21 т table 12:16,20 13:17 15:10 35:14 tactics 19:20,21 take 7:23 23:18.23 taken 16:11 talk 27:20 36:13 37:18 37:23 38:12 talked 37:13 39:20 talking 29:18 **Technology** 16:15,20 **telephone** 4:15 21:4 tell 22:23 35:18 37:8 40:25 terms 33:14 Texas 4:13 41:16 thank 5:8,12,15 6:7 8:14 9:7 12:4,4 14:16 15:13 16:1 17:8 18:13 23:16,21,21 24:7 25:12 28:17,22 29:7,8 32:23 33:3,9 34:14 38:19,20 39:2,2,12 40:4,6,18 41:8,9,17 thanks 16:3 29:9 theory 21:6 27:7 thing 12:15 26:21 33:13 things 10:3 21:10 23:10

24:16 27:16 28:15.21 33:14 36:9 think 8:23 9:4 12:2,15 12:19 13:8,10 21:24 22:18 26:20,21,23 29:2,15 30:6,16 31:9 31:15 32:4,7,18,19 33:25 35:1,17 36:11 36:14 Thinking 22:9 **THOMAS** 2:11 thousands 32:5,5,7,17 three 22:8 28:8 time 4:5,13,13 6:10 7:23 11:4 13:9 14:18 24:12 28:15 31:15 34:9,19,19 35:3,6,23 38:23 39:13 40:10,19 41:2,16 timely 7:11 times 23:2 28:8 TINALOUISE 2:3 tirelessly 16:6 today 15:12 18:17 40:8 today's 4:4 5:20 41:13 told 23:5 tolerance 20:18 tolerate 27:3 top 18:25 26:10 **topic** 18:18 19:11 40:10 topics 16:7 tradition 33:8 traffic 25:15 tragically 17:19 train 27:3 training 20:5 21:12 26:24 27:3 28:5,6,8 36:8 trainings 21:13 transcript 11:12 transparency 21:16 22:9,18 27:17,17 31:24 transparent 19:24 22:11 37:22 trends 33:23 trickle 27:6 true 20:12 22:1 truly 18:16 trust 24:22 **try** 11:16 trying 30:4 turn 4:5 14:12 23:20 38:21 40:14 two 16:11 29:2 32:9 U

47

**U.S** 1:1 4:11

Neal R. Gross and Co., Inc. Washington DC

I		
ultimately 36:4		
unanimously 16:13	weekend 41:18	<b>2</b> 27:18
understand 9:23 20:9	welcome 4:3 15:24 16:2	<b>20</b> 26:13
20:12	went 41:19	<b>2008</b> 16:16,22
understanding 6:25	whistle 31:7	<b>2018</b> 18:19 26:23
7:25	White 17:18 30:9	<b>2020</b> 8:1
Unfortunately 21:4 unique 30:21	Whites 29:24 wide 26:9	<b>2022</b> 6:24 7:15,17,21
unrest 17:16	wish 7:13 28:12	18:17 19:14
update 16:16,21	witnesses 39:7	<b>2023</b> 16:18
urge 7:22	women 36:21,22	<b>2024</b> 1:5 4:4,14 16:7,13
<b>USCCR</b> 8:15	wonder 19:10	16:19
<b>use</b> 20:9,10,13,16,18,22	wonderful 5:19 17:3	<b>22nd</b> 16:18
25:16	40:6 41:18	<b>24th</b> 16:12
usually 11:2 40:19	<b>WONG</b> 2:13	25th 8:1
	word 9:1	<b>27th</b> 7:15
V	work 9:23,25 10:3 17:2	3
vague 20:16	29:10 32:21 33:10,10	<b>39</b> 23:13
value 19:18	worked 16:5	<b>J</b> J 20.10
values 27:5	working 16:10 36:18	4
versus 29:23	41:3	<b>4</b> 27:19
Vice 1:12 4:19,20 12:24	<b>works</b> 29:5	<b>40</b> 3:7
12:24 13:2,3,19,20	world 19:7 20:20 35:21	<b>41</b> 3:8
32:25 33:3,7 34:5,14	38:6,7	110.0
35:16 37:16 38:13	<b>wouldn't</b> 9:3	5
VICTORIA 1:12	Wright 19:5	<b>5</b> 3:2
Video/Teleconference	writing 7:11	
1:8	written 7:2 23:3 34:20	6
<b>VIDULOVIC</b> 2:12	wrote 6:21	<b>6</b> 27:19
views 12:9 13:7 26:5	X	
violation 36:19	<b>X</b>	7
violations 17:11 voices 29:2 35:6	Υ	
vote 13:18,19 14:1	yeah 9:19 11:6 21:8,13	8
16:23	24:7 26:2 28:19 29:20	<b>80</b> 26:14
voted 14:21	29:20,25 30:5 31:23	
votes 14:10 16:11	34:14 35:3 37:16	9
	year 15:22,24 16:6,13	9:06 4:12
W	17:3,3 24:24	<b>9:55</b> 41:15
Wall 33:19	years 10:13	<b>90</b> 19:24 22:10 27:25
want 9:10,17,19,20 10:2	young 36:21	
11:14 13:3 15:21,24	YVESNER 2:14	
16:2 20:3 23:23 24:1		
31:19 34:7,11 35:12	Z	
36:2,3,13 37:2 38:10	<b>ZAMAR</b> 2:14	
39:3 40:25		
wanted 9:16	0	
wants 13:7		
wasn't 12:1	1	
watch 8:6 36:2	<b>1</b> 27:18	
way 10:3	<b>10:00</b> 1:8	
ways 28:3	<b>10:06</b> 4:2,13	
we'll 15:18 33:1 41:6	<b>10:55</b> 41:20	
viculiesuay 14.0	IJ(14.14	
we'll 15:18 33:1 41:6 we're 5:19 9:11 11:15 38:21 40:12 41:3,6 we've 15:23 16:10 33:19,20 Wednesday 14:3	<b>10:55</b> 41:20 <b>13.43</b> 27:18 <b>16</b> 3:3 <b>18</b> 3:5 <b>19</b> 1:5 <b>19th</b> 4:14	

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