

2020

PROTESTS

VOLUME 2



**THE PEOPLE'S HISTORY: A STUDY OF THE SUMMER OF
2020 PROTESTS IN DES MOINES, IOWA**

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AND A VERY SPECIAL HEARTFELT THANK YOU TO ALL WHO SHARED THEIR PERSONAL STORY OF PROTEST WITH US AND THE COMMUNITY.



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EXECUTIVE SUMMARY

On May 25, 2020, George Floyd was murdered by Minneapolis police officer Derek Chauvin. Because his murder was shared and recorded on social media as it happened, we saw with our own eyes, and in living color, the brutality of that murder. Floyd’s murder sparked the largest protest movement in U.S. history, in defense of Black lives.

In March 2024, Just Voices released Volume One of “The People’s History: A Study of the 2020 Protests in Des Moines, Iowa.” (Read it online at justvoicesia.org/2020protests/) The study was intended to fill the vacuum created when the Des Moines Police Department (DMPD) refused to engage in an in-depth review and analysis of the performance of the Department during the mass protests following Mr. Floyd’s murder.

“After-Action Reviews” were done by many police departments across the country following a tumultuous summer filled with hundreds of protests nationwide. Dallas, Seattle, and Chicago produced such reports. The Iowa City Police Department produced such a Review. We believed then, and remain convinced today, that an After-Action Review is an important step for the Des Moines Police Department. The International Association of Chiefs of Police describe such reports as vital, saying, “The development of After Action Reports is critical to the continuous growth and promotion of promising practices within the law enforcement field.” Such reviews are also a reflection of the commitment that a police department has to transparency and accountability.

We have now passed the 5th anniversary of Mr. Floyd’s murder and are appalled that the Des Moines Police Department continues to refuse to publicly conduct such a review. This refusal is antithetical to the Department’s claims of wanting to improve trust with the community.

Just Voices is proud of Volume One and the volunteers who helped produce it. It has the timelines, the data, and powerful pictures. But most of all we are proud of giving witness to the stories of the people who were wrongly, and often violently, arrested and charged with criminal conduct for exercising their Constitutionally guaranteed right to protest.

The Des Moines story of the 2020 protests did not end in the fall of 2020. Volume Two is our attempt to give witness to this ongoing story. To share the impact the protests had on people’s lives. In the new volume we seek to show how 2020 transformed our communities by uplifting personal stories of police violence and the collective attempts to hold law enforcement accountable for the harm they cause—and how police accountability is non-negotiable if we want to build safer, more just communities for all of us.

THE ONGOING STORY OF POLICE, PUBLIC SAFETY, AND JUSTICE INCLUDES:

- The Washington Post report that, in 2024, police across our nation killed 2,024 people. This is the most people killed in one year by police since such records have been kept.
- Since May 25, 2020, police officers of the Des Moines police department have shot and killed seven people. We must continue to say their names:
 - ▶ December 26, 2022 - Travontay Jenkins (age 16)
 - ▶ July 30, 2024 - Weston Dean Derby (age 45)
 - ▶ September 16, 2024 - Joshua Dean Green (age 37)
 - ▶ November 26, 2024 - Charles Leonard (age 70)

(Continued...)

“I was in shock...I was just like, ‘what’s going on?’ My senses were gone. I couldn’t see, I couldn’t breathe, I couldn’t smell...everything was just fire.”
(Des Moines Protestor Essence Welch)

- ▶ January 2, 2025 – Charquan Hargrove (age 32)
- ▶ January 21, 2025 – Brandon Mitchell (age 36)
- ▶ February 6, 2025 – David Kintz, Jr. (age 43)
- The criminal prosecution of the leaders of the DSM Black Liberation Movement;
- A lawsuit filed by the ACLU against the State of Iowa for attempting to ban protesters from the State Capitol Grounds;
- Modest efforts at reform by the Des Moines Police Department;
- The refusal of the City to provide Use of Force Reports for 2020, and;
- The lawsuits filed by 24 people seeking compensation for the harm they suffered by the actions of Des Moines Police during the protests.

WHAT DOES VOLUME TWO CONTAIN?

In Volume Two, we are giving witness to:

- The stories of the people who filed civil lawsuits against the Des Moines Police Department;
- A description of the barriers that our current legal system has in place to prevent individuals who have

been harmed by the police from recovering in our courts;

■ The story of how the city came to pay out over \$1,470,000 to settle the lawsuits;

■ The story of the DMPD reforms since 2020 that resulted from ongoing pressure and advocacy by the activist community, including Just Voices; and,

■ Finally, the precedent-setting Iowa Supreme Court ruling granting public access to Use of Force Reports brought by Harvey Harrison, founder of Just Voices.

We are grateful to Black Iowa News for its willingness to continue publishing these stories and essays, just as they did for Volume One.

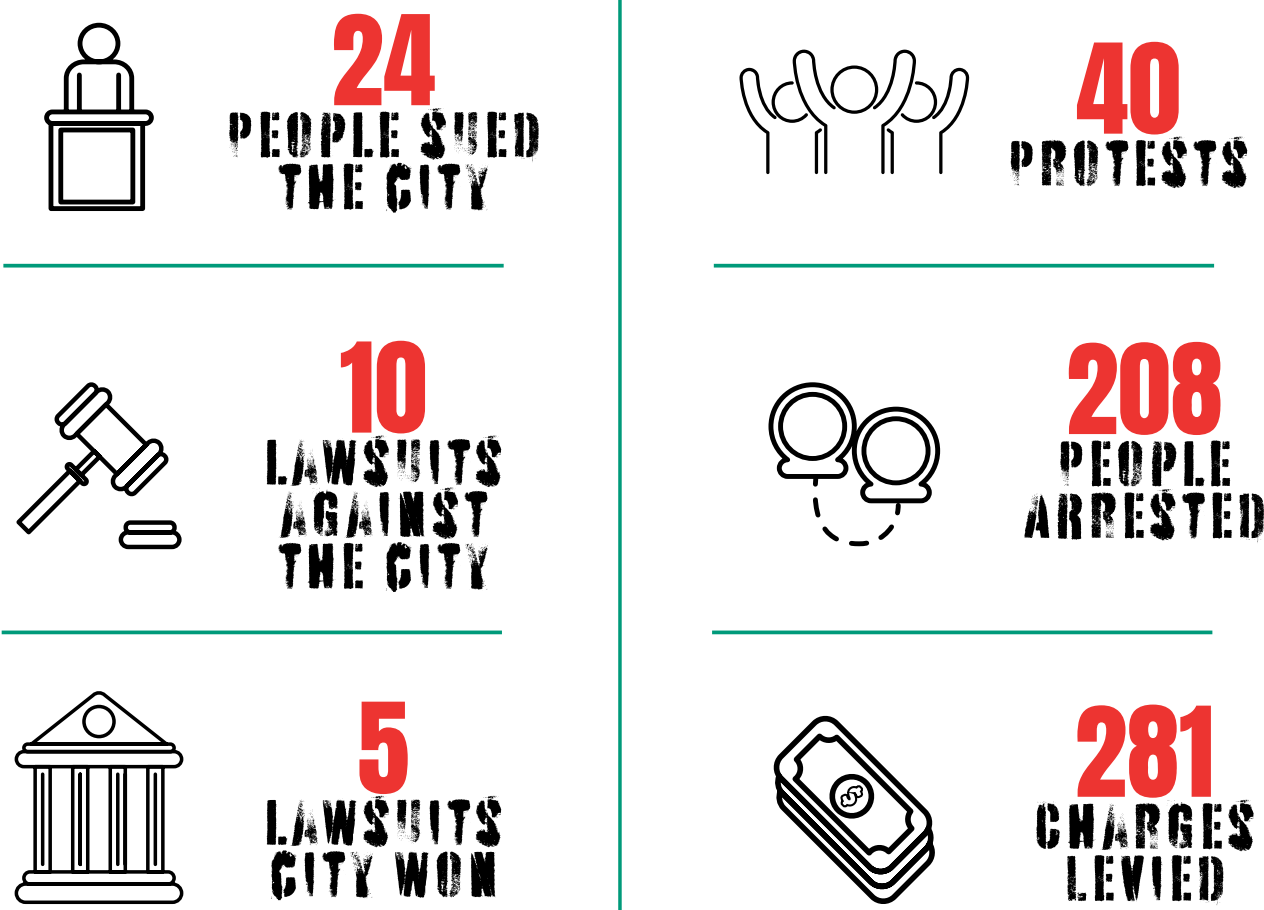
The goal of the People’s History study is to give witness to the need for systemic changes in how police perform in our beloved city and state.

Most importantly, we hope you LEARN and TAKE ACTION to end racially-biased and unjust policing in Des Moines, Iowa. We are going to continue to speak truth and seek justice as we realize our mission.

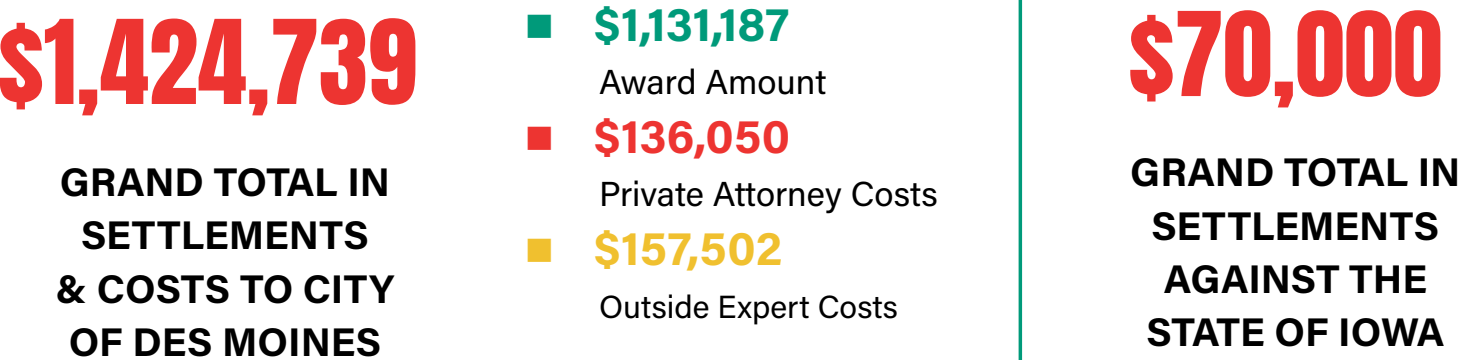
If you are moved by these stories, we invite you to join us on the path to a more just and fair society. To find out how you can help, reach out to us via email at info@justvoicesiowa.org.

2020 PROTEST LAWSUITS BY THE NUMBERS

The numbers are as staggering as the emotional trauma and use of force inflicted on protesters during the summer of 2020. Here's an accounting of lawsuits filed, award amounts, and the total cost to the city of Des Moines when you include private attorneys and outside expert fees.



SETTLEMENTS



THE DUNN LITIGATION — A STREET ACTION TIMELINE

By Brad Titus

“Dunn v. City of Des Moines” was a collection of civil rights lawsuits, combined under one case number, filed against the City of Des Moines and individual police officers. It was brought on behalf of 14 of the more than 200 people arrested during the early days of the protests. The people who participated in this lawsuit claimed that the police officers that they sued were responsible for: violations of constitutional rights, assault and battery, excessive use of force, unlawful arrests, and malicious prosecutions.

HOW IT ALL STARTED ON MAY 29, 2020

The first day of protests is intense but starts peacefully. During the day on Saturday, peaceful protests continue to develop and grow across the city. Interactions with law enforcement grow more agitated and contentious as night falls. As Saturday evening turns into early Sunday morning, the downtown environment alternates between calm and chaos.

THE BEGINNING — AROUND 9:45 P.M. — SATURDAY, MAY 30, 2020

A small handful of people broke windows and one person started a fire at the Polk County Courthouse, west of the Court Avenue District between 5th and 6th Avenues. Officers were sent to protect the Polk County Courthouse and the adjacent Criminal Courts Building where approximately 200 people had congregated.

The group began to approach the officers guarding the buildings before dispersing west on Cherry Street. A few people threw objects at the officers, but Plaintiffs allege this occurred only after an officer needlessly

pepper-sprayed a protester who was on the sidewalk livestreaming events on Facebook. (Read the Essence Welch story.)

shortly after 10 p.m. Saturday, May 30

Several hundred people began walking east on Court Avenue toward the Iowa Capitol Building, one mile east of the Polk County Courthouse. Most protesters were peaceful, but on several occasions, projectiles were thrown toward officers.

10:29 p.m. Saturday, May 30

As protesters approach the Capitol grounds, officers fire teargas into the crowd.

11:07 p.m. Saturday, May 30

Police declare an unlawful assembly on the Iowa State Capitol grounds and issue dispersal orders. After law enforcement officers in full battle gear attack protesters with shields, bats, pepper spray, and teargas, many protesters flee to their cars and homes. Some back away to the west towards the Court Avenue District across the river, about a mile from the Capitol. Many are pursued, kettled, trapped, and arrested.

12:19 a.m. Sunday, May 30

Around midnight, 200 to 250 protesters return back across the Court Avenue river bridge in the direction of the Des Moines Police Station. Law enforcement officers form a line. This included officers assigned to Metro Special Tactics and Response (S.T.A.R.) Unit.

approximately 12:24 a.m. Sunday, May 31

Officers were given authority to use teargas. Several law enforcement officers could be heard on body cameras telling protesters to “get off the street,” “go home,” and “leave or get gassed.”

around 12:30 a.m. Sunday, May 31

Officers fire more teargas into the crowd and give an order to “clear the [Court Avenue] bridge.”

12:45 a.m. Sunday, May 31

Someone throws an object from a parking garage striking Des Moines Police Officer Brady Pratt on the helmet and knocking him to the ground, but not causing serious injury.

around 1:00 a.m. Sunday May 31

Most of the crowd complies with the order at the bridge and retreats to the Court Avenue District. Drone footage reveals approximately 60 officers facing down roughly 50 remaining protesters. The next hour passes mostly without incident as remaining protesters mix into the Court Avenue bar scene. Des Moines police officers describe them as protesters who “did not disperse” and “reformed into a sizeable group.”

The Plaintiffs describe the crowd as a mix of protesters and “individuals from the Court Avenue bar scene” who “were largely just hanging out.” Polk County, West Des Moines, and Altoona police officers largely agree with Plaintiffs, admitting that the crowd was not acting violently, but “merely standing around, mingling and dancing.”

One bystander’s video shows a group of approximately fifty to one hundred people in the street listening to

music and displaying, at most, occasional passive acts of protest such as lifting signs, raising their fists, or chanting.

shortly after 2:00 a.m. Sunday, May 31

Des Moines Police Chief Dana Wingert gives a speech thanking officers for their work and dismissing them for the night

around 2:25 a.m. Sunday, May 31

A crowd of approximately 100 people becomes unexpectedly agitated, with a group blocking traffic along Court and 2nd Avenues. It is difficult to tell who were protesters and who were people who had left Court Avenue bars at 2 a.m. closing time and were simply watching. Some people threw objects at vehicles, set off fireworks, set up a barricade of garbage cans to block police on the other side of Court Avenue, chased civilian vehicles, and broke windows in the parking garage at 3rd Street and Court Avenue.

Fifteen or more people started walking west along Court Avenue breaking windows at private businesses on the north and south sides of Grand Avenue, including Tonic Bar and Johnny’s Hall of Fame, as well as additional windows at the 3rd and Court Parking Garage. Some other people begin to follow, filming on their phones.

2:35 a.m. Sunday, May 31

The group migrating west grows from the initial fifteen to fifty. Some people engage in overt criminal acts and others merely watch. A few people break windows at Hy-Vee and go inside. Some looters scatter as police move back in from the east (the direction of the Police Station). The first large waves of officers head straight to Hy-Vee in armored vehicles.

There are so many officers heading to Hy-Vee that their vehicles back-fill the eastern half of the 300 block of Court Avenue. As officers reach Hy-Vee the crowd disperses in all directions.

Video footage shows that the people who fled from Hy-Vee ended up further west at the Criminal Justice building at 6th and Cherry Streets. None of the 14 Dunn Plaintiffs were seen or arrested at those locations.

shortly after 2:40 a.m. Sunday, May 31

The area near 3rd and Court is already peaceful, as a secondary wave of officers arrive to “clear Court Avenue and surrounding areas” and “prevent further reconstitution of riotous groups and further destruction of property.” The extensive video record provides at least two apparent reasons for this:

■ The primary agitators were in the small group that had gone west down Court Avenue toward Hy-Vee approximately ten minutes earlier, and thus anyone who remained near 3rd and Court had essentially “opted out” of being part of that violent group.

■ Many 3rd and Court bystanders responded to increased police presence by walking or running away to the north or south. Thus, by approximately 2:40 a.m., there was no crowd near that intersection, but rather small, isolated groups of “stragglers.”

Although officers were directed to “clear the area” in the aftermath of events at Hy-Vee, the record is somewhat unclear on how, exactly, they were directed to accomplish this. The parties agree that Metro S.T.A.R. Lieutenant Russ Schafnitz authorized Metro S.T.A.R. officers to make arrests in the area.

Defendants clarify that this was limited to “individuals who were engaging in criminal activity or who did not clear the area from the crowd which had been declared an unlawful assembly.” This clarification is consistent with video footage, which does not show officers arresting every person they saw in the Court Avenue District. Instead, many people were allowed to leave on foot or in vehicles.

The parties appear to agree that some officers conveyed dispersal orders following their arrival in the Court Avenue District after 2:35 a.m. but disagree as to how those orders were conveyed.

The City of Des Moines Defendants allege that officers gave dispersal orders in the Court Avenue District via a “public address system,” “through individual officer orders, or through a bullhorn.”

Plaintiffs admit certain officers gave “verbal dispersal orders as they walked around Court Avenue,” but “dispute such orders were delivered through a bullhorn.”

The Polk County, City of Altoona, and City of West Des Moines Defendants side with Plaintiffs, admitting that officers issued dispersal orders verbally on an ad hoc basis after 2:35 a.m. but not through a bullhorn or other form of amplification. The Court’s careful review of video footage reveals no meaningful support for the City of Des Moines’ position that a “public address system” or “bullhorn” were used at that time.

The following testimony from Officer Jacob Lovell is logical and consistent with the extensive video footage:

Q: Besides that, any other specific memories of dispersal orders given down there?

A: Not on Court Avenue. I know like prior through the night, they had it constantly going through the loud speaker, but down here, I don’t think we had time to kind of set that up.

Q: When you’re talking about the loud speaker, would that be when you were on the skirmish line on the bridge?

A: Yes. Pretty much anywhere we were able to set up the shield line and have an actual planned response, they always had someone on the loud speaker giving a dispersal order once it came to that.

2:44 to 4:00 a.m. Sunday, May 31

The record is somewhat vague regarding the area officers were directed to clear, although evidence indicates that it ranged from Locust Street (north), Court Avenue (south), Water Street (east), and 5th Avenue (west). All 14 Plaintiffs were arrested in this area between 2:44 a.m. and 4:00 a.m. This was a time when the violence and damage to property had largely ended.

RANDOM ACTS OF POLICE VIOLENCE
AFTER PROTESTS ENDED

In spite of that, video footage captures instances of inexplicable police conduct near the 3rd and Court intersection. For example, video shows:

- An officer (not identified) pepper-spraying a man at close range without provocation while the man is crossing the street. The man runs away without being pursued.
- A few feet away, a different officer (not identified) kicks a man twice who is already kneeling on the ground. The man similarly gets up and runs away without being pursued.
- Officers (not identified) surround a middle-aged man near an intersection, outnumbering him roughly ten-to-one. He did not appear to be doing anything threatening. Nonetheless, an officer abruptly pepper-sprays him directly in the face from close range, causing him to fall to the ground in agony. Officers then ignore the man while he lies in the intersection with cars passing by until, eventually, he stands up on his own and walks away without being arrested.

A VOLATILE 2 DAYS LEADS TO
MULTIPLE ARRESTS

The records for the period from May 29 through midnight on May 31 show that 71 individuals were arrested and charged with 118 individual offenses. The charges that were filed included:

- ▶ Disorderly Assembly
- ▶ Criminal Mischief

- ▶ Disorderly Conduct
- ▶ Failure to Disperse
- ▶ Unlawful Assembly
- ▶ Participation in a Riot

SHODDY POLICE WORK LEADS
TO CHARGE DISMISSALS &
EXPUNGEMENTS

The police department was not prepared for this outpouring of protest. As a result, the arrest records for the arrests during this period show:

- ▶ 45 cases were summarily dismissed by the Court with no trial
- ▶ 44 of the arrest records showed nothing beyond the initial filing of a charge, meaning that all record of these cases was expunged
- ▶ 2 cases are unaccounted for
- ▶ 2 cases went to trial before the Court and were dismissed
- ▶ 1 case was presented to a Jury and dismissed by the Jury
- ▶ 1 individual charged with assault tried his case before a Judge and was found guilty
- ▶ 24 people entered a voluntary plea of guilty to some charge



THE DUNN LAWSUIT

OVERVIEW -A SUCCESSFUL OUTCOME FOR 14 PROTESTERS

By Harvey Harrison

CIERRA DUNN, VERCHON DEBROSSARD, MICHAEL KLINGENBERG, TRENTAE FUGATE, CAMERON LARD, SOPHIA JACOBSEN, JIVONTE JOHNSON, JAYVIONE LEWIS, MAKENZIE MOLER, JAQUAN PATTON, JOSHUA PETEFISH, TYLER ROBINSON MCCUDDIN, EMMA TIMBERLAKE, HARRISON WOODS, AND TONY YOUNG,

Plaintiffs,
vs.

JOHN DOE 1 – 20, BRIAN BUCK, BRANDON HOLTAN, CHRIS HARDY, BRENDAN EGAN, JEREMY BETTS, TYLER PALMER, JARED UNDERWOOD, DAVE CHIDO, MARK WESSELS, TIMOTHY COUGHENOWER, BENJAMIN MCCARTHY, THOMAS GARCIA, DANIEL DEMPSY, BRAD HOOK, SCOTT NEWMAN, NICK SMITH, ADAM HERMAN, TODD WILSHUSHEN, KEN CALLAHAN, JAMES GRIMES, JACOB LOVELL, BRYAN BACH, DANIEL DEMPSEY, MYLES SCHRAGE, RYAN ARMSTRONG, TRUDY PAULSON, TYLER MOFFATT, JACOB HEDLUND, KYLE GRUVER, NICHOLAS VALENTINE, DEB VANVELZEN, JEREMY SPRAGUE, CLARK ALLEN, ERNESTO ESCOBAR HERNANDEZ, CHAD NICOLINO, JEFFREY GEORGE, BRADLEY YOUNGBLUT, JAKE FORRESTER, KIRK BAGBY, DANA WINGERT, CITY OF DES MOINES, IOWA, POLK COUNTY, IOWA, CITY OF WEST DES MOINES, IOWA, CITY OF JOHNSTON, CITY OF PLEASANT HILL, AND CITY OF ALTOONA, IOWA,

Defendants.

CASE NO. 4:21-cv-53

AMENDED COMPLAINT and JURY DEMAND

INTRODUCTION

Cierra Dunn is the first named Plaintiff in a lawsuit against multiple defendants who were involved in the wrongful arrests of 14 people! This is the story of their quest for justice. We refer to it as the Dunn litigation for convenience. It is 14 people who had individual claims for what was done to them by the police that are combined as the Plaintiffs in a single lawsuit.

Here is a picture of nine of them after a settlement was reached that required the City of Des Moines to pay \$800,000. Their attorney, Gina Messamer, is on the far right in the green dress.

Each of the Plaintiffs was arrested on the morning of Sunday, May 31st, between 2:44 and 4:00 a.m.

2:45 a.m. Harrison Woods was arrested while walking north, by himself, along Third Street near Court Avenue. Around the time of Woods' arrest, a bystander told officers, "You're getting the wrong ones. You guys are picking off the stragglers, that's crap".

2:49 a.m. Michael Klingenberg was arrested while walking alone, just outside the Third and Court parking garage.

2:48 a.m. MacKenzie Moeller was arrested as she entered her vehicle in the parking garage at 3rd and Court. This was shortly after she and others near her were told by officers they could leave.

2:54 a.m. Joshua Petefish was arrested while standing in a parking lot of the restaurant at the intersection of Second and Court Avenue.

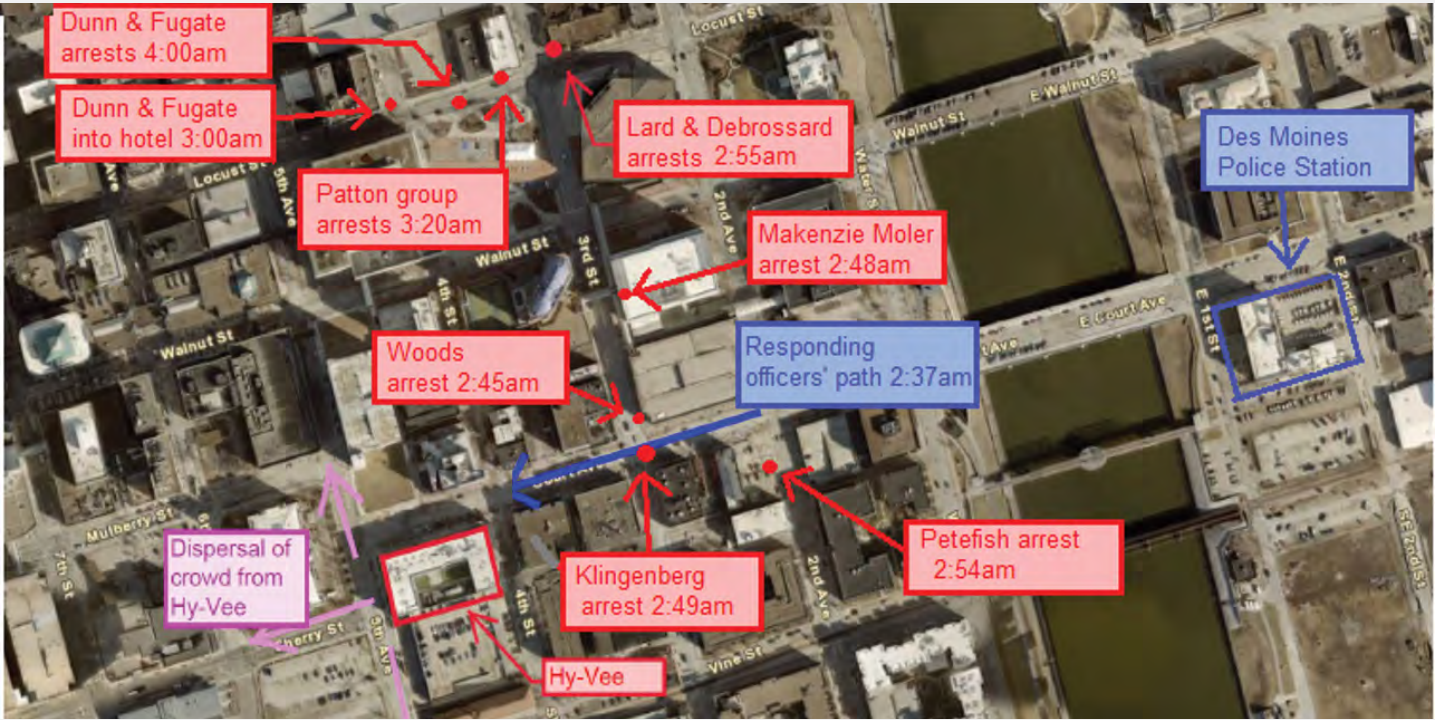
2:55 a.m. Verchon Debrossard and **Cameron Lard** were arrested at the door of Lard's apartment at the



intersection of Third Street and Locust Street. (This is two blocks north of Court Avenue.)

3:20 a.m. Jaquan Patton, Jayvione Lewis, Jivonte Johnson, Ella Timberlake, Sophia Jacobsen, and Tony Young were arrested near Lawrence apartment at the intersection of Third Street and Locust Street. (This is two blocks north of Court Ave.)

4:00 a.m. Cierra Dunn and **Trentae Fugate** were arrested near the intersection of Third Street and Locust Street as they were entering Dunn's vehicle.



JAILED, CHARGED, BUT NOT CONVICTED

Each of the Plaintiffs was booked into the Polk County jail and each was charged with one or more of the following crimes: Disorderly Assembly; Criminal Mischief; Disorderly Conduct; Failure to Disburse; Unlawful Assembly; Participation in a Riot.

NONE OF THEM WERE CONVICTED OF ANY CRIME INVOLVING THEIR PARTICIPATION IN THE PROTESTS!

They each believed that their Constitutional rights to free assembly and protest had been violated and that they were entitled to be compensated for that violation of their rights.

ALL 14 PROTESTERS DECIDE TO SUE

The lawsuit was originally filed on their behalf on December 28th, 2020, in the Polk County District Court (an Iowa trial court). The case was quickly moved into the United States District Court for the Southern District of Iowa (a federal trial court).

The federal judge who was assigned to this case reviewed individual interactions between the police and the protesters to make an initial determination if individual officers had acted lawfully. That judge also

reviewed and ruled on multiple motions on behalf of each of the parties. Through this process, he issued a comprehensive opinion with about 800 different rulings on the various motions and arguments.

WHAT THE APPELLATE COURT DETERMINED

Many of those rulings were appealed to the 8th Circuit Court of Appeals (the first level of the appeal process).

That Appellate Court wrote the following:

Police work is difficult, particularly in times of civil unrest. Nonetheless, the United States and Iowa Constitutions place limits on what law enforcement officers can do, and officers can be held liable in some instances when those Constitutional boundaries are crossed.

This case requires the Court to decide whether the fourteen Plaintiffs have met their burden of proving that some or all of the fifty-three Defendants crossed the line in making arrests and using force in the aftermath of protests in downtown Des Moines, Iowa, following George Floyd's death in May 2020.

The Court concludes that some Plaintiffs have met their burden, including, for example, six Plaintiffs who were arrested in the early morning hours of May 31 after doing nothing more than parking a car and walking toward an apartment building after not having been present for any protests at any point during the night. Law enforcement officers did not have probable cause—or even arguable probable cause—to arrest them. Similarly, two Plaintiffs were told by officers they could leave the scene of unlawful activity only to be arrested while attempting to do so, and a third was arrested for the crime of failure

to disperse from an unlawful group despite standing by himself. These Plaintiffs, too, have established sufficient facts to conclude the officers violated their Fourth Amendment rights. Some Plaintiffs also have established sufficient facts to allow a reasonable juror to conclude that excessive force was used, including two Plaintiffs who were pepper-sprayed despite allegedly not resisting arrest or otherwise engaging in threatening activity.

In other instances, the Court concludes summary judgment should be granted in favor of Defendants. For example, some Defendants reasonably believed a crime had been committed and therefore are not liable for unlawful seizure even if prosecutors later decided there was not enough evidence to prove the crime beyond a reasonable doubt. The Court also grants summary judgment in favor of supervisors and government entities on many claims, as Plaintiffs have not shown that these supervisors or entities had a “custom or practice” of making unlawful arrests or using excessive force or were “deliberately indifferent” to the possibility of such things. Instead, at most, Plaintiffs have shown that individual officers exceeded constitutional lines in specific instances.

FINALLY, A SETTLEMENT IS AWARDED

Following this ruling from the appeals court, after almost 4 years of litigation, the case was settled for \$800,000, which has now been paid. In addition, the city paid for its staff and attorneys, paid the Duncan law firm \$131,385 to assist in the defense, paid Great Lakes Forensic Experts, LLC, to review the video and forensics evidence the city had collected, and paid the Court costs related to the deposition. While we do not know the exact number, it is clearly well over \$1 million. This is an important case! It graphically highlights the challenges that we the people experience when

we attempt to exercise our first amendment rights to challenge wrongful conduct by agents of our government. This case also shows the difficulties in obtaining compensation via a civil court action for the violation of our constitutional rights and the harm done by law enforcement in downtown Des Moines during the 2020 protests following the murder of George Floyd.

THE WRONGFUL ARRESTS OF THE 14 PLAINTIFFS IN DUNN LITIGATION

By Harvey Harrison

CIERRA DUNN & TRENTAE FUGATE

Sometime after midnight on May 31, 2020, Sierra Dunn met some friends in the Savery Hotel in Des Moines. She drove to the Savery with her boyfriend, Trentae Fugate, and parked on Locust Street near the hotel. Ms. Dunn and Mr. Fugate left the hotel sometime after 3:30 a.m. and walked to her car. As the two of them approached the car, a group of police officers ran toward them and prevented them from getting into the car. Ms. Dunn and Mr. Fugate explained to the officers that they had been at the hotel and were leaving to go home. The officers knew that the two of them had been in the hotel. Ms. Dunn and Mr. Fugate were not being violent or threatening. They were not assembled with any persons who may have been acting in a violent manner. They were not in the immediate vicinity of a riot or an unlawful assembly.

They were told by one of the police officers that they were being arrested for failure to disperse, even though they were getting into the car to go home. The two were placed under arrest and their wrists were zip tied together. Officer Holton, who participated in the arrest, searched the vehicle and seized two guns owned by Mr. Fugate, both of which were properly licensed and legal. Officer Moffat told Ms. Dunn that she could kiss her college career goodbye and that she was an idiot.

VERCHON DEBROSSARD & CAMERON LARD

On the evening of May 30, 2020, Verchon Debrossard and Cameron Lard were friends who were hanging out together. They got together on that evening at an apartment where Mr. Lard was staying. The apartment is located at 3rd Street and Locust Street in downtown Des Moines. The two walked downtown and hung out together in the Court Avenue bar district during the time that the protests were going on. As individuals began

to damage the nearby Hy-Vee grocery store, the two were walking by themselves on the north side of Court Avenue towards Fourth Street. When the police arrived at the area, the two left the area.

After a couple of minutes, they returned to the intersection of 3rd Street and Court Avenue and watched the officers in the area. There were about 10 other citizens in the area doing the same thing. After watching for a couple of minutes, they decided to return to Mr. Lard's apartment and they began walking in that direction. As the two crossed the Cowles Common, a group of police officers shot teargas (or a flash bang) into the middle of a group of approximately four people who were walking on the other side of the street. Mr. Debrossard and Mr. Lard continued walking toward the apartment.

As they were crossing the street to the apartment a police Bearcat vehicle carrying several police officers drove towards them. One of the officers yelled at them from across the street to go home and Mr. Debrossard responded that they were in fact home. As they approached the apartment complex and arrived at the gate to the apartment, the Bearcat pulled up next to the sidewalk and stopped. At the direction of Officer Hardy, a group of officers, (Hardy, Eagan, Betts, Grover, Coughanour, and Valentine) ran towards them. Without any explanation or asking any questions the two were aggressively and forcefully arrested. Officer Betts pepper sprayed Mr. Lard in the face. As he screamed and begged for help, Officer Coughanour deployed a second burst of pepper spray to his face.

MACKENZIE MOLER

On May 31, 2020, Ms. Moler was hanging out with her friend Dylan Robertson in the Court Avenue bar area. The two had parked in the garage at Court Avenue and 3rd Street. They were by the entrance to the parking garage of 3rd Street when dozens of officers walked down 3rd street. Around 2:47 a.m., Ms. Moler and Mr.

Robertson asked an officer for permission to leave the area and were told that they could leave. As they walked away with their hands in the air, Polk County Sheriff Deputy Jason Tart threw an explosive munition towards Ms. Moler and Mr. Robertson, which exploded a few feet from them. The two then continued to walk into the parking garage and got into their car.

As soon as they got in the car, they were approached by approximately eight officers, four on each side, who forced them from the car. None of these officers were identified by the two of them at that moment. Ms. Moler was thrown against the trunk of the car and her hands were zip tied together. The zip ties were so tight that she was in a great deal of pain and began to lose circulation in her hands. (Officer Forrester was one of the officers who arrested Ms. Moler.) Mr. Robertson was thrown to the ground and his hands zip tied together.

JOSHUA PETEFISH

Joshua Petefish lived in the Vine Street Lofts in downtown Des Moines. In the early morning hours of May 31, 2020, he was hanging out in the Court Avenue area. He was walking home by the corner of 2nd Street and Court Avenue around 2:51 a.m. when he saw a Des Moines police officer pepper spray a man in the face. He asked the officer why he had pepper-sprayed the man and another officer responded by pepper-spraying Mr. Petefish and then arresting him. Three officers then made Mr. Petefish lay on his stomach on the ground and zip tied his hands together. Mr. Petefish told officers that he had been walking home, but the officers arrested him regardless.

JAQUAN PATTON, JAYVIONE LEWIS, JIVONTE JOHNSON, EMMA TIMBERLAKE, SOPHIA JACOBSEN, AND TONY YOUNG

Jaquan Patton was hanging out with friends on the evening of May 30, 2020. This included Sophia Jacobson, Javeon Lewis, Jivonte Johnson, Tony Young and Emma Timberlake. Initially, they were not in the Court Avenue area. Ms. Patton lived at an apartment at the corner of 3rd Street and Locust Street in downtown Des Moines. Around 3:30 a.m. on the morning of May 31, 2020, Ms. Patton, Ms. Jacobson, Mr. Lewis, Mr. Johnson, Mr. Young, and Ms. Timberlake drove back to Ms. Patton's apartment. The group parked on Locust Street, near the apartment. Ms. Patton and her friends exited the vehicle and were arrested almost immediately by a large group of Des Moines police officers, as they began to walk to Ms. Patton's home. The police pushed Ms. Patton up against a building and zip tied her hands behind her back. The entire group was arrested and transported to jail.

All of the criminal charges against all of these individuals that were related to the protest were dismissed and ultimately expunged!



During the course of the Dunn civil litigation, it was discovered that Jeff Noble (the Bureau Chief intake Division of the Polk County Attorney’s Office) had instructed law enforcement to pursue a policy of charging protesters with Rioting, Failure to Disperse, and Unlawful Assembly. The following standardized language was used in each criminal complaint regardless of the actual circumstances:

Defendant was a member of a group (of well over three people) that assembled to protest allegations of racism and police brutality. Initially, the protest was peaceful. The protests evolved to rioting in the late evening hours of May 30, 2020 into the early morning hours of May 31, 2020 with many of the remaining participants, engaging in violent, intimidating and destructive behavior.

Police officers clearly, loudly and repeatedly instructed all participants to disperse.

Despite these instructions, defendant willfully stayed among the group that remained. This group was engaging in assaultive conduct, the intimidation of people and destruction of property. The participants barricaded public streets. Private businesses and public buildings were damaged with spray paint. Windows were shattered. Fires were started and rocks were thrown at people, including police officers. Citizens working in the area were afraid for their safety.

This destruction was open, extensive and obvious, yet the defendant willfully remained among the group of persons responsible for this conduct, all of which occurred in the city of Des Moines, Polk County Iowa.

The police used this instruction to arrest people who were not violating any laws, were not being violent or threatening, not assembled with people who were breaking the law, not in the immediate vicinity of a riot or unlawful assembly. In other words, the police had no probable cause to arrest any of these individuals. This was also true for Harrison Woods and Michael Klingenberg, whose stories follow.



THE MICHAEL KLINGENBERG STORY

By Brad Titus

TAKING A STROLL — CURIOUS ABOUT THE PROTESTS

Michael Klingenberg lived near the intersection of Martin Luther King Parkway and Southwest 7th Street, approximately four or five blocks southwest of Court Avenue. On May 30, he went downtown to “investigate” the protests, reaching the pedestrian bridge over the Des Moines River—roughly two blocks south of Court Avenue—around 11:30 p.m.

From the pedestrian bridge, Klingenberg walked to the Third Street and Court Parking Garage, a journey which took “between 30 and 45 minutes.” Klingenberg spent “most of this night” at the top of the Parking Garage. It is unclear, however, when he arrived there or whether he left and returned at some point, as he is visible on surveillance footage walking around Court Avenue between Second Avenue and Fourth Street at various times. At approximately 1:45 a.m., video captured Klingenberg on the northeast corner of the Third and Court intersection checking his phone and adjusting his face covering. He then made his way across the street to the southwest corner of the intersection. He stood on the corner for several minutes and then walked across the intersection to the southeast corner. After reaching the southeast corner, he stopped to speak with a group of individuals, one of whom appeared to be carrying a bottle in one hand and a milk jug in the other. Klingenberg then continued east down the sidewalk and out of view of the surveillance camera.

KEEPING A WATCHFUL EYE FROM THE ROOFTOP

He eventually made his way to (or back to) the top floor of the Third and Court Parking Garage and was there until approximately 2:40 a.m. There were others on the top floor as well. He estimated that there were “no more than 15 [people] up there at any one time, but people would rotate out.” At some point after 2:00 a.m.,

Klingenberg could see people placing garbage cans in the street and breaking windows. At approximately 2:35 a.m., Klingenberg saw officers come down Court Avenue and begin dispersing people. He testified there were “probably 12 people on the roof of the parking garage” at the time and “everybody started voicing, you know, like, ‘oh, this is a good time to get out of here.’”

OFFICERS CLEAR THE PARKING GARAGE

When police arrived on Court Avenue, several officers were dispatched to the 3rd and Court Parking Garage. In audio captured by Officer Luke Hastie’s body camera, an officer stated: “We have several participants in the garage at 3rd and Court on the third floor.” Seconds later, this was corrected to the “fourth floor” and “in the stairway.” Officers entered the garage to clear it around 2:44 a.m. Earlier that morning (around 12:45 a.m., according to an injury report), an officer had been struck on the helmet by an object thrown from the top of the parking garage. Officers testified that objects being thrown from that location had been a recurring problem throughout the evening.

MICHAEL ENCOUNTERS OFFICERS WHILE LEAVING PARKING GARAGE

In his deposition, Klingenberg said he was unaware of anyone throwing objects from the garage and “had no awareness that anyone in the parking garage would be up to anything nefarious.” Klingenberg was the last person to leave the roof because he wanted to “make sure others were solid” and was “just trying to keep people calm.” He began making his way down and out

of the garage, meeting the “first team of officers in the stairwell just as they got up to the roof.” Klingenberg continued down, encountering Officer Hastie on the third floor at 2:47 a.m. Hastie told him to “get outta here” to which Klingenberg responded: “I’m outta here. Thanks for everything you’re doing.” Hastie asked how many people were still on the roof, with Klingenberg telling him there were none. On the next floor down, while passing Des Moines Police Officer Aaron Entrekin, Klingenberg raised his hands and told Entrekin he was “getting out of there” while continuing down the stairs. None of the officers tried to stop Klingenberg.

BACK ON THE STREET — MICHAEL GETS ARRESTED

At 2:48 a.m., Klingenberg exited the garage and walked south on Third Street across Court Avenue. He walked past Officer Benjamin McCarthy and an unidentified officer in the crosswalk. As he did so, two different officers, Officers Adam Herman and Brandon Holtan, gestured in Klingenberg’s direction while they were walking across the east side of the intersection along Court Avenue. McCarthy and the other officer then arrested Klingenberg. According to McCarthy, Herman and Holtan had said that Klingenberg “was involved with this stuff. He needs to be put in cuffs. He needs to be arrested.” Herman and Holtan did not, however, say when or where they had seen Klingenberg or what they saw him doing, nor did McCarthy ask for additional information. Importantly, the City of Des Moines Defendants assert that, at the time of his arrest, Klingenberg said, “I messed up and made a big mistake.” Klingenberg disputes this.

After making the arrest, McCarthy and the unidentified



officer escorted Klingenberg west on Court Avenue to where officers were gathering other arrestees. Officers Clark Allen and Ernesto Escobar-Hernandez transported Klingenberg away from the scene. Klingenberg was charged with 2nd degree criminal mischief, participating in a riot, failure to disperse, and unlawful assembly. The State dismissed all Criminal charges on September 4, 2020.

In the civil lawsuit, the Judge made the following statement about the arrest of Klingenberg:

“The facts surrounding Klingenberg’s arrest help demonstrate why the Court felt it was necessary to (describe the details of the arrest) with the overarching issue of whether mere presence on the streets after 2:40 a.m. was enough to give officers arguable probable cause for arrest. Beyond mere presence, with one partial exception, officers had nothing as to Klingenberg when the facts are viewed in the light most favorable to him (as, at this stage, they must be).”

Klingenberg was not involved in the violent activity on Court Avenue between 2:30 and 2:40 a.m., nor was he part of the crowd that moved west toward Hy-Vee. Instead, he stayed at the Third and Court Parking Garage.

Upon further investigation, it is indisputable that Michael Klingenberg had done nothing wrong:

- No officer claims to have seen Klingenberg anywhere else during the night, much less to have told him to disperse at any point prior to when Klingenberg was already exiting the Parking Garage moments before his arrest.
- Nor does any officer claim to have seen another officer tell Klingenberg to disperse at any point during the night or, with the exception of Defendant McCarthy at the time of arrest, to have been told by anyone else that Klingenberg had been told to disperse or otherwise had done something unlawful.



■ No officer claims to have witnessed Klingenberg doing anything threatening; to the contrary, viewing the facts in the light most favorable to him, Klingenberg left the 3rd and Court Parking Garage within approximately three minutes of officers entering that structure, during which time he encountered three different officers (or groups of officers), none of whom did anything to suggest he should be arrested.

Having thoroughly analyzed the facts around Klingenberg's actions and his arrest, the Judge ruled, "An officer lacks probable cause to arrest someone he hasn't seen do anything wrong." The Court therefore denied qualified immunity as to Holtan and Herman. The Judge then went on to deny qualified immunity to Officer McCarthy, stating, "By making the arrest without conducting any such further inquiry, McCarthy violated Klingenberg's clearly established right not to be arrested without probable cause when the facts are viewed in the light most favorable to Klingenberg. The Court therefore denies McCarthy's Motion for Summary Judgment on Count I as well."

By the end of this portion of his ruling, the Judge had kept McCarthy, Holtan, and Herman in the litigation as defendants and left the final decisions to be made by a jury. It was shortly after this that the Dunn litigation was settled!

The result is the same for McCarthy, although the analysis is slightly different. In the midst of a relatively fast-moving situation, it might have been reasonable for McCarthy to rely on the statements of Holtan and Herman in arresting Klingenberg if they had provided even a modest level of detail about what they believed he had done wrong. But they provided no detail at all.

Instead, they simply said Klingenberg "was involved in this stuff" and should be arrested. Given the time and location of Klingenberg's arrest—i.e., more than one block east of the unruly crowd at Hy-Vee, and in a different direction from where that crowd dispersed—a reasonable officer in McCarthy's position should have made at least some additional inquiry into Klingenberg's conduct before arresting him, particularly given Klingenberg's protestations that he was a mere bystander.



THE HARRISON WOODS STORY: DMPD OFFICERS BAGBY AND MCTAGGART, DEFENDANTS

By Brad Titus

Harrison Woods lived in downtown Des Moines approximately one mile south of the Court Avenue District. He actively participated in the protests on May 30 – 31, 2020. While he could not specifically identify the officers who had arrested him, his claims were made against Michael McTaggart and Kirk Bagby, two senior officers who were at the Police station giving instructions on charges to be filed and processing people who had been arrested. Bagby and McTaggart took no part in the initial arrest.

HARRISON PROTESTS WITH OTHERS AT STATE CAPITOL GROUNDS

On the night of May 30, Harrison was near the Iowa Capitol building and participated in a protest. He is seen on news footage moving among crowds at the Capitol. When law enforcement began deploying teargas at the Capitol, Woods jogged up the Capitol steps, carrying what appears to be a jug of milk, then slowly walked back toward protesters congregated below. In the video, police are obscured by teargas or other dispersants, so it is unclear how close Woods was to the police line.

HARRISON GETS TEAR-GASSED ALONG WITH OTHER PROTESTERS

Woods was in the middle of a group of protesters on a lower landing at least one tier of steps below officers. He moved around the landing and on the stairs, raising his fist at one point toward approaching officers. A protester to his right threw an object—purportedly a firework. Officers began launching teargas canisters over Woods's head, prompting him to back down the Capitol steps with his fist still raised. A few seconds later, he lowered his fist, turned, and walked down to the landing. As officers moved down to the landing one set of stairs away from Woods, he moved back several steps and paused on the stairs immediately adjacent to the sidewalk running parallel to the Capitol steps.

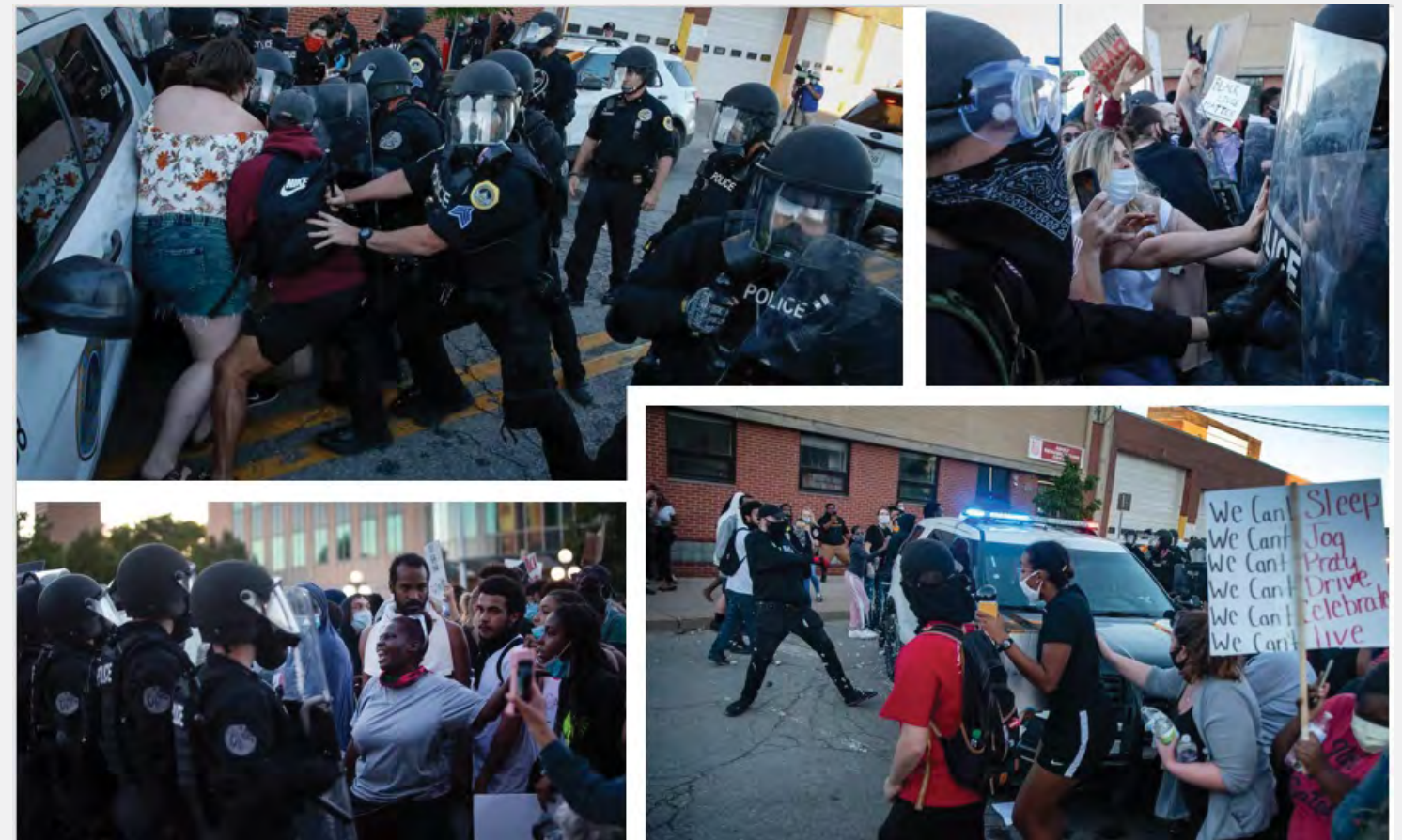
Officers deployed more teargas, and Woods turned and appeared to be leaving the Capitol, walking across the road and out of sight. Woods said that because of where he was standing at the Capitol, he did not know whether dispersal orders were given, although he "imagined there was an order given at some point."

HARRISON GOES HOME BUT GOES BACK TO PROTEST AGAIN

Woods returned home around 11:30 p.m., catching a ride with a friend, Bailey Reese. After he arrived home, Woods saw videos showing "another demonstration kind of forming closer to downtown" and "people gathering" at the "bus station," "bridges," and "then around the Court Avenue bar scene." Woods testified he was "feeling touristy" and "decided to walk back down towards downtown." He also left because "Bailey Reese had reached out to me when she was downtown and indicated to me—or maybe it was just my speculation that she did not feel safe. So my intention was to go and kind of walk her away from the situation."

HARRISON OBSERVES CHAOS ON COURT AVENUE

Woods was not sure when he left his apartment, but "it had to have been after midnight." Woods walked from his apartment to Court Avenue, in or around the block between Second Avenue and Third Street. At some point, people started using garbage cans to block traffic on Court Avenue. Woods said he was standing near the Third and Court Parking Garage when demonstrators began setting off fireworks in the intersection of Second and Court Avenues. He thought this happened between 1:30 to 1:50 a.m. (Other evidence suggests it was well after 2:00 a.m.) Woods said, "it kind of all went downhill" from there.



After the fireworks went off, Woods "was looking for anybody he knew" and "anybody that appeared injured from anything." He "continued westbound on Court Avenue, maybe a half block or so." "And then, maybe five, ten minutes later is when we started seeing the big armored vehicles roll up and stuff like that, and then it turned into Star Wars," Harrison said. When law enforcement arrived, Woods believed he was "on the northeast corner of 4th and Court, maybe 3rd and Court, underneath that parking structure that's across the street from Johnny's Hall of Fame."

VIDEO FOOTAGE SUPPORTS HARRISON'S TESTIMONY OF HIS MOVEMENTS

Woods's testimony is largely corroborated by video footage from the early morning hours of May 31, which shows him walking west along the south side of Court Avenue at 2:36 a.m. by himself. After pausing briefly on the southeast corner of the 3rd Street and Court Avenue intersection, he continued west across the intersection to the southwest corner and eventually out of sight while various police vehicles, including armored vehicles, drove past him. Several seconds later, Woods headed back to the east on the south side of Court Avenue and back into the video. Woods stopped

on the southwest corner of the 3rd Street and Court Avenue intersection and appeared to look down at his cellphone. He then walked east on Court Avenue to the southeast corner of the intersection, turned north, and crossed the intersection in the vicinity of the 3rd and Court Parking Garage. Less than two minutes later, Woods briefly reappeared on a different camera on the same northeast corner of the intersection.

WOODS ENCOUNTERS POLICE WHO ORDER HIM TO DISPERSE

Woods testified that, at some unspecified time, he reencountered his friend, Bailey Reese, near the 3rd and Court Parking Garage, and the two of them remained there. Woods says he then saw officers moving in "from every direction I could possibly see." Hands raised, he asked officers which way they wanted him to go and was told to head north on 3rd Street. According to Woods, this was the first dispersal order he heard while in the Court Avenue District. As Woods turned right from Court Avenue onto 3rd Street "to follow the dispersal order," he testified that he "saw an individual on the ground," and it was his "perception that an officer was being a little too rough."

HARRISON IS ARRESTED WHILE FOLLOWING POLICE ORDERS TO DISPERSE

Woods turned toward the officer, said “hey,” and was “immediately pepper sprayed by an unidentified Metro STAR officer and thrown into the wall of the Parking Garage.” Woods alleges that he suffered “significant bruising” on his arms and chest. By 2:45 a.m. he was in the custody of Metro STAR and was walking west on Court Avenue to a police transport vehicle by two unidentified officers. The City of Des Moines alleged that Woods was pepper-sprayed after he “protested and interfered with police interacting with another individual.” A Court later concluded that there was no evidence to support this and assumed he did nothing more than say “hey.”

Woods was charged with participating in a riot and 2nd degree criminal mischief. None of the officers who encountered Woods on Court Avenue had any knowledge of his prior activity, nor did they attempt to determine whether Woods had heard a dispersal order, joined in an unlawful assembly, participated in a riot, or committed any acts of vandalism. **All criminal charges against Woods were ultimately dismissed.**

Because Woods and his attorney were unable to identify the actual officers who had arrested him, Woods filed his claims in the civil lawsuit against officers McTaggart and Bagby. His theory was that McTaggart and Bagby became directly involved in his arrest at the Police Station when they instructed other officers to write up charges against him for participating in a riot and 2nd degree criminal mischief. The Judge did not accept this argument, and “threw out” this portion of his claim.

The Judge did go on, however, and refuse to dismiss the part of Wood’s claim based on his legal theory of unlawful seizure. The lawyers for the city attempted to rely on Qualified Immunity to dismiss this as well. The Judge refused to do this. He found:

“Viewed in the light most favorable to Woods, the facts show that McTaggart and Bagby were directly involved at a supervisory level in keeping him detained at the Police Station despite having, at most, only a vague sense of what Woods allegedly had done wrong. McTaggart and Bagby ultimately caused other officers to charge Woods with two offenses he clearly did not commit in a situation where even a modest level of additional investigation—such as, for example, pinning down the location of his arrest—likely would have shown he had not committed them.”

With this ruling, Woods remained in the Dunn Litigation as a Plaintiff.

“He was immediately pepper sprayed by an unidentified Metro STAR officer and thrown into the wall of the Parking Garage.”



THREE COMMON LEGAL ACTIONS USED DURING COURT PROCEEDINGS IN 2020 PROTEST LAWSUITS

QUALIFIED IMMUNITY

Qualified immunity is a court-created rule that limits victims of police violence and misconduct from holding officers accountable when they violate a person’s constitutional rights.

The doctrine provides that a police officer cannot be put on trial for unlawful conduct, including the use of excessive or deadly force, unless the person suing proves that:

- 1. the evidence shows that the conduct was unlawful; and
- 2. the officers should have known they were violating “clearly established” law, because a prior court case had already deemed similar police actions to be illegal.

Even if a person can demonstrate that the police officer acted unlawfully, the officer will not be liable unless both prongs have been satisfied. The second requirement provides an especially powerful shield for officers because courts often require a nearly identical case to use as “clearly established” precedent. --Equal Justice Initiative (<https://eji.org/issues/qualified-immunity/>)

SUMMARY JUDGMENT

A summary judgment is a decision made based on statements and evidence without going to trial. It’s a final decision by a judge designed to resolve a lawsuit before trial. Summary judgment entitles one party to judgment when the Court believes no “material issue of fact” exists on the issue raised before the Court, and the Court must enter judgment as a matter of law.

One of the main reasons to file a motion for summary judgment is that it’s usually quicker and less expensive than going to trial.” --Wilson Kehoe Winingham, LLC (<https://www.wkw.com/legal-process/faqs/what-is-a-summary-judgment/>)

PROBABLE CAUSE

Sufficient reason based upon known facts to believe a crime has been committed or that certain property is connected with a crime. Probable cause must exist for a law enforcement officer to make an arrest without a warrant, search without a warrant, or seize property in the belief the items were evidence of a crime... Technically, probable cause has to exist prior to arrest, search or seizure.

--Law.com (<https://dictionary.law.com/Default.aspx?selected=1618>)

Probable cause is a fundamental concept in Fourth Amendment jurisprudence. The probable cause requirement ensures a balance between an individual’s right to privacy and the government’s interest in maintaining public safety and order. This standard is less stringent than required for a conviction (“beyond a reasonable doubt”) but requires more than mere suspicion or hunches.

--FindLaw.com (<https://constitution.findlaw.com/amendment4/annotation04.html>)

TRENT SCHWAB FORGIVES POLICE FOR ASSAULT AND ARREST

By Lori A. Young

Trent Schwab embodies more than just his accolades and background. As a bi-racial man navigating life in Des Moines, he reflects on identity and purpose. His journey from a rugby champion to a devoted father and thriving real estate agent reveals resilience and ambition. Deeply introspective, Trent values connection and understanding, striving to instill those qualities in his daughters while shaping a brighter future for his community.

His childhood was turbulent, marked by storms of trauma and abuse that shaped his learning and behavior. Yet, through counseling, he navigated towards healing, discovering coping tools that became his anchors. Now, he stands tall, a beacon of confidence and openness, thriving in a joyful life and fulfilling career. The past no longer defines him; it's merely a chapter in his inspiring story of resilience.



TRENT JUST TRYING TO GET HOME

Let's rewind to May 31st, 2020, when Trent was leaving his job as a bartender and assistant manager at a popular nightclub located at 4th and Court Avenue. As the club was about to close, the employees could hear and see a large group of protesters who had been ordered to disperse from around the police station and courthouse, walking west on Court Ave in the heart of the district. He got a bad feeling and wondered why police would disperse protesters to the popular Court Avenue strip of bars, just as bars were closing and floods of people, people who had been drinking obviously, were about to leave. Trent's instinct urged him to stay alert, knowing the night could shift from protest to chaos in an instant.

Trent could hear glass breaking and loud explosions of teargas. But, luckily Trent's apartment was directly across the street from the bar. He made up his mind to get home quickly. He then remembered that he had parked his car near the Court Avenue Hy-Vee and decided he'd better move it closer to his apartment so it wouldn't be damaged by the rowdy crowd. He even stopped a vandal from trying to break out the window to the building he lived in and told him that destroying property was not the way to make a point about the senseless murder of George Floyd. Eventually, the protester moved on and Trent continued to walk to his car. "That was probably one of the worst decisions I made in my life, deciding to go and check on my car."

POLICE SWARM COURT AVENUE DISTRICT

As he walked the two short blocks towards Hy-Vee, he eventually found that his car was in good shape, but he couldn't move it with all the chaos. He decided to walk back to his apartment building. At that moment, dozens of police arrived in white vans and poured out like a swarm of bees advancing towards the area around Hy-Vee. Trent recalls, "Police were just grabbing everyone and then two officers approached me."



TRENT STOPPED BY POLICE TWICE

Two officers asked him what he was doing and he explained that he just got off of work and was checking on his parked car. He told them and showed him his ID which had his address and he even pointed to the front door of his building. He also showed them the "clock out" receipt which verified he had, indeed, just left his job. He explained that he was not part of the protest,

insisting he LIVES in the area. They said, "Ok, well get outta here, get home now." So, Trent turned around to head home. He had only gone a few feet when he was approached by two different officers who stopped him and questioned him again. This second "set" of officers were rougher, shoving him and grabbing his arms. And that's when everything changed.

Trent said he was not resisting and offered the same explanation he had given the first "set" of officers who had urged him to go home. These officers eventually told him to go home as well. As he turned to walk away and leave the conversation, a third officer showed up suddenly and pepper-sprayed him directly in the face. He's stunned and can barely see but he notices another officer running towards him who tackles him to the ground, pressing his face into the concrete. He's handcuffed and sat on the ground with chemicals in his face, nostrils, and eyes, with no way to wipe his face easily because he's handcuffed.

As he sat there, things began to quiet down after about 20 minutes. There were still dozens of cops walking around, "picking people out who were hiding in alleyways," Trent recalls. Then suddenly he heard another blast of teargas but couldn't figure out why it was shot off when things were much quieter. The wind from the teargas carried the chemical gas right to the area where Trent sat handcuffed and helpless. Now he had to deal not only with the mace in his eyes and nose, but he had to inhale the teargas, too. His lungs burned; he struggled to breathe. He felt invisible, trapped in a nightmare. Each cough felt like a betrayal of his own body. All he wanted was to escape the suffocating grip of fear and the gas that clawed at his throat and go home.

TRENT IS TAKEN TO JAIL

But instead Trent was stuffed in an overcrowded paddy wagon and taken to the jail with many others. Upon arrival, police confiscated everyone's cell phones and Trent tried to object. The officer said he had to surrender it because it was "evidence." This left him even more frustrated and angry. More and more people were being brought to the small jail cell and being crammed in. It began to get hot. Everyone's sweating and the pepper spray is running into Trent's eyes when he finally complains to a jailer that he's having trouble breathing and the heat is activating the pepper spray, making matters worse.

The jail nurse came and was of little help. She dismissed Trent’s condition saying “Hey, you were pepper-sprayed and there’s not anything I can do to help.” At that moment a resolve and a calm came over Trent. He recalls thinking to himself, “I realized these people aren’t here to help me. They’re just gonna do their job and their job is to make more money for Iowa through the criminal legal system. That’s just what it is. It’s all about business.”

TRENT IS FINALLY RELEASED

This resolve helped Trent endure another 6 hours in custody, and shortly before his release the next morning, he was finally allowed to wash his face. His Mom had bailed him out and was waiting for him. Trent’s mind raced through the details, every moment etched in his memory. The police appeared to be grasping at straws because he knew he had done nothing wrong. He believed the truth would shield him from the weight of false accusations. He thought justice would prevail. He was determined to emerge unscathed due to his innocence.

TRENT DECIDES TO SUE THE DMPD

Yet and still, Trent felt he did want to file a lawsuit because of how he was treated. “I was done wrong. I still have scars to this day. Hell yes, I wanted to sue.” Trent’s attorney, Gina Messamer, had forewarned him a lawsuit like this could take 2 to 3 years to settle. Trent was fine with that timing.

Looking back, Trent felt he may have shared too much information when giving his deposition to the court. That’s because he shared how great his life was going, how he was studying for his real estate license, not working in bars anymore, etc. He felt he may have painted a picture of himself that made people think he had no lingering trauma, he was successful, and so he’s okay.

As his lawsuit progressed, the city offered \$5,000 to settle, but Trent and his lawyer turned down the insulting offer and requested a larger settlement. Quickly thereafter, a judge ruled in favor of the police officers, citing “qualified immunity,” and dismissed his lawsuit. Despite the dismissal, Trent wasn’t upset and gave kudos to his attorney for doing a great job. In his eyes, Trent was focused on the future and moving



forward with his growing children and his new career.

FORGIVENESS, FAMILY AND THE FUTURE

Trent’s perspective on the incident is not steeped in regret, his heart is not filled with vengeance or hate. Quite the opposite. He decided that “rather than be mad at the world forever, I’m just going to take it as a lesson.” Trent thoughtfully reflects on everything today, in 2025, by saying “The hardest part about this whole thing is. . .forgiving. Because if I don’t forgive those police officers, then I’m gonna forever hold this resentment and this negative feeling against law enforcement. And those emotions don’t serve me well. So, yes, I forgive them.”

While he received no financial settlement, he actually got so much more from an incident that left him in pain and wrongly arrested. He got peace of mind. He’s comfortable allowing karma to take care of the rest of this story. “One day, those officers are going to answer for what they did. But hey, I forgive them and I can say ‘I love you,’ too, and ‘thank you for your service’.” As they say, forgiveness helps the person wronged the most. Trent says, “I’m just done with holding on to resentment. I’m not going to hold anything against those officers.” Trent is not naïve and he is “woke” to the fact that some cops are just bad apples and you

have to be careful. Some cops have mental work to do, to heal from past traumas, to be better community servants.

He explained, “Now, as a father of two, a homeowner, and a tax-paying, law-abiding, citizen, I’m good. But I am gonna teach my girls that in every profession, there are 90% of the people with the best of intentions; people who work hard and do the hard work on themselves to serve the community.”

Trent said, “Unfortunately with the police, what we have found to be true is that 10% are ‘bad apples’ who ruin it for the 90%. I’ll tell my daughters that when you have an interaction with law enforcement, be respectful. I don’t want you to say something smart and they start ego tripping and you end up with a foot on your neck and I have to bury my daughter. It’s just so profound to me that this is a conversation I will even need to have with my children.”



FOR NO GOOD REASON:
PROTESTER PEPPER-SPRAYED WITHOUT PROVOCATION

By Lori A. Young

Essence Welch was born and raised in Des Moines, Iowa. She has a nurturing spirit and enjoys caring for others as a certified medical assistant and hair stylist.

On the evening of May 30th, she was motivated to protest like so many other young Black people after seeing the videotaped murder of George Floyd. When asked why she went to downtown Des Moines that evening, she explained, “It was because of what was going on with George Floyd. It was something that was going on nationally that I wanted to be a part of—to show my solidarity.” Wearing a T-shirt that read “Black In Iowa,” she and about five or six friends, including her older sister, Destani, joined the growing and large crowd of protesters around 6:30 p.m.

Essence, at some point, decided to go onto Facebook and start a *live* video transmission. She said, “... because I wanted it to be televised of what was going on.” Some of her Facebook friends indicated they were going to come downtown, too. Essence encouraged them, saying, “Get here....Come on out, girl!”

As the night wore on, Essence had no idea what would happen to her later. At the intersection of 6th Avenue and Cherry Street, Essence was surprised to see the number of police officers, in tactical gear and heavily armed. Even still, she wasn't expecting to be assaulted. “The reason we were down there was because of police brutality and protesting what was going on. So, I was there because of that fact, so if I would have left out of fear that they were going to do something to me, because they were supposed to be there to protect me, what was my point of being there?”

WHAT HAPPENED TO ESSENCE

Essence testified she heard no warnings from officers ordering protesters to disperse. She didn't witness protesters throwing water bottles or rocks at the dozens of officers. And she said if they had ordered protesters to leave, she would have gladly left.



So, at around 9:50 p.m., Essence was standing on the sidewalk, at least ten feet from the line of police officers who straddled the street, filming on her cell phone. Suddenly, Officer Daniel Dempsey left the lineup of officers, walked straight up to Essence, and pepper-sprayed her directly in the face and “her entire body.” She testified in court that “he maced me with a fogger [the kind] that you use to [disperse] large crowds, [not] for one person, so it was everywhere.”

The chemical irritant went into her eyes and into her nostrils, through her knit mask and into her mouth and throat. Lots of it got on her shirt and her legs. Officer Dempsey said nothing to her before taking this action. There was no conversation. No de-escalation. No warning.

Pepper spray is highly irritating. Essence described her initial reaction to being sprayed and how it affected her. “I was in shock, I would say. I was just like, ‘what’s going

on?’ My senses were gone. I couldn’t see, I couldn’t breathe, I couldn’t smell. Just everything was just fire.” Essence ran backward, unaware of where she was running, stating, “I just knew I was going away from him.”

As Essence struggled to breathe, she said it felt like she was suffocating. “Thankfully, a lot of people came up to me and started trying to help me out.” Milk is often used to diminish the painful and irritating effects of pepper spray. Luckily, people ran to help her and they had milk. “At this point, I am trying to open my eyes. I’ve been flushed with milk a few times, so I’m trying to open my eyes. I can vaguely see. I just know I’m going with the masses away from the police.”

ESSENCE LEAVES THE PROTEST FOR HOME

It took Essence a “long and painful” walk of about an hour to get back to her car. Someone had given her a gallon of milk and she stopped often to pour milk on her face and in her eyes 4 to 6 times. Walking to the car, the reality of what had just happened to her began to settle in and Essence felt unsafe.

Still struggling to see and breathe she explains her fear. “I didn’t feel safe at all at that point because—again, I didn’t feel like I did anything that warranted what happened to me. I no longer felt safe because there were so many police officers, they were all in tactical gear, they all had weapons, whether they were lethal or not, that they had planned on using on us. So, yeah, I was scared, and I did not feel safe after that.”

Eventually, Essence and her sister made it home. Her eyes were still burning as well as down in her private area. She washed her privates, changed into pants and decided to go back downtown as the protest had moved from the Courthouse area to the Capitol grounds. When asked how long she was at the Capitol grounds, Essence says, “Not long. I went out to the Capitol. I parked my car, I walked up, I saw my friends. We talked for a minute, then I left.” She was only there about 15 minutes, she estimated, and then decided to leave. She explains, “because at that point, I was just exhausted, and there were more people coming, and I just was like ‘I’m just gonna go home’.” She continues, “I wanted to go home and stay home. I just went out [to the Capitol grounds] because I was going to start protesting again, but at that point, I was just exhausted and fearful of what might happen.”

THE DAY AFTER

The next day, Essence’s eyesight was better and her breathing was back to normal. But emotionally, she was still traumatized. She decided to file a complaint against Officer Dempsey for what he did and she explains why. “On Monday I went to the police station and filed a report. Because I wanted the officer to be accountable for his actions and I wanted, hopefully, them [the DMPD] to do something.”

Essence hired Attorney Gina Messamer to represent her in a lawsuit against the City of Des Moines and its Police Department. She sought accountability and justice. She testified how the attack in 2020 still impacts her emotionally. “I was raised by my grandfather. He taught us to respect authority. I’ve always respected authority. But he also taught us the harsh reality that we have to be and act a certain way, and I always kept that in the forefront, and I was always respectful to authority, and now I’m very cautious of authority.”

THE LINGERING TRAUMA

She continues, “When I get pulled over—if I get pulled over, I’m very nervous. The first person I call is my sister, even if she’s just on the phone just to hear what’s going on. I just don’t feel, I would say, safe with authority.”

Essence was determined to seek legal recourse. “Like I wasn’t going to let this go because I didn’t do anything to warrant that...we’re here [in court] right now because of the fact that I continued to pursue justice or accountability.” Essence had decided she would be a “menace” in that she would not tolerate being violated like that. She testified that “The police department, the officers that don’t follow, like, a command or proper protocol [must be held accountable].”

WHAT DID OFFICER DEMPSEY TESTIFY IN HIS DEFENSE?

The information that follows is based on the sworn deposition of Police Officer Daniel Dempsey, done about a year after the incident with Essence and as part of legal process in the lawsuit against him and the DMPD.

The officer who pepper-sprayed Essence is now former Police Officer Daniel Dempsey. During his career he applied for extra duty (beyond his normal patrol duties) offered by the Metro S.T.A.R. unit. To be selected, one must pass physical tests, written tests, and shooting tests, and must make it through interviews. Once selected, Metro S.T.A.R. offers additional pay for special “on call” assignments, like serving an arrest warrant. According to Dempsey, being on the Metro S.T.A.R. team is an assignment “usually very sought after.”

Dempsey testified that all police officers have a small canister of pepper spray on their typical uniform gear. But for the night in question, Dempsey used a different canister. He explained, “With the smaller ones, it’s more of an individual, you know, I spray you, you’re—some other people probably feel the effects of it. But with the fogger, when you spray it, it’s going to disperse out and affect many more people.”

Dempsey admits that the protest around the courthouse was growing quickly, swelling to hundreds of people. He was at the police station when a superior ordered him and other officers to go down and assist with crowd dispersal. Officers had been reporting via radio to their leaders at the police station that vandalism had started, windows were being broken, and someone tried to start a fire. It was very tense. For that night, Dempsey was acting as a member of the Metro S.T.A.R. unit.

When he arrived on the scene, he said it appeared most protesters were dispersing, in all directions. In the trial Dempsey testified that he never heard an announcement to the protesters to disperse when he arrived, nor could he confirm that one was issued. He admitted that Essence was just standing on a sidewalk filming on her cell phone.

He further admitted he did not warn Essence nor speak to her at all as he approached her. He admitted she wasn’t moving, just standing still. When asked was she threatening, he said, “The main thing was that she was on the flank, basically, of where—so where the [police] line ended, where the last officer was, she was on the side of it, which in, you know, the tactics of it is very dangerous because you don’t want basically anyone being able to get behind your line because then your line will basically fall apart.” When asked how far she was from the closest officer in the police line Dempsey said “maybe 10 feet.”

Considering he didn’t arrest Essence, but did pepper spray her, Attorney Messamer asked Officer Dempsey to clarify what he intended to do to Essence. “The intent, I would say, is more of—was dispersing the crowd, and there were also several other agitators nearby, which I think were more of a threat than she would have been.” Dempsey testified a lot of people had dispersed but there were a couple dozen protesters still hanging around, including Essence.

And while Dempsey admits he made no attempt to de-escalate the situation, he feels that because there were specially equipped SWAT teams responding to what he described as a “riot,” that’s a good indication for anyone to know that they shouldn’t be there, that they should leave.

Officer Dempsey said that it is not required that an officer give a warning before deploying pepper spray, but he said the policy is “somewhat vague.” “I would say I think [the policy] says something along the lines of, you know, that [warning a person] is nice to be able to do and, if you can, to do it, but that it’s not a requirement.”

NOTE: At the time of this incident, it was DMPD policy that an officer who deploys pepper spray, in an effort at dispersing an unruly or illegal crowd, did not have to complete a use-of-force report. It was revealed during this deposition that, according to Dempsey, he was still ordered to complete a use-of-force report, but it was a year after the incident, and only because his actions led to Essence’s lawsuit.

THE LINGERING TRAUMA

Over three years later, in November 2023, Essence’s lawsuit finally went to court. In her lawsuit, according to a Des Moines Register article dated Dec. 6, 2023, she claimed Dempsey was “liable for assault and First Amendment retaliation. The jury found Dempsey had violated Welch’s rights, but had not assaulted her, and awarded her \$41,000 out of the \$250,000 her attorney requested.” All parties agreed to a \$150,000 settlement. In the end, Essence received \$50,000 with the remaining amount going to attorney fees.

Essence Welch now lives in Texas.

Just 
Voices

SPEAKING TRUTH.
SEEKING JUSTICE.



PRACTICING LAW WITH PURPOSE, PASSION, AND PRECISION:
ATTORNEY GINA MESSAMER

By Lori A. Young

Lawyers have been a major part of the 2020 response to the protests following George Floyd’s murder. In Volume 1 of “The People’s History” we reported that we found that 208 people had been arrested and charged with over 280 crimes during the early days of the protests. After extensive legal battles, the resilience of these lawyers proved pivotal. They dismantled the prosecution’s cases, arguing against the validity of arrests made in the chaos. Their commitment to justice highlighted systemic issues in law enforcement’s response. The dismissal of charges not only vindicated the protesters but also underscored the critical role of legal advocacy in safeguarding civil rights during tumultuous times.

None of these people were convicted when they challenged the criminal charges. That was the result of their lawyers making challenges to these charges. The courts consistently dismissed the charges that the city had brought.

After the dust settled on the protests of 2020, Just Voices identified 24 people who had been arrested who went on to file civil lawsuits against the Des Moines Police Department, individual arresting officers, and the city of Des Moines.

Attorney Gina Messamer filed the first lawsuit against the Des Moines Police Department on June 31, 2020, on behalf of plaintiff, Essence Welch. The final lawsuit filed on behalf of victims of police misconduct was on October 13, 2022.

HER BACKGROUND

Gina Messamer works at the law firm of Parrish Kruidenier in Des Moines, Iowa. After attending undergraduate studies and running track for TCU (Texas Christian University), she studied law at the University of



Iowa Law School. She spent one year clerking under an Iowa Supreme Court judge and another year for a Federal court judge. She then landed at Parrish Kruidenier where she’s been practicing criminal defense and civil rights law for over 10 years.

Since 2018, Attorney Gina Messamer has provided counsel to many cases involving racial profiling and has accepted client referrals from both Iowa Citizens for Community Improvement (Iowa-CCI) and Just Voices to aid people who were treated wrongly by the police.

Gina has told Just Voices that not only does she like to win, she also likes to fight for the underdog, the

marginalized, and the falsely accused. She enjoys holding police accountable and seeing her clients receive justice. And she doesn’t take on a case if she doesn’t think she can win it.

STAYING THE COURSE OF
LENGTHY LAWSUITS

Lawsuits can typically take an extensive amount of time to be resolved. Gina represented several of the young protesters arrested during the Summer of 2020 protests. For over 3 years, these cases had stops and starts along the journey, as is common. Gina reflects and says, “I would say these time frames aren’t terribly unusual to a lawyer. They’re on the long side of things, but I wouldn’t say I ever got weary of these cases, because it’s always fun to do something when you think you’re right.” She continues, “And so, at every stage of this, there’s a lot of waiting in between. But I enjoyed the discovery process. I enjoyed getting to question the [police] officers. I enjoyed going through all the body camera footage and piecing the who, what, where, when, and why... and just getting to know all these random characters. And there were a lot of characters.”

DES MOINES LEGAL
DEPARTMENT GOES FOR THE
LONG GAME

The City of Des Moines will go, at times, to great lengths to defend its officers and their behavior. When Gina compares Des Moines to suburban cities’ legal departments, she says, “Des Moines legal typically goes through the motions of defending cases and doesn’t settle them. I don’t think they’re extremely aggressive in their defense and how they approach people, but they also don’t resolve cases earlier. So that did not surprise me.”

What about suburban cities and their legal maneuvers? Gina shares her opinion. “I did have some suburban police officers involved that were represented by an insurance pool, and my experience has been that they will settle cases earlier on. Other legal departments will recognize when they have problems and they resolve the cases instead of incurring a ton of attorney fees, versus Des Moines, which tends to take things ‘all the way’ more often.”

GINA ON WHY SHE PRACTICES LAW

“

I think it is interesting. You get to know people at very difficult points in their lives where something has gone wrong. And it’s very personal, intimate, and you get to help somebody, which is very rewarding.

”

- GINA MESSAMER

A RARE MOMENT OF SOLIDARITY



“DES MOINES POLICE WERE NOT PREPARED”

Gina agreed with comments made by former Assistant Police Chief, Alan Tunks, who said in Volume 1, that the city of Des Moines was not prepared for the events of the 2020 protest. We asked Gina, who represented so many wrongfully treated protesters, what she thought of how the Des Moines Police performed. She commented, “I don’t think they were very prepared for this. I think they made some significant errors in how they responded to people that escalated things. ”

She continues. “...Most of the officers I saw problems with were Metro Star officers. Metro Star officers were more geared up. Like they were at a football game and this was their team — they were a team and they were out there to put on a show.”

Gina had a different perception of your typical street cops who seemed to act with more uncertainty. She explains, “The regular police officers were fairly polite to people throughout for the most part, there are a couple of exceptions, but they were much more passive, and seemed to be just like, ‘what am I supposed to do here—what are my orders?’”

Gina agrees people’s emotions were high as some protesters called for abolishing the police at most, or real police reform at least. She also admits police officers were not always treated with respect.

“Unfortunately, I think police officers sometimes just need to take that abuse,” she said. “If it’s mild things, water bottles being thrown, if it’s not going to hurt somebody, then let that stuff ride. Because once you start pepper spraying and setting off gas, things get really out of control.”

Gina thinks the Des Moines Police department has made some policy and training changes. “...I don’t think they had any forethought or training about how to handle [situations like] this, but I think they’ve done some things that are helpful in terms of how they’re going to report and process police activity afterwards. Having a plan that addresses necessary activities and authority, like ‘Who are patrol officers going to report to? Who’s in charge of the chemical weapons? Who authorizes certain things and tactics?’ They could have been more organized about how those decisions were being made.”

WHAT IS THE METRO STAR UNIT?

Metro Special Tactics and Response (S.T.A.R.) is a specialized unit within the Homeland Security Bureau. They provide personnel trained in the use of specialized equipment to handle a wide variety of critical incidents.

Some of the areas that members have expertise in include:

- Active Shooter
- Armed Assaults
- Barricaded subjects
- Bombings
- Civil disobedience
- Dignitary Escort and Protection
- Events with large number of ill, injured or deceased
- Hijacking
- Hostage taking
- Intentional releases of hazardous materials
- Threats to commit a terrorist act
- Waterway Operations

Some of the different teams within Metro S.T.A.R. are:

- Weapons of Mass Destruction Response Team
- Entry Team
- Rifle Team
- Crisis Negotiations Team
- Waterway Operations



WHEN PURPOSE MEETS PASSION

When asked why she chose criminal defense and civil rights law, Gina said, “I think it is interesting. You get to know people at very difficult points in their lives where something has gone wrong. And it’s very personal, intimate, and you get to help somebody, which is very rewarding. I think in these cases, that turned into civil rights cases, I just kind of like to represent a little guy. There’s some of that to both criminal and civil rights law. Bottom line, just because somebody else has more power in a given situation, doesn’t mean they are necessarily going to win.”

Gina takes great pride in helping her clients who choose to fight for justice. “Yes, the clients are really grateful when they win, because I think that they all just assumed from the beginning that they would have no recourse; they felt it’s always going to be like, ‘hey, sorry about this bad night you had, but too bad!’ So, I think that they were all pleasantly surprised with the outcomes, especially the ones that got some settlement money. They were really happy with it.”

FOR SOME, IT’S ABOUT PRINCIPLE

For one of Gina’s clients, Mark “Ted” Neiters, his case was less about winning a financial settlement. For Neiters, it was about the principle and following the U.S. Constitution. Gina explains, “Ted kind of had a little bit different perspective because he was a member of the press. For him, being arrested was a bigger deal. And he did expect a remedy. He was happy because for him it was about accountability.” Not only did Neiters receive a cash settlement but he also wanted the Des Moines Police Department to make certain conciliatory statements, admitting to the importance of the freedom of the press. “He felt like he got that with his case and getting those statements made by the city of Des Moines, he was happy about that,” Gina said.

Gina admits she feels frustrated when a decision doesn’t go in her client’s favor. “Because you feel like you let them down. But what can you do, except keep fighting? In the end, you just want everybody to have a piece of justice.”

GINA’S BOTTOM LINE



When you work in Law, you expect it to apply equally to everybody. But what can you do, except keep fighting. In the end, you just want everybody to have a piece of justice.”



- GINA MESSAMER

WHY DID YOU BEAT UP ME AND NOT MY FRIEND?

By Tom Rendon

Jacob “Jake” Sahr did not ask himself this question when police batons came down on him. He had been hit from behind and pushed into the Court Avenue Bridge wall by a deputy sheriff. Then a Des Moines police officer gave him a chokehold and threw him to the ground, down hard on his knees. Someone else grabbed his ankles and forced him into an S-shape, “like a scorpion,” he told me, with his ankles twisted up near his head. Eight or ten officers surrounded and subdued him and zip-tied his hands. The police were telling him he was resisting arrest. Jake was confused. He was immobilized, his arms pinned beneath him.

Besides the police, there was one other person there. His friend, Tyler. The police pinned Tyler against the wall and handcuffed him. He wasn’t grabbed, thrown to the ground, or hit with a baton. It was only later that Jake wondered why he got manhandled, and his friend did not. Jake wondered why his friend did not get the same treatment. And the first thing that came to mind was that his friend, Tyler, was white, and Jake was black. Actually, Jake is mixed-race. His father is African (Egyptian), and his mother is white. Unfortunately, that was not the only time during the long night that he observed disparate treatment.

His friend was being held against the bridge wall by police but could only watch the ordeal Jake suffered transpire. Jake reflects, “The only other person that wasn’t a police officer was my friend that was being held against the wall by one of the police, but they weren’t bothering him or anything...The difference between me and my friend is, my friend Tyler is white.”

WHAT HAPPENED TO JAKE

On May 31, 2020, Jake and Tyler had been following a group of more than 100 protesters who were crossing the Court Avenue Bridge from the west bank of the Des Moines River. It is one of four traffic-bearing bridges connecting east and west Des Moines between Interstate 235 and Martin Luther King Jr. Parkway. Just a quarter of a mile downstream from where Jake was arrested, the Raccoon and Des Moines rivers converge, and



the surrounding land had been a gathering place for indigenous populations, an early fort for white settlers, and the beginning of Iowa’s largest and capital city. This was the second day of significant protest that occurred in Des Moines in response to the murder of George Floyd by a white Minneapolis police officer five days earlier.

As you crossed the Court Avenue Bridge going east, you could see a large three-story stone building in the Beaux-Arts architectural style, featuring ten Doric columns that face the river. That was the police station. It stood as a sentinel watching over the Court Avenue Bridge.

This would be the second time that night that the protesters crossed the bridge. The first was for a 9:30 p.m. rally at the police station. The crowd gathered outside the station, and a tense hour followed with the prior night’s memory still fresh in everyone’s mind. Then a peaceful gathering had morphed into a more destructive mob that broke store windows, vandalized some police

cars, and played teargas volleyball with the police. This time when the protesters dispersed, they moved on to the state capitol where they were stopped by state troopers, police, and deputies from several nearby sheriffs’ departments.

CURIOUS FOLLOWERS

Jake and Tyler had been hanging out with several friends in the Court Avenue District. Out of curiosity they decided to follow the protesters but watched from a distance by the trees on the West Capitol Terrace. After a lengthy standoff, the crowd was dispersed with the aid of flash-bang grenades and teargas. Jake and Tyler walked back to Court Avenue.

Protesters gathered again in the Court Avenue District around 12:20 a.m. and made another crossing of the bridge, west to east. Again, out of curiosity, Jake and Tyler followed. This time when they crossed the bridge, a large group of police, hiding on Second Avenue behind the police station, were waiting for them.

Jake and Tyler were not in the street with the protesters but walking along the south sidewalk of the bridge. Jake said he was curious where the crowd was going. It was past midnight. Jake has trouble walking due to a prior injury. He can’t run, so he did not want to be where he had to evacuate quickly because that was not physically possible. Instead, he hung back and to one side with his phone out, recording what was happening. He walked along the bridge sidewalk until he got to a large metal electrical junction box that sits in the middle of the walkway. That’s when the police came running out into Court Avenue and began to chase the protesters back across the bridge.

As people ran back and cars tried to make three-point turns on the bridge, Jake and Tyler also turned around and started to walk back across the bridge. But he couldn’t run as much as he wanted to. A wave of police ran past him. That’s when he got hit from behind. That’s when the deputy pushed him against the side of the wall. That’s when Jake was thrown to the ground and beaten. But his friend, Tyler, was not.

Police officer Brian Buck took Jake’s phone away from him, shut off the recording, tried to delete it, and placed the phone back in Jake’s pocket. Police officers zip-tied Jake’s hands behind his back, and the arrest

was complete. Except they pulled a pocket knife out of Jake’s pants and then put it into his back pocket. They rolled him over and they could see a pistol he had concealed. Immediately they drew their weapons. Jake started to scream that his ID and his carry permit were in his front pocket. He kept repeating it again and again, afraid of what might come next. He was completely restrained and could not grab the gun. Eventually a police officer pulled his ID and permit from his pocket and then confiscated his pistol. The Des Moines Register reported that when its reporter asked the police if the weapon was legal or illegal, they couldn’t tell, even though they had his gun, his ID, and his permit. The cops then took Jake and Tyler to a paddy wagon.

A FALSE ACCUSATION

Jake sat in the paddy wagon, his hands zip-tied. Still, he was able to get his phone out of his back pocket. Another friend had been texting him wondering where he was. As he grabbed the phone, the friend called, and Jake answered. He talked for 10 seconds. Then he opened the contacts and clicked on his mother’s name. That call went to voicemail, which he left. Then the back door of the paddy wagon opened, and a policeman came right over to him, ordered him to stand up, pulled him to his feet, reached behind Jake, and pulled the knife out of his back pocket. The police officer accused Jake of trying to cut his restraints. Jake swore that all he remembered was the cop taking his knife during the arrest, but not that he had put it in his back pocket when returning his phone. Jake usually carries his knife in his front pocket. The officer took the knife and closed the back door. It seemed to Jake like they were setting him up.

The paddy wagon started to move and drove around for what Jake thinks was at least an hour. It finally stopped at a police staging area. There, a group of officers collected people’s information, some apparently shocked at the stories they were hearing. Once the information was collected, they were loaded into another paddy wagon from the Polk County Sheriff’s Office and taken to jail.

At the jail, the issue of disparate treatment came up again. The group from the paddy wagon was processed, strip-searched, and dressed in jail clothes. The processing confused Jake because when he was

first arrested by the police he was accused of failing to disperse. But now he was told he was arrested for rioting.

JAKE AND HIS FRIEND FACE DIFFERENT CHARGES

“This whole thing is a complete misunderstanding,” he said, and now they were changing up the charges. His friend Tyler, who had been at his side the whole night, was also charged. Tyler was charged with “failure to disperse,” a simple misdemeanor. He was released in a few hours. Jake would not be so lucky. His complaint affidavit reads, “ Defendant was a member of a group that assembled to protest allegations of racism and police brutality. Initially, the protest was peaceful. The protests evolved into rioting in the late evening hours of May 30, 2020, into the early morning hours of May 31, 2020, with many of the remaining participants engaging in violent, intimidating and destructive behavior.” Uh, okay, maybe. But not Jake.

COURT DELAYS LEADS TO MORE HOURS IN JAIL

He and maybe 20 others were put in a holding area at the jail. Their cell phones have been confiscated. One toilet. A broken phone. A concrete bench. An area so small that no one can lie down. They sit on the floor next to each other. It’s about 2:00 in the morning. One by one each prisoner is processed. They are moved back into the holding area. Then they are moved to another holding area. At around 3:00 a.m., they are told that they will see a judge when he arrives at 8:00. It’s terrible, but it is only four more hours.

But the judge did not show up at 8:00. He did not show up at 10:00. Only late in the morning, he came in. He handled one case and then left. They waited until the afternoon. Then they waited until the evening. At 7:00 Sunday night, Jake stood before the judge. The charge was rioting, an aggravated misdemeanor that could land Jake in prison for two years and a \$10,000 fine. The judge granted a pretrial release, which was to take place in one hour.

Jake waited an hour and then everyone was moved. He realized he was not being released, but instead, moved to the general population section of the jail. They read off a list of names of those to be released, including Jake’s. But then he was told that pretrial had

gone home for the night. So, he spent another night in jail, this time with all the other prisoners who had actually been convicted of crimes and sentenced to jail.

FINALLY RELEASED TO FREEDOM

Monday, late afternoon, he was released and put under house arrest. That meant he must be at his home by 5:00 every day. But Jake was attending barber school, and classes ended at five o’clock. There is this thing called transportation time. Until he could get the charges dismissed, he must either violate his arrangement or miss school. He did a little of both.

While going to barber school and working as a certified nursing assistant, Jake got an attorney. Before the end of 2020 the charges against him were dismissed and he got his gun and permit back. That last part took some time.

When he was released from jail, he got back almost everything. His knife. His wallet. But no gun permit. No gun. They couldn’t give him his gun while the charges were still pending. When the charges were dropped, he learned that his gun was in the evidence locker at the police station. They wouldn’t give it to him until he got his permit. His permit was not with the gun. It was at the Sheriff’s Office. Only then did he get his permit and then his gun. No one was trying to make this easy.

JAKE FILES LAWSUITS AGAINST THE CITY

Jake’s ordeal was not over. After the charges were dropped, Jake filed two civil cases against the city and the county for false arrest and First Amendment retaliation. The county case was settled two years later for \$25,000. The city case four years later for \$50,000. Even that was not exactly the victory Jake wanted. What he wanted was a jury trial to hold those who had done what they did to him accountable. Despite his desires, the reality of the situation pressured him to just take the money and be done with it. His lawyer convinced him that going to trial would likely end up with a worse settlement than what was being offered. That’s what was happening to others who had filed suits. The chance of having a true jury of his peers was also remote. Then, of course, if he won a civil trial, the defendants would have the right to an appeal, and the whole thing could be strung along indefinitely

CURIOSITY LEADS TO PERSONAL CHANGE

Maybe Jake was just in the wrong place at the wrong time. He tells me that he was just hanging out at the Court Avenue District. He was not there for the protest. But his curiosity and the dramatic unfolding of the protests that took place over the evening would tempt any rubbernecker. In a fitting irony, it was only after Jake’s ordeal in May that he got more involved in the struggle for racial justice. He helped form the Norwalk Black Lives Movement and went on to start his own non-profit organization, AT*TAIN. This organization works for positive change and empowerment within

marginalized communities by providing food and other essential items to people in need, uplifting young people through education, and fostering collaborative community initiatives.

RACIALLY DISPARATE TREATMENT IS NOT NEW TO JAKE

His experience of different treatment between him and Tyler was not his first of being racially profiled. While in high school in Mason City, he was accused of making a bomb threat. It seemed highly improbable because at the time he was on crutches and accompanied by helpers the whole day. Nevertheless, the incident



would lead him to change his name from his father’s surname, Mohammad, to his former stepfather’s name, Sahr.

JAKE WANTED MORE THAN JUST A MONETARY SETTLEMENT

But the difference between how Jake and Tyler were treated by police, and by the judicial system, explains partly why even after the case was dropped and he settled his two civil cases, Jake does not feel he received justice. The cases did not really create the change he was looking for or show an adequate level of police accountability.

Jake wants to see the City of Des Moines create a citizen review board. They didn’t. He wants to see the police who engaged in misconduct not be police any more. They are still cops. He wants “actual real” diversity and de-escalation training, and training that is ongoing, so the skills, attitudes, and knowledge are improved and perfected. Why, he wonders, is it impossible to engage in a positive and effective way with the public while still maintaining public safety?

“If people can’t take that training seriously,” Jake told me, “Then they shouldn’t be police officers.”



LAWSUIT DISMISSED BUT WHY? THE MIRANDA NICOLAI STORY

By Harvey Harrison

The protests sparked by George Floyd’s murder saw over 200 wrongful arrests in Des Moines, including Miranda Nicolai, who faced charges of participation in a riot and unlawful assembly. As dawn broke on May 31, 2020, her booking at Polk County Jail marked just one instance of a flawed legal process. Ultimately, the court dismissed all charges, highlighting the chaos and mishandling of the situation by authorities during a time of unrest.

Miranda’s criminal charges were dismissed by the Polk County Attorney with the following statement:

“The Polk County Attorney, after examining the records, talking to the witnesses, and taking all other factors into consideration, declines to prosecute this case in the interest of justice. This is a riot related crime wearing in (sic) group conduct created mass confusion. Police quelled the unrest with the arrests, but chaos prevented timely documentation of individual acts, prompting arrests. Police are reviewing footage from body cameras, and car cameras, and security cameras to create that documentation, but given the number of arrests, they have been unable to sufficiently document this defendant’s actions for charges to go forward at this time.”

WHAT HAPPENED TO MIRANDA THAT NIGHT?

Miranda had participated in a protest on the evening of May 30, 2020 in the downtown Des Moines area near East First Street and Court Avenue. She was also a part of a peaceful march to the state capitol grounds when a group of protesters was confronted by a line of police officers in riot gear.

All of these protest activities had been peaceful, and Miranda observed no violation of any laws as she participated. In spite of that, she observed police purposely corner, and pepper-spray a protester as well as drive a car through a group of protesters. At the capitol, she saw the police deploy multiple canisters of tear gas into the crowd, causing her eyes to burn and requiring medical assistance.

MIRANDA RETURNS TO PROTEST ON COURT AVENUE

She returned to the downtown area of Des Moines, arriving at 11:30 p.m. She remained with the protester group until approximately 2:37 a.m. when dozens of police arrived on Court Avenue in response to individuals who were breaking into the Hy-Vee grocery store. She had not engaged in any of this illegal conduct and immediately decided to leave the protest and go home.

MIRANDA ENDURES POLICE VIOLENCE AS SHE ATTEMPTS TO LEAVE PROTEST

As she attempted to leave the downtown area, she was trapped in an alley by approximately 20 police officers. When she tried to disperse and leave the area, an unidentified police officer sprayed mace at her and violently tackled her. One unidentified officer smashed his knee into her back, neck and face as she lay on the ground. Her wrists were bound together with zip ties for several hours. This resulted in lacerations and bruising. Miranda also spent two days in the Polk County Jail.

MIRANDA FILES A LAWSUIT

On January 4th, 2021, Miranda filed a lawsuit in Polk County District Court. Her lawsuit named the individual officers she was able to identify who had participated in her arrest who were Luke Hastie and Chad Nicolino, Des Moines Police Chief Dana Wingert and the City of Des Moines. She outlined 13 ways in which her rights had been violated and she had been damaged. She asked that a jury hear her case and award monetary damages for the harm caused to her, both physical and mental.

That never happened. Her case was moved to the federal courts, and on October 6th, 2021, her civil case was dismissed without being heard by a jury and without any compensation awarded to her.

MIRANDA’S CIVIL LAWSUIT GETS DISMISSED BUT WHY?

It’s not possible to provide a definitive answer to this question. The court record suggests that the dismissal was agreed upon by both parties. Generally, a dismissal such as the one in the Nicolai case will be initiated by the plaintiff – in this instance Ms. Nicolai. There are a number of reasons why this might happen. Here are some of the possibilities:

Plaintiff fatigue. Many people who file lawsuits, do not truly understand, at the start of the lawsuit, how emotionally and physically exhausting the litigation process will become. This has led to a defense tactic (that the city of Des Moines uses) that is commonly referred to in legal circles as: “Delay, Deny, Defend”. When using this tactic, the defendants will inundate the plaintiff (Ms. Nikolai) with questions, motions, depositions, interrogatories, and other tactics to intimidate and wear down a plaintiff. We do not know if that was the case in this instance.

The State’s refusal to respond. The pleadings that were filed on behalf of Miss Nicolai, in the civil lawsuit note that, during the prosecution of the criminal charges (which were dismissed.) The state refused to respond to requests by Miranda’s lawyer for documents and information that would assist her.

Evaluation of the strength of the case. It is possible that during the early phases of a lawsuit, the person suing and his/her attorney will review the defense materials and conclude that the possibility of winning is remote or in the far-off future. This decision can be reached because of private talks, private settlements, alternative conflict resolution between the parties and more.

Privacy concerns. Miranda had suffered both physical and emotional trauma and injuries, and asked for monetary damages because of that. It is not unusual for an aggressive defendant (in this case, the police) to attempt to force a plaintiff to divulge the most intimate and private aspects of their life. Many people do not want this invasion of their privacy and decide not to move forward with civil litigation.

We may never know which of these factors led to the dismissal in this case.



FROM STATE COURT, TO FEDERAL COURT, TO THE US SUPREME COURT:
MARK "TED" NIETERS SUCCESSFULLY SETTLES LAWSUIT

By Susan Barnes



Mark "Ted" Nieters is a 42- year-old freelance reporter and photojournalist. He grew up in Windsor Heights, Iowa, and graduated from Roosevelt High School in 2001. After college, Ted spent over ten years in the Middle East. Being on the scene during events marked by civil and military unrest is nothing new to Ted. He's had on-the-ground experience covering the revolution in Egypt and civil wars in Libya and Iraq.

After living in Jordan for several years, Ted returned to Iowa in 2016 to be with his family during his father's illness. When he learned there would be public protests in Des Moines following George Floyd's murder, he wanted to cover the story in his capacity as a freelance photojournalist. On June 1, 2020, protesters had gathered at the State Capitol for an event called "Together We Can Make a Change: A Call to Action." The formal event ended at 8:15 p.m., but several hundred people then marched to the Des Moines Police Department; some ultimately looped back to the Capitol. Ted followed them. Police engaged this crowd at around 11:45 p.m., issuing an order to disperse and throwing tear gas canisters and flash-bangs toward the protesters.

WHAT HAPPENED TO TED

According to the lawsuit subsequently filed by Ted:

He had left the Capitol complex before officers began attempting to disperse the crowd and was walking alone on Locust Street toward the Embassy Suites hotel located across the street from City Hall. He was unaware of any order to disperse having been given by police at the Capitol.

He stopped in one of the hotel's driveways and began taking photos as officers ran past City Hall in his direction. One of those officers was Brandon Holtan. As Holtan approached, Ted placed his hands in the air and stated that he was a journalist. He was carrying two cameras and wore a bright blue helmet, commonly used by journalists working in dangerous areas of conflict.

Ted perceived that Holtan was going to run directly into him, and so he turned his back and tried to brace himself. Holtan simultaneously tackled Ted to the ground and pepper-sprayed him in the eyes despite the fact that he had identified himself as a journalist and told the officer he had his press card in his back pocket. Holtan retrieved the press card but nonetheless proceeded to tightly zip-tie Ted's hands together behind his back and arrest him.

Ted was held, shackled, in a holding cell. During this time of detention, his phone was confiscated, and he wasn't allowed to make any calls to arrange for bail or alert anyone as to his whereabouts. Although Ted had been detained by authorities numerous times in his career, this was the first time he was arrested and put in jail. After more than 12 hours in custody, his initial court appearance took place around 12:30 p.m. June 2; he was charged with "failure to disperse," in violation of Iowa law. He was finally released later that afternoon, and subsequently sought medical attention for the injuries to his wrists from being tightly zip-tied.

Ted retained local defense attorney Peter Berger to represent him in the criminal case. The charges were subsequently dropped on August 13, 2020, with all court costs assessed against the prosecutors. The dismissal noted that the City and its attorneys had been unable to sufficiently document Ted's actions to support the allegation of his "failure to disperse."

At his attorney's urging, Ted filed a complaint with the Des Moines Police Department's Internal Affairs Division documenting the way he had been treated and the excessive force used by Officer Holtan. He subsequently received a letter from the City acknowledging its receipt of the complaint, which caused him to believe the matter would be properly investigated. After trying to follow up with the City via several email messages, none of which were answered, Ted concluded that he would never learn whether any investigation had been performed. Despite what had happened to him at the June 1 protest, Ted continued to cover all of the subsequent George Floyd protests that occurred in Des Moines. As a conscientious



photojournalist, he believes the press has "a duty to be there" to ensure that the public is informed and (hopefully) to deter police from egregious conduct.

LAWSUIT FILED - NIETERS,
PLAINTIFF VS. HOLTAN;
WINGERT; CITY OF DES MOINES,
DEFENDANTS

On December 23, 2020, Ted filed a lawsuit in state court naming Officer Holtan, Chief of Police Wingert, and the City of Des Moines, seeking compensation for his injuries and the violations of his constitutional rights. Among other things, the suit alleged that Ted had been subjected to illegal seizure and excessive force in violation of the Fourth Amendment.

Ted retained Des Moines attorney Gina Messamer to represent him, based on her reputation as an outstanding civil rights attorney and her experience in representing numerous individuals who had taken part in local protests. At the City's request, the case was moved from state court to the federal court for the Southern District of Iowa in February 2021, and attorneys for the City and police filed a motion for summary judgment in April 2022.

As a legal matter, the motion for summary judgment asked the court to dismiss based on the legal concept of "qualified immunity."

QUALIFIED IMMUNITY AND THE
RULING OF THE DISTRICT COURT

On July 19, 2022, U.S. District Judge Rebecca Goodgame Ebinger ruled in favor of the Des Moines Police Department ("DMPD") on the federal claims and granted the defendants' motion for summary judgment. In her ruling, Judge Ebinger found that Officer Holtan had "arguable probable cause" to arrest Ted because of his proximity to the protesters who were not complying with the police orders to disperse. "Even if Holtan was mistaken in believing Nieters heard the dispersal orders and was part of an unlawful assembly, such a mistake was objectively reasonable given the information Holtan received about a 'large' group traveling on Locust Street," Ebinger wrote. She added that Ted turning away from Holtan as he approached could reasonably have been interpreted as an attempt to flee.

APPEALS COURT FAVORS TED

The District Court for the Southern District of Iowa is part of the federal judiciary’s Eighth Judicial District. This means that litigants who disagree with a ruling made by the federal District Court in Iowa may appeal that ruling to the Court of Appeals. Ted’s attorneys decided to appeal. After reviewing the allegations in Ted’s lawsuit as well as the findings of the lower court, the Court of Appeals decided, on October 11, 2023, that it was erroneous for the lower court to grant the motion for summary judgment. In effect, the Court of Appeals concluded that if the facts alleged in Ted’s lawsuit were construed in his favor, there would be factual questions as to whether Officer Holtan had probable cause or arguable probable cause to arrest him or had used unreasonable physical force against him.

In its ruling, the Court of Appeals noted the following:

Officer Holtan argued he had probable cause to arrest and charge Nieters with failure to disperse. To violate the Iowa statute for failure to disperse, the individual must (1) be a participant in or in the immediate vicinity of a riot or unlawful assembly; (2) be within hearing distance of a command to disperse; and (3) refuse to disperse. On the evening of the protest, even if there were members of the crowd who participated in riots or formed unlawful assemblies, there is no evidence Nieters joined any of these groups. Officer Holtan admitted Nieters was not part of the group of rioters he was chasing, and that Nieters was at least fifty to seventy-five feet away from the group. In staying apart from the group of protesters he was photographing, Nieters disassociated from the group. Additionally, Nieters was not running away as others were. Rather, he was standing outside a hotel wearing two cameras and taking photographs of a gas canister and fleeing protesters just prior to Officer Holtan tackling him.

Nor is there evidence in the record that Nieters was in hearing distance when any of the dispersal orders were read at the Capitol. While Nieters was at the Capitol earlier that evening, he left prior to the dispersal orders being given and was no longer in hearing distance. Officer Holtan first saw Nieters, standing still, five blocks away from where the dispersal orders were given. Officer Holtan never gave Nieters a personal order to disperse, nor did he ask if Nieters was in the process of dispersing;

instead, he “simultaneously” ordered Nieters to “get on the ground” while pepper-spraying and charging him.

Regarding the claim that Officer Holtan had “arguable probable cause” in taking the actions he took, the Appeals Court likewise found in favor of Ted:

Officer Holtan would still be entitled to qualified immunity if there [was] at least “arguable probable cause.” To hold arguable probable cause existed, we would need to conclude Officer Holtan mistakenly arrested Nieters believing the arrest was based in probable cause, and the mistake was objectively reasonable. We must view all the disputed facts in the light most favorable to Nieters, including those exculpatory facts that showed he did not hear the dispersal order and stood by himself, apart from the group of rioters, taking photographs. Viewed in this light, Officer Holtan lacked arguable probable cause to arrest Nieters for failure to disperse. Even if we concluded Officer Holtan made a reasonable mistake about probable cause when he first tackled Nieters to the ground, Nieters immediately informed Officer Holtan that he was a journalist and he provided press credentials. Yet Officer Holtan still arrested Nieters because he did not want to be perceived as giving a journalist special treatment. Once Officer Holtan was aware Nieters was a member of the press, and had no reason to believe Nieters had been within hearing distance of the orders to disperse, it certainly was not an “objectively reasonable” mistake to believe probable cause existed for the arrest.

As noted above, Ted’s lawsuit alleged not only that he was subjected to an unconstitutional arrest but was also the victim of excessive force by the police. In determining whether force used by police is unreasonable, the Court observed that it is necessary to consider: 1) the severity of the underlying crime, 2) whether the suspect poses an immediate threat to the officer or others, and 3) whether the suspect is actively fleeing or resisting arrest.

In Ted’s case, the crime for which he was charged was a misdemeanor; there were no facts suggesting that Ted presented a risk of harm to the officer or the public; and the fact that Ted turned his body away from the officer could reasonably be seen as an attempt by Ted to shield himself and the two cameras he was carrying from the impact of the officer tackling him. Given these

circumstances, the Court held that a jury could find Holtan did, in fact, use unreasonable force.

The City of Des Moines and other defendants in the case then decided to appeal the decision of the Court of Appeals all the way to the United States Supreme Court. **In April, 2024 the Supreme Court declined to take the case.**

THE CASE GOES TO TRIAL

The trial by jury began in the district court on August 19, 2024, and testimony was taken over the next three days. At the conclusion of the testimony, and just prior to the jury’s being sequestered, the City offered to settle the case with Ted by paying him \$100,000. Although the two sides had been discussing a settlement prior to the trial, there had been a major sticking point on which they couldn’t agree. Ted took the position he would not settle the case unless the City and Police Department agreed to make a statement in which they recognized the importance of a free press. According to Ted and Ms. Messamer, the City and Police Department resisted this at first, but when it became clear they could not obtain a settlement unless such a statement was publicly made, they relented. After a flurry of conversations with Ted and Ms. Messamer, all sides came to agreement on the wording of the statement.

HERE IS THE SUBSTANCE OF THEIR STATEMENTS:

“The City acknowledges the importance of free press for our community, and the value and appreciation that the City has for the work the press does.”

“The DMPD values the rights and importance of a free press for our community. We appreciate and value the work the press does.”

In addition, the City and DMPD agreed to “confess judgment” to get the case resolved, which essentially was an admission that they were wrong in the first place.

WHAT IS PROBABLE CAUSE VS. ARGUABLE PROBABLE CAUSE?

Ted’s attorney, Gina Messamer, explains it this way: “Arguable probable cause gives a little more leeway to officers. Under arguable probable cause, the officer can be wrong that there was probable cause, so long as the officer’s mistake was “objectively reasonable.” This prevents a person from suing a police officer for making a reasonable mistake. Courts often consider a mistake “objectively reasonable” if it is based on some ambiguity in the law the officer is trying to enforce.”

The Constitution’s Fourth Amendment protects the right of the people to be secure in their person against illegal searches and seizures. It is nevertheless legal to arrest someone (seizure) without a warrant if “the totality of the circumstances at the time of the arrest are sufficient to lead a reasonable person to believe that the accused person has committed or is committing an offense.” If those circumstances are present, the arresting officer is said to have acted with “probable cause” and is entitled to qualified immunity from charges of false arrest or illegal search. The law goes one step further in granting qualified immunity to the police if there is at least “arguable probable cause.”

TED ENDURES AND PERSEVERES

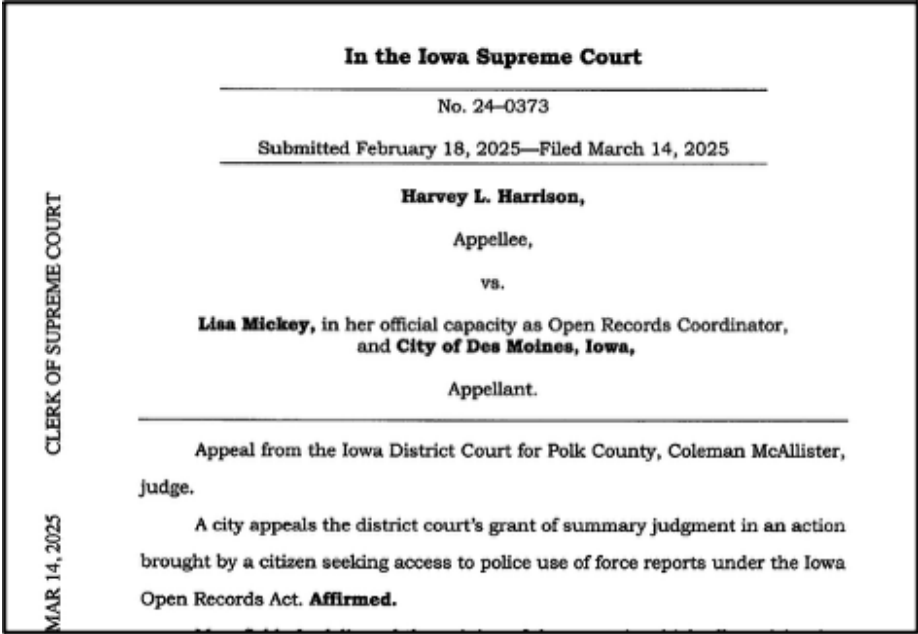
It took over four years for Ted to achieve victory in court. During that time, he attended all of the court hearings and depositions. Ted remained undaunted throughout the process, thanks to his willingness to stand up for his beliefs, his commitment to defend the freedoms guaranteed by the U.S. Constitution, and his desire to hold the DMPD and City accountable for their wrongdoing. In Ted’s words, “I’m satisfied with the outcome and hopeful that in the future journalists will be respected in this community even during the most difficult of times. Iowans want to know what’s happening in public, and it’s our duty to be there no matter the circumstances.”

Asked how he felt after the case concluded, Ted replied that he was happy with the outcome, “From the beginning, all I wanted was an apology and an acknowledgment from them that they disregarded my constitutional rights.” Although pleased that Ted’s rights had been vindicated, Ms. Messamer expressed some disappointment that the City and the DMPD haven’t gone further in accepting responsibility for their mistakes or disciplining officers who have been abusive.



THE FIGHT FOR TRANSPARENCY IN OBTAINING
USE OF FORCE REPORTS

By Harvey Harrison



On March 14, 2025, the Iowa Supreme Court entered a unanimous order that required the City of Des Moines to produce Use of Force Reports for the 2020 Calendar year. This decision ended a 2+ year legal battle with Harvey Harrison, founder of Just Voices, to obtain the release of those reports as a part of the efforts to provide a comprehensive history of the 2020 protests following the murder of George Floyd.

This is the story of the efforts by Just Voices to get answers to these questions:

- What are Use of Force Reports and what do they contain?
- Why are they an important part of the 2020 Protests story?
- Why did the city fight so hard against releasing them?
- What do the reports show us about the Des Moines Police Department?

We can all vividly remember that during the 2020 summer protests we watched the Des Moines Police Department use violent force against largely peaceful protesters. We saw people pushed and shoved, gassed, pepper-sprayed, hit with police batons, and more. In other words, we watched as the Des Moines Police Department used a wide range of force against the protesters. This was the backdrop of a pivotal moment in history, where cries for justice clashed with a display of overwhelming authority. The images of oppression sparked dialogue across the nation, igniting calls for reform and accountability. Many questioned the very fabric of law enforcement, advocating for a system that prioritizes de-escalation and community trust over militarized responses. The protests became not just a reaction to violence, but a movement for change.

It is well recognized, and a matter of law, that the use of force by police is appropriate under certain circumstances. This was the standard in place for officers of the Des Moines Police Department on May 25, 2020, the day that George Floyd was murdered:



TED IN
AFGHANISTAN

“Officers shall only use force that is objectively reasonable to make an arrest or effectively bring a person or incident under control, while protecting the safety of the officer and others.”

When force is used, transparency was and is essential, because:

The authority to use force carries with it the need for accountability in order to safeguard the rights of the public and to preserve the integrity of the department. As such, it is the policy that any use of force incident be reported in a timely, complete, and accurate manner by involved officers.

The department’s actions during and after the protests starkly contradicted its established standards. By evading transparency and accountability, it not only undermined its credibility but also eroded public trust. This lack of adherence to its own guidelines raises critical questions about governance and responsibility, suggesting a systemic failure that warrants thorough investigation and reform.

As a part of our preparation for the publication of Volume One of “The People’s History: A study of the summer of 2020 protests in Des Moines, Iowa,” those of us working on the research became increasingly upset by the amount of violence that had been used by the police on protesters. There were numerous situations where it was obvious that the police escalated the situation rather than attempting de-escalation. Links

to many of those videos can be found on the Just Voices YouTube page (<https://www.youtube.com/@justvoicesiowa/videos>).

DMPD REQUIREMENTS FOR
USE OF FORCE REPORTING BY
OFFICERS

We knew that the officers who used force were responsible to report that use of force in a timely manner, and that reports about using force would be reviewed by the department. The DMPD maintains records of the number of times that force has been used by its officers and the nature of force used. This is a chart, produced by the DMPD for 2018, 2019, and 2020, on the number of times that a specific type of force was used by officers of the department:

THE BEGINNING

Just Voices turned to the Iowa Open Records laws, determined to uncover the truth behind the use of force during the protests. With each request, we sought transparency, striving to hold authorities accountable. Our persistence symbolized the community’s demand for justice, as we believed that every record held the potential to reveal the untold stories of those affected. The quest for answers had only just begun.

On February 24, 2022, Just Voices founder, Harvey Harrison, filed an initial request for the police

department use of force report for the 2020 calendar year.

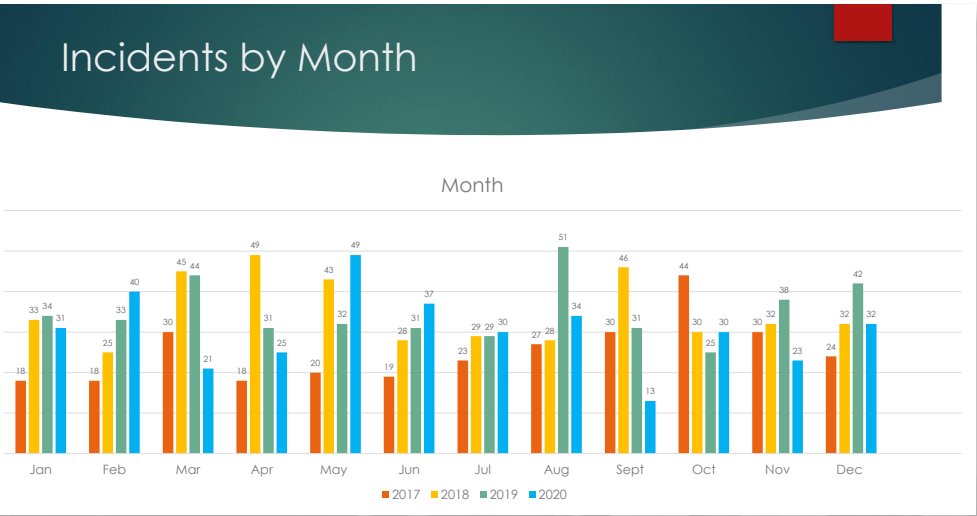
The City ultimately responded by producing the 2020 statistical report. As with previous reports, it provided a statistical overview, but did not provide any detailed information related to individual incidents. In response to this Harvey filed an amended request on March 7, 2022, this time asking for the details including, in part:

- A copy of any and all documents used in the preparation of the 2020 report;
- A copy of any and all Appendices and/or supplemental documents used in the preparation of and /or concerning the 2020 report; and
- Table 1 of the Report describes the “number of times and types of force.” Provide a copy of each report referenced in this chart.

On March 11, 2022, the city responded to the request for the details as follows:

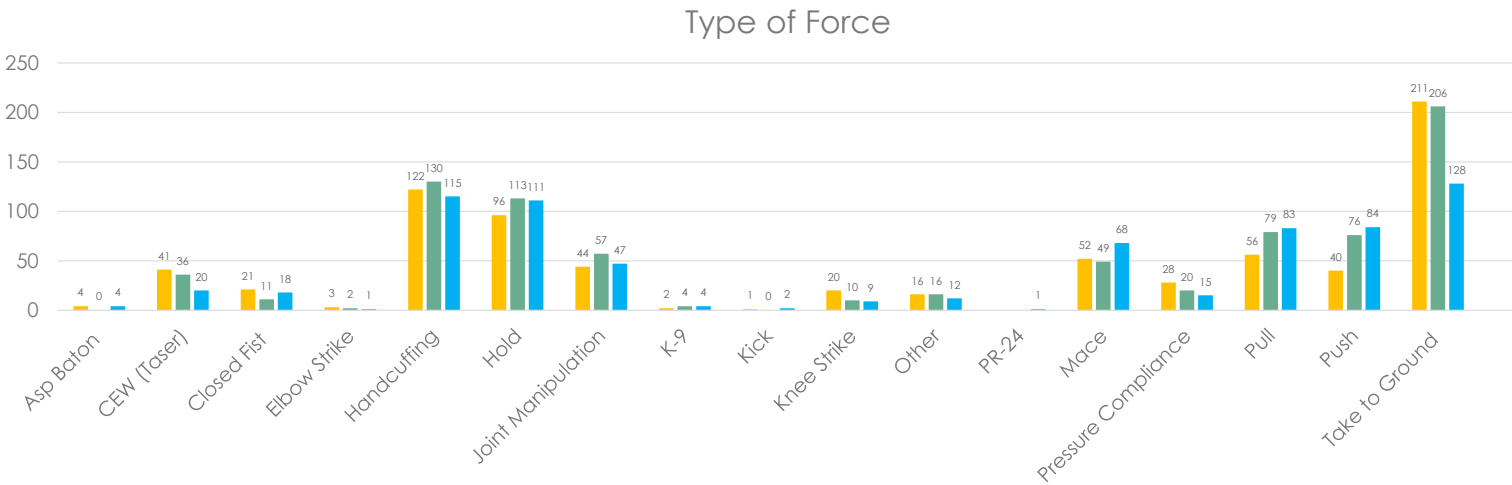
The City’s Legal Department has been made aware of your open records request submitted to the City of Des Moines on March 7, 2022. It is our understanding that the Police Department has provided you with copies of the 2020 Use of Force report and the supplemental Use of Force Analysis. Please be advised that the documents used in the preparation of the 2020 report were gathered in anticipation of litigation, and therefore are considered attorney work product. For this reason, these documents cannot be released in response to your request.

The statistical reports that were produced by the city included the following chart showing the number of Use of Force Incidents for three years, including 2020.

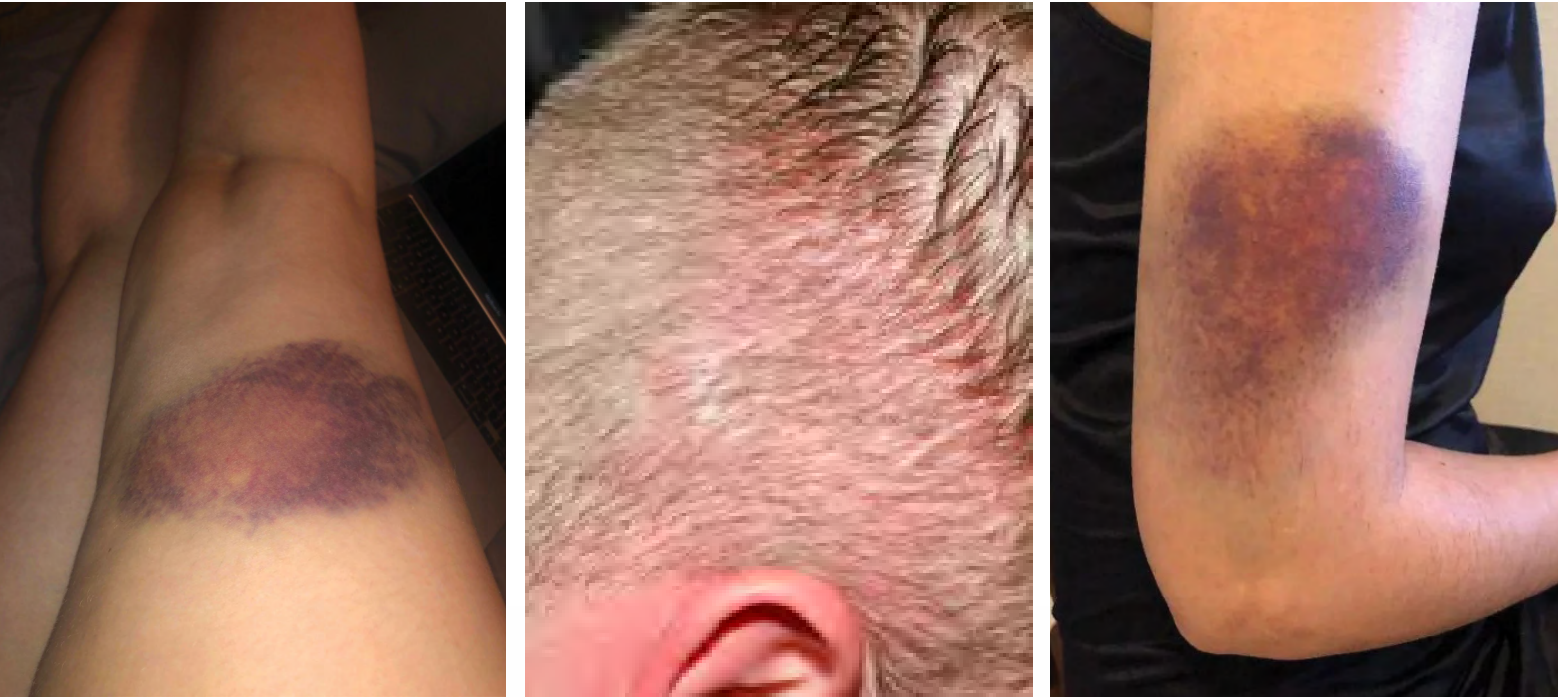


What is compelling about this chart—and what jumped off the page—was that there were fewer Use of Force Reports filed in 2020, the year of the protests, than in 2018 or 2019. **THAT WAS NOT POSSIBLE!**

Type of Force Used



Injuries sustained by protestors (L to R): Lenin Cardwell, Zach Humble, and Denver Foote.



The numbers below appeared to support the anecdotal reports (never confirmed) that DMPD officers were given instructions stating they were not required to file Use of Force Reports when they ended each tour/shift. This chart, produced by Just Voices, shows why that appeared to be the case.

	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Total
2017	18	18	30	18	20	19	23	27	30	44	30	24	301
2018	33	25	45	49	43	28	29	28	46	30	32	32	420
2019	34	33	44	31	32	31	29	51	31	25	38	42	421
2020	31	40	21	25	49	37	30	34	13	30	23	32	365

RECORD NUMBERS OF PROTESTOR ARRESTS

We knew from our research that more than 208 people were arrested during the protests, almost all during the first 40 days. Others were subjected to force, but not arrested. The videos that were published showed extensive use of gas, pepper spray, and physical assaults by police. Thus, 67 reports during the months of June and July could not even scratch the surface.

Something was wrong and we wanted to find out what and why.

We were convinced that the refusal to produce the detailed reports (the position taken by the Des Moines City Attorney) was wrong as a matter of Iowa Law and not a reflection of "best practices." The Law Enforcement Policy Center has a comprehensive essay on use of force best practices. The article can be found at this URL:

<https://www.theiacp.org/sites/default/files/2020-06/Reporting%20UoF%20June%202020.pdf>

Here are some excerpts from the article:

The authority to use force carries with it the need for accountability in order to safeguard the rights of the public and to preserve the integrity of the law enforcement agency and the jurisdiction that provides this authority. As such, it is the policy of this law enforcement agency that use of force, as

designated herein, be reported in a timely, complete, and accurate manner by involved officers and as otherwise prescribed by this policy.

Law enforcement use of force is a matter of the highest concern among law enforcement administrators and officers. To meet the many questions that arise internally and externally around this issue, there must be systematic reporting of use of force by law enforcement officers.

Because of the many concerns related to the use of force by law enforcement, both professionalism and the protection of officers require that use of force by officers be documented and monitored. Good reporting procedures that are well drafted and properly enforced represent the best defense that an agency can have against allegations of excessive force or brutality, either in individual incidents or as a matter of general agency behavior.

Failure of an agency to respond to allegations of these types because of a deficiency in the collection of essential information on the subject risks not only the professional careers of its officers but the agency's overall credibility within the community. Through analysis of the data obtained, agencies can better determine if their policies and training are adequate and be better suited to adjust where necessary in a nimble, efficient manner. In addition, the information gathered through use-of-force reports and subsequently shared with the public increases transparency, in turn fostering public trust.



HARVEY FILES LAWSUIT FORCING THE CITY TO RELEASE DETAILED REPORTS

Harvey’s attorney, Gina Messamer, attempted to work this out informally with the city. The city simply maintained its position that these were records that we could not force them to release. After negotiations with the city failed, Gina Messamer filed a lawsuit on Harvey’s behalf in the Polk County District Court on October 13, 2022.

Gina and the City each filed motions, asking that the Court rule on the case based on the facts that were agreed upon by the parties and presented to the court. This is called a “Motion for Summary Judgment.”

On February 15th of 2024, the district court judge entered a 23-page order that reviewed the arguments of the parties and entered the following ruling:

*Consequently, after considering the language of the statute, Iowa case law interpreting the statute, and after considering case law from other jurisdictions, with the exception of certain personal information regarding an officer’s injuries or medical treatment that can easily be redacted, **the Court concludes that the use of force reports do not fit into the category of records that the Legislature sought to exempt from disclosure by enacting § 22.7(11).***

This finding rejected the arguments being made by the City, on behalf of the Police, and led to the following orders from the Court:

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Plaintiff’s [HARVEY] motion for summary judgment is GRANTED.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that pursuant to Iowa Code § 22.10(3)(a), the Court issues an injunction requiring Defendants [the City] to comply with the requirements of Iowa Code chapter 22 by providing Plaintiff with a copy of all 387 use of force reports authored by its police officers in calendar year 2020; however, the City shall redact from each such report any information about whether the reporting officer was injured and/or went to the hospital as such information is exempt from disclosure under Iowa Code § 22.7(11). Defendants shall provide Plaintiff with the requested information within 45 days of the date of this Ruling.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that, pursuant to Iowa Code § 22.10(3)(c), Defendant City of Des Moines shall be responsible for Plaintiff’s attorney fees and the court costs in this case.

The ruling was a clear win for transparency and accountability!

THE CITY APPEALS DECISION TO THE IOWA SUPREME COURT

The City was apparently not pleased by this ruling, and on March 1, 2024, the city filed a Notice Of Appeal to the Iowa Supreme Court.

On February 18, 2025, the Iowa Supreme Court heard oral arguments about the case. You can watch the oral arguments at the following url: <https://youtu.be/TZ6NmGXfK-g?si=tz4AaGcbNLS6cIMH>

On March 14th, the Court filed its unanimous opinion. The opening paragraph of the decision told the story of what was to follow in the formal opinion of the Court:

What follows in the decision is a comprehensive examination of the law and the facts of this case.

Appeal from the Iowa District Court for Polk County, Coleman McAllister, judge. A city appeals the district court’s grant of summary judgment in an action brought by a citizen seeking access to police use of force reports under the Iowa Open Records Act.

Affirmed.

In the end, on March 14, 2025, the Iowa Supreme Court entered a unanimous order that required the City of Des Moines to produce Use of Force Reports for the 2020 Calendar year. Thus, ending a 2+ year legal battle with Harvey Harrison to obtain the release of those reports.

WHAT IS NEXT AND WHY THIS IS IMPORTANT

On April 1, 2025, the city produced 385 Use of Force Reports covering the 2020 calendar year.

Since this decision, Just Voices has started a review of the reports. It will take some time to produce a final report on all that we are finding. Here are two early findings:

- 1. Our original concern that Use of Force Reports were not being prepared and filed during the protests, is being confirmed. Our original survey of the reports produced shows only 19 reports filed that are related to the Protests. Recall that there were over 208 arrests and that extensive force was used that did not result in an arrest.
- 2. Our summary review reflects that even the few reports that were made, were largely made at later dates, not on the date that incident had occurred. One as much as a year later.

A VICTORY FOR TRANSPARENCY IN POLICING

The success of the litigation is a victory for the people of Des Moines, and for the State of Iowa, in terms of transparency in policing. Whether it will lead to greater accountability is yet to be seen. The existing policy of the DMPD is clear as to what is needed:

“The authority to use force carries with it the need for accountability in order to safeguard the rights of the public and to preserve the integrity of the department.”



Just Voices Agrees!

YOUNG, GIFTED, BLACK, & FEARED: WHO IS MATTHEW BRUCE?

By Robin Madison & Lori A. Young

Our current culture often pillories leaders who change their positions, as though learning from experience is a character flaw. It's refreshing to see a young man with strong leadership potential show not only the courage of his convictions, but the courage to change those convictions as life offers up new experiences.



Matthew Bruce, who sometimes goes by Mat  , was a 24-year-old activist and one of the founding leaders of the Des Moines Black Liberation Movement (DSM-BLM) during the summer 2020 protests following the murder of George Floyd.

In Des Moines, surrounded by the laughter of three sisters and the warmth of an extended family, he found his foundation. This vibrant village of aunts, uncles, and cousins nurtured his spirit, instilling confidence that propelled him towards his dreams. Each family gathering was a celebration of support, teaching him that with love and encouragement, anything was possible.

The family lived on the city's east side, and Matthew remained in touch with many of his East High School classmates beyond graduation and they came back together for that first major protest in Des Moines in the summer of 2020. Matthew reflects with pride that from 2013 to 2016, "East High—we ran the City."

He continues, "And that's actually part of the story of 2020. We already had this sense of independence and like a little bit of rebellion, a little bit of defying authority and also a high sense of trust with one another. So, when we got into a high-pressure situation, it was very easy. So that's a shout-out to the east side. There were a lot of people at that first protest, it was damn near like a reunion." Growing up in such a multiracial, working-class, close-knit neighborhood and high school taught him how to work with others and support the people around him.

EARLY ACTIVISM

It was in high school that Matthew recalls his first experience with activism. He was the same age as Trayvon Martin, a black teenager who died at the hands of a vigilante, George Zimmerman, in 2012. He and a classmate changed their social media profile photos to a photo of Trayvon. Zimmerman's acquittal radicalized Matthew, and he began reading and researching the experiences of black people dealing with the legal system.

"I was on spring break in New York with my mom when the Trayvon news broke. That was kind of when I became

an online activist and learning. I started reading literature and watching seminars and, you know, getting deeper into it. That was the first issue that really radicalized me. That was the first thing that pushed me into trying to speak out, trying to find some kind of platform, and even though social media's very limited, I was just trying to find some kind of way to affect the issue."

When a grand jury in Ferguson, Missouri, decided not to indict the police officer who killed Michael Brown in 2014, Matthew realized that police violence against black people was a chronic problem.

HIS ACTIVISM GROWS AT UNIVERSITY OF IOWA

After high school, Matthew enrolled in the University of Iowa, majoring in Sociology and African American Studies. He recalls getting swept up in the controversy around a faculty member and artist who installed an effigy on campus of a Ku Klux Klansman with a camera inside to record people's reactions. Matthew and many others took to social media with the hashtag #BlackHawkeyes and participated in campus protests until the effigy was removed.

"Like now I'm in college. I'm in sociology, so I'm studying actual social systems, institutions, social science, like it's more than just opinions and rhetoric. There's a science to how societies run and are able to operate and meet the needs of people on a daily basis—or, not meet the needs. And I would argue that the police are one group that obstructs the needs of people at times."

Matthew began to learn and study how America works, its hierarchy of power and the role police violence plays in that. "Violence is necessary to enforce race, like to enforce who's black and whose white. Police violence is just one form of violence—it's kind of almost a drop in the bucket. I don't want to minimize police brutality, but like the vigilante violence is important. Imprisonment is important. The high levels of surveillance are important, too. All of these are different, you know, forms of violence, that were subjected to. So, I'm seeing that things are getting really dangerous for us overall."

Matthew explains more of his perspective. "America is built on a racial hierarchy, so they understand that when the hierarchy becomes threatened, the entire society becomes threatened. They know exactly what they're

doing. They know that they have to exert control through dominance."

His involvement in campus activism and the social scene, as well as his struggle with some mental health issues, hurt Matthew's academic performance and he eventually dropped out of the University of Iowa and moved to Maryland to live with an older male cousin. The cousin had experienced similar mental health issues and was a supportive role model for Matthew.

MATTHEW WORKS WITH CHICAGO ORGANIZERS

Eventually, though, the 2020 COVID-19 pandemic required changing living arrangements, so Matthew moved to Chicago where he had friends. There had been several incidents around the country involving racial violence, at the hands of vigilantes as well as police, followed by the police murder of George Floyd on May 25, 2020. During the first few days of the ensuing protests in Chicago, Matthew had the opportunity to work with and learn from more experienced activists and organizers.

"I went to protests in Chicago, huge rallies and I learned a lot, actually, from just going to rallies in Chicago. The Chicago organizers are amazing. They have it down to a science—how to keep people safe, all the different local systems, how they work, etc."

RETURN TO DES MOINES IN 2020

From Chicago, Matthew was staying in close touch with friends back home, where protests had begun, and he decided to return to Des Moines to help them organize. He recalls, "So I reached out to people that I already knew were on the ground in Des Moines, just put my ear to the ground—like, what's up, what's going on, how are things going, what issues are you all running into?"

Matthew organically became one of the founding leaders of DSM BLM. He points out that he wasn't the only one, but he did have more experience and training in community organizing. "I think I became a leader just because I had actual training in how to hold a direct action—not just protests—but like training. I was trained on campaigns, like how to develop a political campaign. And I had ones that failed; so I had lost campaigns before too."

MATTHEW'S FIRST PROTEST IN DES MOINES

On his first day back in town, he and others organized the march of approximately 1,000 people to the home of Des Moines then mayor, Frank Cownie. Their protests presented the mayor with a list of demands, including an end to the emergency curfew, the release from jail of all protesters, the creation of a marijuana task force, and a ban on the use of racial profiling by the police.

It was at this time that the Des Moines Black Liberation Movement (DSM BLM) came together in what Matthew describes as an organic process. "It was an organic process, it really was. There were so many people at the table but especially after that first protest... After that first protest, a lot of the people, a lot of the students especially, that were really smart, and also a lot of the college students had just got out on summer break. So, there were a lot of college students, a lot of intellect, and also some kids that weren't in college too that were coming in and contributing."

DSM BLM MOVEMENT EMERGES ORGANICALLY

For weeks, the growing DSM BLM movement went into intensive mode, Matthew remembers. "There were just meetings, tons of meetings every day, deliberating on demands, deliberating on organization structure, deliberating on strategy, missions, goals—it was like six weeks of a really intense process of meeting every day, planning actions, carrying out the actions, but also back door trying to build the infrastructure for a movement." DSM BLM began to take shape and sharpen its focus. "We began breaking up into committees. There was a group coming up with local demands, then a group coming up with State demands, a group coming up with actions for the local demands, then a group coming up with actions for State demands, then a group that was writing communications for all this stuff. "

GOVERNOR REYNOLDS SIGNS EXECUTIVE ORDER WITH PRESSURE FROM BLM DSM

On June 10, the DSM BLM held a protest inside the Iowa Capitol Building and submitted a list of demands to Governor Kim Reynolds, which included an executive order to immediately reinstate voting rights for Iowans with felony charges who have served their sentences. Efforts toward a constitutional amendment to do that were already underway in the state legislature, but amending the constitution is a multi-year process.

The protestors wanted to see quicker action, despite warnings from black legislators that an executive order can be overturned by a subsequent governor and could set back the effort to permanently amend the state's constitution. The Governor eventually agreed to meet with the group privately twice. She then signed Executive Order 7 at a signing ceremony to which none of the activists were invited.

REMEMBERING TWO MAJOR PROTESTS: AT HY-VEE AND AT THE STATE CAPITOL

On June 20, Matthew led a protest at a Des Moines grocery store on behalf of a friend and store employee who reported experiencing racial discrimination at work. During the protests there were several confrontations with drivers in the parking lot, some of the protesters spray-painted a police car, and Matthew was videotaped by local news media jumping up and down on the roof of a police car with a bullhorn in his hand. He turned himself in to the police on June 24 and was charged with criminal mischief. He was sentenced to probation and 150 hours of community service.

During the Summer of 2020 Matthew was arrested several times. He was watched closely, surveilled. He recalls, "So, I think the Des Moines police arrested me either four or five different times. I want to say five, that's what it felt like. One time (after the Hy-Vee incident), I did turn myself in. The other times they were either knocking at the door or I got picked up [by police] at work."

One protest at the State Capitol was covered heavily by local media and ended up with several protesters getting arrested, including former City Council member Indira Sheumaker. Matthew describes what happened that chaotic day. "Basically, we had an ongoing State Capital campaign and we were there

three or four days a week, while the Iowa Legislation was in session. Both the house and the senate. We had actually developed somewhat of a relationship with the leadership of the Iowa State Patrol because basically they were forced to respond to the situation, you know, and we were also forced to learn the codes of how to move, what would get us in trouble and what wouldn't. So basically, we showed up one day, right around July 4th weekend. We were showing up to continue the campaign to end felon voting disenfranchisement in Iowa...."

Matthew continues. "After the incident at Hy-Vee, I had already turned myself in, but the Des Moines police knew we were going to be at the State Capitol basically every day. The Des Moines police department went to the State house that morning and collaborated with the Iowa State Patrol to basically set up a sting! They turned the State Capitol into a trap. And that was probably one of the most significant events. By the time we got there, there were a couple of organizers that were already stuck in rooms (they had taken rooms of the State Capitol and turned them into interrogation rooms). So, there were organizers that were stuck in these rooms full of police, like a dozen police.

Then the police started making mass arrests and obviously the situation went south. They are dragging organizers out, people are trying to prevent the arrests from happening. That situation actually led to us getting banned from the State Capitol. They banned a bunch of organizers from the State Capitol after that. But there were several organizers that later sued with the help of the ACLU, for their first amendment rights, and they won that lawsuit."

As the protests in Des Moines continued into July, Matthew gained a high profile in the media as a leader of the movement, even though there was no formally designated leader at the time. He later learned that the FBI had forwarded information about him to the Des Moines Police Department as part of their monitoring of Black identity extremism, and he thinks that played a role in both the police and the media focusing on him.

As the protests over the George Floyd murder came to an end, DSM BLM continued to organize actions in support of local racial justice issues. Many of the group still supported the concept of abolishing the police and moving toward what Matthew describes as a community-owned form of security protection to dismantle the racist aspect of the criminal justice system.



MATTHEW'S THOUGHTS ON ABOLISHING THE POLICE BACK THEN

I think most of the people that organized at that time [in 2020] were abolitionists. I think because we were so young, and still I was very young, there wasn't as clear endgame in mind; like a long-term 50 to 100-year endgame or vision. But I think, I think [the idea of] defunding the police already existed. And to this day I will still defend just the idea of "defund the police" as a strategy to move towards disabling the police system's ability to perform the function of, you know, creating a racial hierarchy. You know what I'm saying?

I think most people were working with some kind of abolitionist vision of ending the police structure, the police state and moving towards some kind of like people-centric, community-owned and community-backed form of security and protection, safety, and surveillance.

But I honestly think a lot of that is overrated. In the long term, what are you working toward? What kind of world are you working towards? Like we have visible policies right now that we know that are harmful and damaging, and those policies that are just right in front of us, we know that there are better ones. And so, I don't want to even say "reform," but we were working to try and dismantle like the racist nature of the criminal justice system—completely; anything that we see that is racist, uproot it and replace it with something that's principled, humane, fair.



MATTHEW'S PERSPECTIVE IN 2024

Now 28, Matthew says one of the most important things he's done since 2020 is to focus on and improve his mental health. He has been working with Des Moines Mutual Aid's free food pantry and propane delivery to homeless camps, as well as supporting the efforts of Greater Opportunities Inc. by speaking to black youth about civic education and activism.

He is enrolled at Des Moines Area Community College in the Paralegal Associate Degree program, hoping to gain experience working in a law office. He's been recognized for his stellar grades. Matthew is considering law school in the future if it seems necessary to achieve his goals. He has matured and has a sense of humor about his experiences in 2020, acknowledging with a smile that the police car stunt wasn't his best moment.

MOVING FORWARD

Matthew believes strongly in the need to focus on community building, rather than electoral politics. Working on campaigns and getting out the vote is intense. People burn out, relationships get strained, and the energy fades, especially when the election doesn't turn out well.

He believes new grassroots energy is needed to develop a reinvigorated movement, and that will require cultivating new black leaders from among today's youth, many of whom are disillusioned and politically disaffected. Matthew is grateful to the older generation that did much to grow and promote black culture and progress since the 1960s. He acknowledges there is a tendency for the younger generation to dismiss the benefit they've received as a result. On the other hand, the younger generation is now facing the backlash to that

progress, and the older generation tends to dismiss their experiences and ideas. That gap needs to be bridged if the community is to move forward.

When asked how he's changed since 2020, Matthew gave a simple but profound answer: "Probably the biggest way that I've changed since 2020 is in how much I value my work. Even if it's not towards some big goal. Even if it is someone who just works hard towards buying a car or owning a home. I value that in me so much more now."

“

...And so, I don't want to even say "reform," but we were working to try and dismantle like the racist nature of the criminal justice system—completely; anything that we see that is racist, uproot it and replace it with something that's principled, humane, fair.”

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POINTS OF VIEW: REFLECTIONS ON THE SUMMER OF 2020
PROTESTS IN DES MOINES

By Kathleen Ferguson

Following the murder of George Floyd in late May of 2020, people in the Des Moines area joined in a number of protests throughout the community. In most cases, the protests were peaceful, but a few resulted in physical confrontations and property destruction. Many felt there was an unjustified, militaristic, and chaotic response from the Des Moines Police Department, causing psychological trauma and physical harm to several protesters and observers.

Of course, any event can be observed by multiple people with differing perspectives. Just Voices sought out and interviewed people with varying perspectives on the 2020 protests. We are sharing their reflections, five years later, with you here.

FANNETTE ELLIOTT
West Des Moines Community Schools Board
of Education

"Although I was already involved in working for racial justice, the protest at the Capitol was the catalyst for me to step up even more and give back to the community. I understand the importance of education, so I successfully ran for the West Des Moines School Board. Community involvement is the key—we can have a voice—so please get engaged. If you see something, do something!"



REV. JENNIFER HARVEY, PHD
Antiracism Educator, Author
Garrett Evangelical Theological Seminary:
Vice President for Academic Affairs and Academic
Dean; Professor of Christian Ethics

"I participated in several of the 2020 protests and was struck by the large number of white folks who attended, many for the first time. The call for white people to get more involved had for a moment, broken through. And the courage and audacity of the Black youths who organized and led many of the protests was incredibly powerful. We can respond to their call and change our society's relationship to the racist conditions we've inherited. The George Floyd protests showed us that."



DANA JAMES
Founder & Publisher, Black Iowa News

Around the capital, to the steps of the Iowa Capitol, they shouted:
"Say his name: George Floyd. Say his name: George Floyd. Say his name: George Floyd."

Outside of Des Moines City Hall, they chanted:
"Take it to the street and fuck the police, no justice, no peace."

Their voices, their message, harmonized into a worldwide crescendo:
"Black Lives Matter. Black Lives Matter. Black Lives Matter."



ROB JOHNSON
Iowa State Representative Rev. Rob Johnson (D),
District 34

"When I reflect on the summer of 2020, I remember the raw pain, power, and unity in our streets. It was a moment when the voices of the unheard refused to be silenced any longer. I saw young people demanding change with courage and clarity, and I felt both the weight of our history and the hope of our future. That summer reminded me that progress is never given; it's claimed."



GINA MESSAMER
Attorney, Des Moines

“Although I was frustrated that the Des Moines Police Department refused to acknowledge the mistakes they made during the protests, DMPD did update their policies and change some of their practices to address the problems. I’m hopeful that if something like this happens again, DMPD will handle it much better.”



BRAD TITUS
Community Activist

“The real solution to this isn’t political, and it isn’t necessarily big. It’s getting together, one-on-one, and getting to know each other. That doesn’t mean it’s necessarily easy! Meaningful progress is possible, and we can make a difference.”



KAMERON MIDDLEBROOKS
Community Organizer

“Many young Black people, along with allies from all backgrounds, took to the streets after George Floyd’s murder, channeling their frustration into action. From these protests, new leaders emerged, civic engagement grew, and communities pushed for change through local policy and activism.

There are no permanent enemies, no permanent friends—only permanent issues. The fight for justice isn’t about allegiance to individuals or parties but about staying committed to lasting, local change that advances equity for all.”



AL WOMBLE
Community Activist
West Des Moines 2024 Citizen of the Year
Chair, Iowa Democratic Black Caucus
Chair, West Des Moines Democrats

Continuing the same unfair policing policies and treatment that marked previous generations has created a massive amount of frustration. It’s important to listen—to give people a voice—but if they only listen but do nothing to change things, there’s no progress, and the frustration continues to build.”



STEPHANIE SWARTZ
Senior Police Officer, Des Moines Police Department

“The experiences during the 2020 demonstrations were eye-opening for the Des Moines Police Department, and the frustration expressed by protesters paved the way for DMPD to look at and improve its policies and procedures. The entire department has since received relevant training, and current leadership is very open to meaningfully moving forward on equity concepts and improved community involvement. Because of the hard work of the department, if similar demonstrations occur or other issues arise in the future, people will be treated fairly and will know that they have been heard.”



SPEAKING TRUTH.
SEEKING JUSTICE.

UPDATE: JURY FINDS POLICE USE OF FORCE AGAINST DENVER FOOTE JUSTIFIED — APPEAL IS UNDERWAY

By Lori Young

(NOTE: Foote uses the pronouns they/them/their.)

In Volume 1 of The Peoples History (page 24), we included Denver’s story of wrongful arrest and excessive force at the hands of the DMPD. Denver was charged with rioting, failure to disperse, and other charges. The charges against Denver were dismissed shortly before their trial was scheduled to begin. Still, Denver decided to sue the Des Moines Police for wrongful arrest and excessive force and after a couple of years, a jury ruled on their case.

Unfortunately, the jury found that the officers did have probable cause to arrest her and that the amount of force used was justified as officers claimed Denver was running away and heavily resisting arrest. In the end, two Des Moines police officers, Adam Herman and Brandon Holtan, were cited in the lawsuit. But the officers’ account of what happened and Denver’s account were almost direct opposites.

Neither officer had their body cameras on during Denver’s arrest, which is against DMPD policy. But without video evidence, it’s just Denver’s word against theirs.

Denver has always maintained that they were walking back to her car, alone, going north on 3rd Street after they observed the vandalism that began at the Court Avenue Hy-Vee in the early morning hours of May 31, 2020. Denver cut through an alley when police “kettled” both ends of the alley and several officers flooded into it. So, Denver ducked into a cubby trying to hide but then decided to step out when they were suddenly pepper-sprayed by an officer quite randomly. Two other officers approached, Herman and Holtan, and shoved Denver back into the cubby, pepper sprayed them two more times at close range, and then beat them with their batons, striking Denver three times and forcing Denver to the ground. Denver testified that they kept yelling, “I am not resisting, I’m not resisting!”



These two officers tell a different story and without body cam video, it’s not possible to prove who’s telling the truth. Denver’s attorney, Gina Messamer, describes an unfair advantage the officers had. “Denver was unarmed, she posed no threat,” said Messamer, who noted that Foote is 4 feet 11 inches tall and weighs barely 100 pounds. “She was up against two trained soldiers.” (DM Register, Aug. 6, 2024)

To add insult to injury, the presiding Judge did not let Denver’s attorney, Gina Messamer, present video evidence to the jury of Officer Holtan tackling and injuring photo-journalist Ted Neiters, just two days later. Officer Holtan claimed Mr. Neiters was running away as well. This evidence could have made a difference in the jury’s assessment of the proclivity of Officer Holtan to use force on a cooperating suspect. (NOTE: Ted Neiters did win his lawsuit against the City of Des Moines and Officer Holtan and received a settlement of \$100,000.)

Denver’s attorney, in an interview with Just Voices in February 2025, explains her disappointment with the judge’s decision and is in the process of appealing it. If

the appeal is successful, Denver will get another trial. Messamer said, “I am appealing the judge’s exclusion... because I thought that [bodycam footage of Neiters’ arrest] was very relevant to the facts of what happened with Denver...The officer said Denver resisted, and so that was a basis for them to use force against Denver. In Ted Neiters’ case, Officer Holtan, the same arresting officer, said the same thing; that Ted was resisting and trying to run away. But I actually have video of Ted’s arrest, although it’s not very good, but it contradicts what the officer was saying, what Brandon Holtan said.”

Denver’s journey through the legal system goes on and may not reach conclusion until the end of 2025, Attorney Messamer estimates. That’s if Denver wins the appeal and gets a new trial. Until then, Denver continues to suffer the lingering emotional trauma and physical ailments in their legs from the violent arrest. Our hope is that they get another chance at justice, but for now Denver’s story is **to be continued . . .**



A BRUISE DENVER FOOTE DEVELOPED FROM A BATON STRIKE BY A DMPD OFFICER



Just
Voices

FIVE YEARS AFTER GEORGE FLOYD AND WHAT’S CHANGED?

By Lori A. Young

WE HAVE LIVED THIS NIGHTMARE BEFORE

We have lived this nightmare throughout American history. Remember Rodney King, who, in 1991, survived a horrid beating at the hands of several LAPD officers? The beating was caught on video before cell phone video recording was ubiquitous. This visual record still wasn’t enough to convince a jury to convict those Los Angeles police officers.

The moral outrage following George Floyd’s murder in 2020 exploded into protests all over Iowa, America, and around the world. The loud cries of “Black Lives Matter” rang out to the heavens. If watching, in real time, an unarmed man slowly die, calling for his mom, while trapped from the full weight of a hate-filled police officer’s knee pressing on his neck for more than 9 minutes, doesn’t instigate police reform, what will? Five years later, those cries have softened to an occasional murmuring, even though police violence, too often deadly, continues and is on the rise.

On January 23, 2023, Tyre Nichols; an unarmed young Black man, was savagely beaten during a traffic stop at the hands of five Memphis, Tennessee special-ops police officers. That spectacle was caught on video for all the world to see. Traumatized Black people, who wondered how could this still be happening? Recently, three of the officers charged in Nichols’ death, were found not guilty by the State of Tennessee in a jury trial. Only two of the five officers were found guilty on federal and state charges.

According to Statista. . .

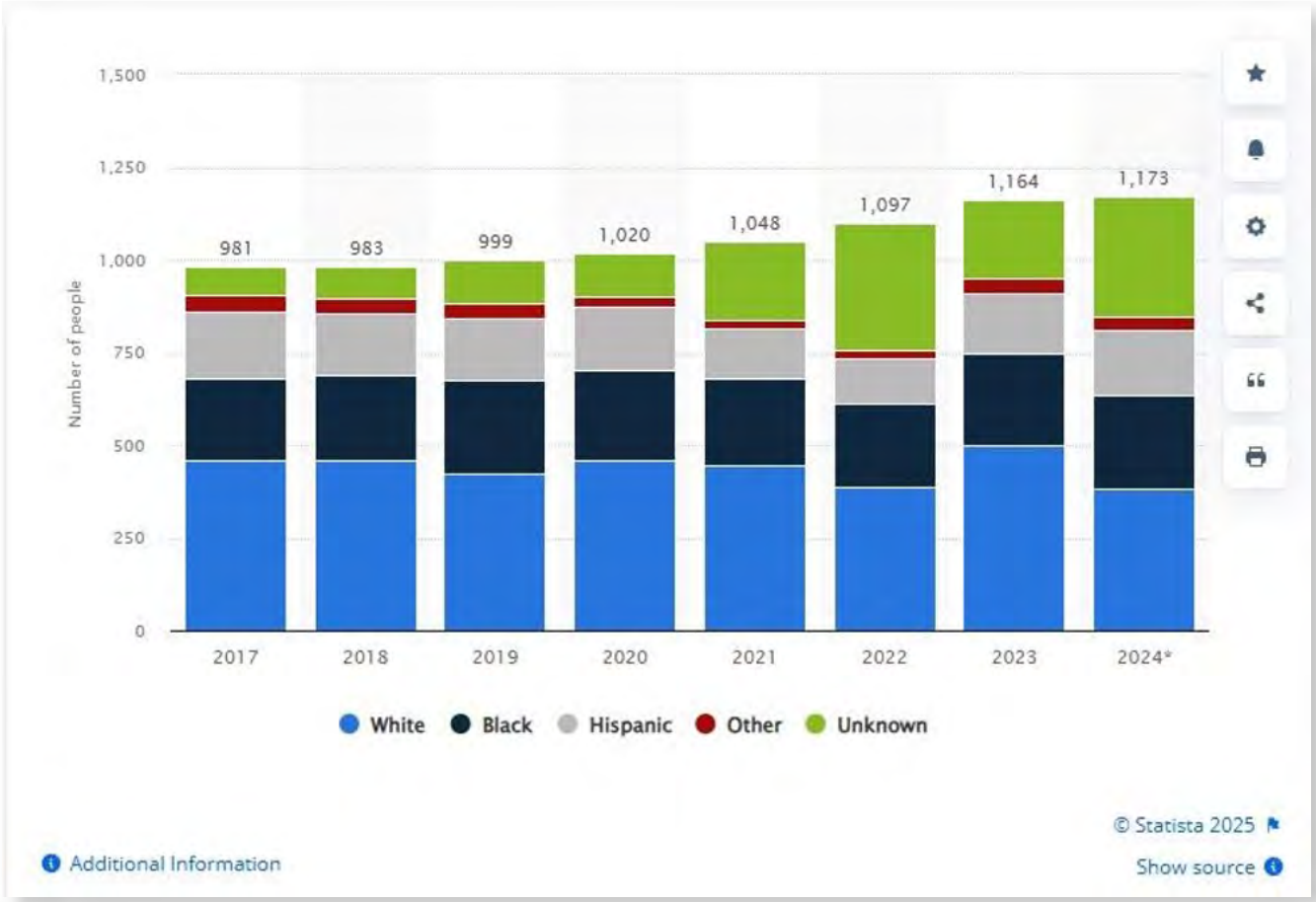


Overall on a federal, state, and local level, systemic change since George Floyd’s death started with a bang and has dwindled to a spark.



Sadly, the trend of fatal police shootings in the United States seems to only be increasing, with a total 1,173 civilians having been shot, 248 of whom were Black, as of December 2024. In 2023, there were 1,164 fatal police shootings. Additionally, the rate of fatal police shootings among Black Americans was much higher than that for any other ethnicity, standing at 6.1 fatal shootings per million of the population per year between 2015 and 2024.

Number of people shot to death by the police in the United States from 2017 to 2024, by race (through 12-31-2024)



(Source: <https://www.statista.com/statistics/585152/people-shot-to-death-by-us-police-by-race/>)

NATIONAL EFFORTS AT REFORM

In 2022, President Biden supported The Justice In Policing Act. But it failed to pass the Senate. Biden attempted to make changes by signing an Executive Order instructing federal law enforcement agencies to: revise use of force policies, establish a federal accountability database for officers fired for misconduct, and ban or restrict chokeholds or no-knock warrants. He also ordered contained incentives to encourage state action.

In 2025, Donald Trump issued an Executive Order to reverse and eliminate all of those efforts.

STATE EFFORTS AT REFORM

According to the Brennan Center for Justice, some more progressive states took seriously the calls for police reform:

In response to these community-led movements — many of which rallied around calls to “Defund the Police” — cities and counties have begun restructuring how local budgets and law enforcement are deployed in service of public safety. For example, Austin, Los Angeles, and at least 12 other cities pledged to cut police budgets with plans to reinvest in community programs such as supportive housing, violence prevention, and other services. Some local governments have since walked back some of these promises: Minneapolis never disbanded its police department, instead spending \$6.4 million to recruit more officers.

Notably, San Francisco launched crisis response teams to respond to behavioral health calls in lieu of police, and Berkeley voted to limit law enforcement involvement in low-level traffic stops. Minneapolis and other cities made commitments to end or reduce police presence in schools. New York City, home to the nation's largest police force, just became the first municipality to end qualified immunity for officers (joining Colorado in doing so). Read more at: <https://www.brennancenter.org/our-work/research-reports/state-policing-reforms-george-floyds-murder>

Iowa's Response has been to adopt enhanced qualified immunity, and to eliminate the possibility of Iowa's largest cities from using Citizen Review Boards as a means of increasing police department transparency and accountability.

DES MOINES, IOWA, EFFORTS AT REFORM

The response in Des Moines has been mixed. The continued refusal of the Des Moines police department and City Council to engage in an After-Action Review gives clear witness to a city and police department that is resistant to reform. The recommendations of the Des Moines Marijuana Task Force and independent studies done by Public Works LLC and 21CP Solutions, are largely being ignored. In spite of that, there appear to be reasons to be hopeful.

An Anti-Racial Profiling Ordinance was passed in June 2020. It also mandated annual de-escalation and implicit bias training and required a police officer to report any fellow officer who engages in wrongful or racially-biased policing.

In 2021, Just Voices released a study of the Special Enforcement Team (SET) that operated in warm months to seize illegal guns and marijuana. The five-year study revealed grave disparity (65% of arrests made by the SET team were of Black Des Moines Residents). Following the release of the report the SET unit has not operated. As we reported in Volume 1 of the People's History,

community pressure (including Just Voices) demanded a third-party investigation into the patterns, practices, data, and culture of the DMPD. This led the City to hire two independent consultants who produced in-depth studies:

- Public Works LLC, made 23 recommendations for needed improvement in data collection and reporting practices. Some of the recommendations in this report are being implemented, such as establishing a Data Analytical Unit focused on data collection, analysis, and public reporting.

- 21 CP Solution, produced 46 recommendations for needed changes in the Department. It is unclear whether or not any of the recommendations have been implemented.

In October 2022, the DMPD adopted a policy that requires police officers to issue a citation or a written warning as a part of any traffic stop so that there is a complete record of all traffic stops taking place (this was not required previously). Just Voices has obtained and analyzed the first 1.5 years of this data, showing significant racial disparity in issuing such warning citations.

Since the publication of Just Voices study on the SET team and the subsequent disbandment of this special ops unit, the number of marijuana possession arrests have decreased dramatically. This is the good news; but take note that the racial disparity in these types of arrests has not changed.

The Des Moines Police Department is currently in the multiple-year process to obtain accreditation by the Commission on Accreditation for Law Enforcement Agencies (CALEA).

AMOS (A Mid-Iowa Organizing Strategy) worked with community hospital Broadlawns and the DMPD to establish two mental health crisis response teams, one for adults and one for teens. There is a full-time mental health counselor embedded in the 9-1-1 dispatch team as well as a team of mental health experts ready to respond to crisis situations where mental health intervention is needed, not so much law enforcement.

CHANGES DEMANDED ARE SETTLED IN COURT

In October 2020, Harvey Harrison won a lawsuit against the department for access to police body cam footage.

In March of 2025, the Iowa Supreme Court unanimously ordered the Des Moines Police Department to turn over to Harrison 385 individual use of force reports. This decision sets a precedent for the entire state of Iowa.

A NEW POLICE CHIEF SHOWS OPENNESS

The retirement of Dana Wingert and the installation of Michael McTaggart as the chief of police brings hope for change. Chief McTaggart has already met with Iowa Citizens for Community Improvement (Iowa-CCI), agreed to future meetings with Just Voices, had one general community meeting and has agreed to another community update meeting in the Fall of 2025.

Chief McTaggart has also agreed to allow community representatives to observe enhanced, scenario-based de-escalation training, and has hired an outside expert to assist in the preparation of a five-year strategic plan. Iowa-CCI's Racial Justice Team members have had an initial meeting with this consultant who promises to seek our input going forward as he creates the plan.

POLICE REFORM AS IT STANDS NOW

Overall on a federal, state, and local level, systemic change since George Floyd's death started with a bang and has dwindled to a spark. And now with a nation highly divided, experiencing serious threats to democracy and civil rights under the current president, and a society steeped in culture wars versus policy reform, the spotlight has dimmed considerably. And if you live in a "red state" (Republican majority) or "blue state" (Democrat majority), that will dictate if you've seen some progressive police reform or witnessed increased qualified immunity and reduction in civilian oversight of law enforcement.

As for Des Moines, community organizing and advocacy against racially-biased and unjust policing started years before George Floyd and continues at a consistent pace, and that's good news. Without the efforts of many social justice organizations, concerned residents, and progressive-minded elected officials in Des Moines, NONE of the hard-fought changes made so far would have ever happened. This gives us hope to continue in the struggle.

CONCLUSION & REFLECTIONS

As you have read, in Des Moines over the past 5 years, some protesters won their lawsuits, some lost their courtroom battles, and in one case (Miranda Nicolai), the lawsuit was dismissed by a judge. Protesters who won their cases and received a financial settlement were happy. Some received money and yet were still not satisfied. That's because money doesn't equal justice for everyone. For some, justice isn't about a financial settlement, it's about holding police accountable and getting real police reform and systemic change in policies and practices. Otherwise we must ask ourselves, what lessons have we learned so as not to repeat the mistakes of our past?

As we were preparing this report for publication, the US Department of Justice disavowed and moved to cancel the Consent Decrees obtained from Minneapolis and Louisville. The response to continued injustice and lack of police accountability must be unrelenting public pressure and advocacy for systemic changes in policing. It is a painful reminder of the ongoing need for local, organized work to obtain a more just, equitable, and race-neutral approach to public safety.

NOT ON OUR WATCH

With the installation of Michael McTaggart as the new police chief in Des Moines in December 2024, we have renewed hope that he will work with the community to implement the systemic changes that we and other concerned residents have demanded since the summer of 2018. We have seen a greater willingness on his part to meet with the community and open a dialogue about improving public safety through increased accountability, transparency, and dialogue. It is not possible to say that what happened to George Floyd on May 25, 2020, must never happen again. On multiple occasions IT ALREADY HAS!

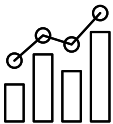
What we dare not concede is the inevitability that such tragedies will always happen. Rather, we must hold to the vision that positive change is gonna come and that the continuing murder of Black men and women will no longer be acceptable.

ABOUT JUST VOICES

Just Voices was founded in 2019 and we launched our website in 2020. We received non-profit status in 2021. Our mission is...

To build a platform that educates, advocates, and collaborates to end racially-biased and unjust policing in Des Moines and across Iowa. Our Vision is a society free from racial oppression.

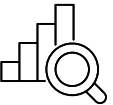
We use three main strategies to work towards progressive police reform:



1. DATA COLLECTION



2. STORYTELLING



3. INTENSIVE RESEARCH & REPORTS

ALSO, check out the Just Voices website at www.justvoicesiowa.org for more great data and information, plus the first-hand stories of racially-biased policing victims in Des Moines.

Just Voices will stay engaged in this fight and continue to demand laws at a local and state level that help to ensure the police are held accountable, practice complete and accurate data collection on policing, are transparent with their data, and engage the community. But we need your help and there are various ways you can do that:

[Give today please.](#)

THANK YOU FOR READING!

PLEASE GIVE...

If you appreciate the work of Just Voices and see the value of building a safer, thriving Des Moines, please make a tax-deductible donation to our work. It's easy to give online at: <https://justvoicesia.org/action/giving/>

Or VOLUNTEER...

Please reach out to us via email at info@justvoicesiowa.org for other ways to donate, volunteer, or become involved in helping us to speak truth and seek justice.

At least STAY INFORMED...

Follow us on most social media platforms including Facebook, Instagram, YouTube, and X. Our handle is [@justvoicesiowa](#). And definitely check out the latest stories, along with the most recent data & research on policing in Des Moines, IA, on our website, justvoicesia.org.

justvoicesia.org

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