

June 15, 2020

Levar Stoney
Mayor of Richmond
900 E. Broad St., Suite 201
Richmond, VA 23219

William Smith
Chief of Police
Richmond Police Department
200 W. Grace Street
Richmond, VA 23219

Colette McEachin
Commonwealth's Attorney
400 N 9th Street
Richmond, VA 23219



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Dear Mayor Stoney, Chief Smith, and Commonwealth's Attorney
McEachin,

We are writing to you today because of the concerning response of the Richmond Police Department ("RPD") to protests at Lee Monument on June 1, 2020 and other incidents of escalation of violence against protesters over the past two weeks. Another egregious example occurred this weekend on June 13, when a Richmond police SUV was filmed hitting a crowd of protesters near the Lee monument. We have received several intake reports, in many cases accompanied by video, documenting wanton and excessive use of force by RPD officers against individuals lawfully exercising their First Amendment right to free speech.

In discussing the events of June 1, one protester described her experience getting gassed "after a 2 ½ hour long completely peaceful protest" when "Richmond Police came on to the scene and barricaded us in. They then fired tear gas at the crowd for no reason, chased us down the streets and pepper-sprayed us and harassed us. They were entirely unprovoked and no crimes were committed by anyone involved in the march before this happened. This is the second time I have been involved in an unprovoked police assault this week."

Another man, who was with other demonstrators "on his knees in front of [police] with our hands up" described the scene this way:



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“Suddenly, and with NO VERBAL ORDER TO DISPERSE, they ignited and threw tear gas canisters at us. As the crowd fled, one officer charged and viciously pepper sprayed unarmed people who were already retreating.”

Another protester described the uncalled-for aggressive measures, which began before the city’s mandated curfew at 8pm. She, too, was “kneeling on the ground facing a line of police officers when the police officers shot off cans of tear gas and sprayed mace into the crowd” despite the fact that “[n]o protester was being violent, provocative, or acting in violation of any law.”

In addition to these actions taken against protesters, there were public reports that members of the press who were lawfully present covering the protest and the police response, were physically assaulted or told they had to leave the area. Publicly aired video shows that at least one reporter who was standing well away from any police action was told that they had to leave the area for “security” reasons. Richmond Police have used that tactic to keep the public from “seeing” what should be public behavior. That’s not acceptable and should not be permitted by department policy.

Mayor Stoney and Chief Smith have now acknowledged that the actions police took against protestors and against members of the media before curfew were unjustified and excessive. After-the-fact apologies are, however, insufficient to remedy the harm and ongoing risk that individuals face when exercising their constitutional rights in this city. All of you must take positive action—individually and collectively—to lead changes in the laws, policies, practices, and police culture that allowed these events to take place.

You must lead the implementation of lasting reforms that reimagine the role of police in our Commonwealth and how we keep communities safe. We must create a model of policing that is void of disparity, brings added transparency to the work of all police departments, ensures accountability for officers who violate departmental policies and constitutional norms, and achieves real justice. Only by exerting leadership to accomplish these objectives can you hope to restore the trust you have broken with the city and its people.

The ACLU demands that the rights of protesters be respected and protected and that there be no abuse of powers. The ACLU stands

with the protesters and expresses grief and anger at the systematic racism that has claimed the life of yet another Black person. Curfews and other practices that target communities of color, particularly Black people, who are already over-policed, should be discontinued. We also urge the police department to enact policy that requires officers, before resorting to summonses and custodial arrests, to warn people about how to be compliant. It is dangerous to take people into custody, and even more dangerous to admit people to jail during the ongoing COVID-19 public health crisis, as it puts people at greater risk for contracting the virus.



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In response to the immediate situation, we ask you to:

- **Take public action:** Hold the officers involved in the June 1 incident, and any other instances of aggression during protesting activities, responsible for their actions. Disciplinary action, with appropriate due process, is essential for building public trust and fostering accountability. Once the disciplinary proceedings are concluded, the names of any officers found to have violated departmental policies and constitutional norms, as well as the nature of the sanctions imposed for those violations, must be made public.
- **Implement measures protective of free speech:** Ensure all law enforcement officers and agencies recognize their primary role as guardians of freedom, know what constitutes constitutionally protected activity, and understand that their job is to protect the First Amendment rights of all participants in public protests and demonstrations while protecting public safety.
- **Ensure officers are easily identifiable:** Officers on duty should never be anonymous, and the public should always be able to identify easily who is policing them (by name and/or badge number). To the extent officers are required or allowed to wear protective vests or other outer wear that covers their name tags and badges, require that the outerwear be modified to allow an officer's name and badge number to be affixed to the outside of the vest. Require officers to provide their name verbally when asked.
- **Demand transparency and compliance with official policies:** Swiftly address violations of departmental



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policies or procedures, especially those that help assure public safety and transparency, such as the standards that govern the use of force and body cameras. Implement disciplinary standards that ensure that officers will face discipline, up to and including discharge, for serious or repeated violations of such official policies. Ensure transparency by making these policies and all General Orders that govern police conduct in Richmond readily available to the public.

- **Drop all charges against protesters:** Ensure that individuals who were arrested in connection with recent protests or for violating curfew have all charges against them dismissed. It is not sufficient to waive jail time, as even misdemeanor criminal charges carry lifelong consequences. In addition, waiving jail time leaves indigent people facing criminal prosecution without access to counsel.

To further community safety and protect the rights of each individual, you must become advocates for policy change at the state and local level both within RPD and the city. In concert with Richmond's legislative delegation, with your colleagues in the Virginia Association of Chiefs of Police, Virginia Municipal League, Virginia Association of Commonwealth's Attorneys, City Council, Sheriff's office, and others, you should spearhead these efforts.

We ask you to take all necessary action to implement these policy changes:

- **Defund and divest from policing:** Rewrite the City budget to take funds now invested in policing and reinvest those resources in education, health, crisis intervention, and other services that are preventative in nature. Redirect financial resources to bolster community services to address community welfare needs and establish a network of institutions predicated on care and transformative justice. This includes halting the use and acquisition of military and surveillance equipment, now or in the future, without the consent of the communities they are now policing.
- **Assess current policies with a racial justice framework:** Reevaluate all current practices, including training, to eliminate systemic practices that have a



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disparate impact on Black people and other communities of color. End the use of predictive policing and other practices that reinforce existing racial biases in the criminal justice system.

- **End policing of low-level offenses:** Identify and fund alternatives to prosecuting offenses, like disorderly conduct, panhandling and trespassing, that criminalize people who are mentally ill or homeless and cease arrests.
- **Require transparency:** Require and fund collection and public release of additional data on critical policing activity such as stop and frisk, use of force, citizen interactions and arrests, with demographic and geographic breakdowns. This should include publicly reporting data on police interactions through the City of Richmond Open Data Portal.
- **Establish civilian authority over policing:** Establish and fund a civilian review board with authority to investigate police misconduct, including subpoena power, whose composition reflects the demographic and geographic diversity of the community.
- **Hold police accountable:** Investigate past incidents of misconduct, such as reopening the case of Marcus-David Peters and others, and ensure a thorough, independent investigation of all allegations of brutality or misconduct. Advocate for state laws establishing mandatory professional conduct standards, including use of force, for all state certified law enforcement officers, and authorize the decertification of any officer who violates the standards or engages in misconduct on the job.
- **Adopt independent investigations and prosecutions:** Advocate for the establishment and funding of an independent state agency to investigate and prosecute cases in which a law enforcement or correctional officer is involved in an incident in which a person in custody is seriously injured or killed. In the interim, ensure that any officer-involved death or serious injury in the city is investigated and prosecuted by qualified people from outside the Richmond Police Department and the city Commonwealth's Attorney's office.

We look forward to hearing back from you and seeing what steps you will take next to ensure that all people in the city (whether

residents or visitors) are protected in their exercise of free speech and guarded against the excessive use of force. We need equitable choice points when thinking about implementation and having community members engaged from the start.

Please let me know if you would like to meet to discuss our concerns or proposed solutions designed to increase accountability, transparency, and safety. Thank you for your time and consideration.

Very truly yours,

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