

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

Katie Blackwell,

Plaintiff,

Case Type: Civil

Court File No. 27-CV-24-15500

Judge Edward T. Wahl

vs.

Liz Collin, an individual; Dr. J.C. Chaix,
an individual; Alpha News, a Minnesota
non-profit corporation, White Birch
Publishing, LLC, d/b/a Paper Birch Press, a
Minnesota limited liability company,

Defendants.

**DEFENDANTS' MEMORANDUM OF LAW
IN SUPPORT OF SPECIAL MOTION FOR EXPEDITED RELIEF
PURSUANT TO MINN. STAT. § 554.09
AND FOR ALTERNATIVE RELIEF**

TABLE OF CONTENTS

INTRODUCTION.....	1
I. ISSUES	2
II. DOCUMENTS COMPRISING THE RECORD	3
III. FACTS.....	3
A. Before George Floyd’s Death, MPD Trained Its Officers to Use Knee-on-Neck Restraints.....	3
1. In 2005, MPD’s training materials included knee-on-neck restraints.....	3
2. In 2009, MPD’s training included knee-on-neck restraints	4
3. In 2010-15, MPD’s training included knee-on-neck restraints	5
4. In 2018-19, MPD’s training included knee-on-neck restraints	6
5. In 2020, MPD’s training included knee-on-neck restraints	8
a. MPD Policy Manual § 5-311 (“USE OF NECK RESTRAINTS”)	9
b. MPD Policy Manual § 5-316 (“MAXIMAL RESTRAINT TECHNIQUE”).....	10
c. MPD Policy Manual §§ 5-311 and 5-316 were in effect when Blackwell led to the MPD Training Division.....	11
B. May 25, 2020: George Floyd’s Arrest & Death	11
C. June 11, 2020: Chief Arradondo Discussed MRT with FBI & BCA Agents	12
D. Numerous MPD Officers Have Provided Sworn Declarations Stating that MPD Trained the Knee-on-Neck Restraint To All MPD Officers	13
E. Blackwell, Her Public-Official Position, and Her “Prominent” Testimony in the <i>Chauvin</i> trial.....	15
1. Blackwell’s professional roles.....	15
2. Blackwell’s testimony in the state and federal <i>Chauvin</i> trials	16
3. Blackwell’s IMDb page.....	19
F. June 5, 2020: MPD Agreed with the Minnesota Department of Human Rights to Amend MPD Policy Manual § 5-311	19
G. July 7, 2020: Lane’s Motion to Dismiss.....	20
H. August 5, 2020: Thao’s Motion to Dismiss and Related Proceedings	21
I. August 27, 2020: Kueng’s Motion to Dismiss	23

J.	August 28, 2020: Chauvin’s Motion to Dismiss	23
K.	April 27, 2022: The Minnesota Department of Human Rights Noted that MPD Policy Permitted “Neck Restraints.”	24
L.	The Federal Bureau of Investigation and the “Knee-on-Neck” Restraint.....	25
M.	National Use-of-Force Expert Scott DeFoe: The “Knee-to-Neck” Restraint is Consistent with Police Training Countrywide	26
N.	Before the Book & the Documentary Were Published, the Media Extensively Reported Regarding George Floyd’s Death, The Resulting Trials, and How MPD Permitted Neck Restraints.....	29
O.	October 17, 2022: the Book was Published	31
	1. Collin’s decision to write the Book.....	31
	2. Collin asked Chaix to help work on the Book	32
	3. Collin and Chaix’s extensive research	32
	4. Collin and Chaix’s sources told them about MPD’s use of the “knee-to-neck/upper shoulder” restraint	34
	5. Sources told Collin and Chaix disparaging allegations about Blackwell that Collin and Chaix chose not to include in the Book or Documentary.....	35
	6. White Birch Publishing, LLC’s role in the Book and lack of role in the Documentary	35
	7. Alpha News had no role in the Book	36
P.	June 16, 2023: The U.S. Department of Justice Repeatedly Stated that MPD Policy Permitted “Neck Restraints.”	36
Q.	May 2023: Attorney General Keith Ellison Claims Blackwell’s Testimony was “Crucial for the [S]tate.”	37
R.	The Documentary and Lieutenant Kim Voss’ June 15, 2023 Interview.....	37
	1. <i>The Fall of Minneapolis</i> followed the Book’s research	38
	2. Lieutenant Voss’s interview on June 15, 2023	39
S.	August 2023: Blackwell Promoted to Assistant Chief.....	39
T.	November 2023: The Documentary is Published	40
	1. Release of the Documentary	40
	2. The Documentary acknowledged it contained opinions	40
	3. Research underlying the Documentary	41

4.	White Birch Publishing LLC’s lack of any role in the Documentary	49
U.	Collin and Chaix’s Attempts To Invite MPD Senior Leadership to Participate In the Book and the Documentary	50
V.	The Reception of the Book and the Documentary	50
	1. The Book’s reception	50
	2. The Documentary’s reception	50
W.	Blackwell’s Complaint	53
	1. Service of the complaint (and failure to serve Defendant Chaix).....	53
	2. Blackwell’s defamation allegations.....	54
	a. Alleged defamation in the Book	54
	(1) Statement #1 from Complaint/actual passage	54
	(2) Statements #2 & #3 from Complaint/actual passage	55
	(3) Blackwell was hardly mentioned in the Book.....	56
	b. Alleged defamation in the Documentary	57
	(1) Statements #4-#7	58
	(2) What is actually in the Documentary	58
X.	The Book and the Documentary Represent “Matters of Public Concern”.....	61
	1. Blackwell’s Complaint	61
	2. Public-concern declarations	62
	a. Brian Peters, Executive Director of the MPPOA.....	62
	b. U.S. Representative Brad Finstad	63
	c. U.S. Representative Michelle Fischbach	64
	d. Corey Miltimore.....	65
	e. Minnesota Representative Harry Niska	66
	f. Minnesota Senator Mark Johnson.....	67
	g. Ron Eibensteiner	68
	h. Jim Schultz	69
	i. William Wernz.....	70
Y.	Blackwell and the University of Minnesota Riots in 2014	71
Z.	Defendants Are Members of the “Media”	73
AA.	Alpha News’ Second Documentary: <i>Minnesota v. We the People</i>	73
IV.	ARGUMENT	74

A.	Minnesota’s Uniform Public Expression Protection Act (UPEPA)	74
1.	UPEPA generally	74
2.	UPEPA applies to Blackwell’s claims	75
B.	Blackwell’s Defamation Claims Should Be Dismissed as a Matter of Law	76
1.	Blackwell cannot demonstrate a prima facie case as to each essential element of her defamation claims under Minn. Stat. § 554.13(a)(3)(i)	76
2.	Blackwell’s defamation claims fail to state a cause of action upon which relief may be granted under Minn. Stat. § 554.13(a)(3)(ii)(A).....	77
a.	Each alleged defamatory statement is true.....	78
(1)	Statements #1-3 are true.....	79
(2)	Statements #4 and #5 are true	80
(3)	Statements #6 and #7 are true	82
b.	The alleged defamatory statements represent protected opinion	82
c.	The fair-reporting privilege immunizes Defendants	85
d.	Statements #6 and 7 fail for multiple other reasons.....	87
e.	Blackwell cannot prove constitutional actual malice by clear and convincing evidence.....	88
(1)	Blackwell is a “public official”	89
(2)	Blackwell is a “limited purpose public figure”	90
(3)	Minnesota requires proof of actual malice for matters of public concern	91
(4)	Blackwell’s Count 2 requires proof of actual malice	92
(5)	No constitutional actual malice exists.....	92
f.	Because she was <i>promoted</i> after the Book’s publication, Blackwell cannot prove the challenged speech resulted in reputational harm	95
g.	Blackwell missed the statute of limitations with respect to Collin and Chaix	96
h.	Alpha News is not liable for the Book	97
3.	Pursuant to Minn. Stat. § 554.13(a)(3)(ii)(B), there is no genuine issue of material fact with respect to Blackwell’s claims and Defendants are entitled to judgment as a matter of law	97
C.	This Court Should Grant Defendants’ Attorneys’ Fees and Costs	98

D. Alternatively, This Court Should Grant. Defendants Alternative Motions 98

V. CONCLUSION 98

TABLE OF AUTHORITIES**CASES**

<i>Abrahamson v. St. Louis Cty. Sch. Dist.</i>	
819 N.W.2d 129 (Minn. 2012)	88
<i>Alexander v. Ball</i>	
2021 WL 2201491, 2021 Minn. App. Unpub. LEXIS 519 (Minn. App. June 1, 2021)	78
<i>Ayyadurai v. Floor64, Inc.</i>	
270 F. Supp. 3d 343 (D. Mass. 2017).....	84
<i>Balwant Prasad v. Leary</i>	
2024 Minn. App. Unpub. LEXIS 451 (Minn. App. June 3, 2024)	96
<i>Bebo v. Delander</i>	
632 N.W.2d 732 (Minn. App. 2001)	82, 83
<i>Bowman v. Pulaski Cty. Special Sch. Dist.</i>	
723 F.2d 640 (8th Cir. 1983)	76
<i>Bressler v. Fortune Magazine, Div. of Time, Inc.</i>	
971 F.2d 1226 (6th Cir. 1992)	94
<i>Britton v. Koep</i>	
470 N.W.2d 518 (Minn. 1991)	passim
<i>Brown v. State</i>	
617 N.W.2d 421 (Minn. App. 2000), <i>rev. denied</i> , 2000 Minn. LEXIS 743 (Minn. Nov. 21, 2000)	77
<i>Capan v. Daugherty</i>	
402 N.W.2d 561 (Minn. App. 1987).	83
<i>Chafoulias v. Peterson</i>	
668 N.W.2d 642 (Minn. 2003)	passim
<i>Chandok v. Klessig</i>	
632 F.3d 803 (2d Cir. 2011)	86
<i>Chapin v. Knight-Ridder, Inc.</i>	
993 F.2d 1087 (4th Cir. 1993)	81

<i>City of Minneapolis v. Moe</i>	
450 N.W.2d 367 (Minn. App. 1990)	75
<i>ComputerXpress, Inc. v. Jackson</i>	
93 Cal. App. 4th 993 (Cal. Ct. App. 2001).....	84
<i>Cottrell v. Smith</i>	
299 Ga. 517 (Ga. 2016).....	84, 85
<i>Culliton v. Mize</i>	
403 N.W.2d 853 (Minn. App. 1987)	89
<i>Daoust v. Reid</i>	
2023 Mich. App. LEXIS 430 (Mich. Ct. App. Jan. 19, 2023)	84, 85
<i>Demers v. City of Minneapolis</i>	
468 N.W.2d 71 (Minn. 1991)	75
<i>DeRosa v. McKenzie</i>	
936 N.W.2d 342 (Minn. 2019)	77
<i>Diesen v. Hessburg</i>	
455 N.W.2d 446 (Minn. 1990)	82, 83, 86, 88, 93
<i>Ducklow v. KSTP-TV, LLC</i>	
2014 Minn. App. Unpub. LEXIS 169 (Minn. App. Mar. 3, 2014).....	92
<i>Dun & Bradstreet, Inc. v. Greenmoss Builders, Inc.</i>	
472 U.S. 749 (1985)	75
<i>Dunlap v. Philadelphia Newspapers, Inc.</i>	
448 A.2d 6 (Pa. Super. 1982)	90
<i>Elstrom v. Indep. Sch. Dist. No. 270</i>	
533 N.W.2d 51 (Minn. App. 1995)	90
<i>Engquist v. Or. Dep't of Agric.</i>	
553 U.S. 591 (2008)	91, 92
<i>Ethridge v. North Mississippi Communications, Inc.</i>	
460 F. Supp. 347 (N.D. Miss. 1978)	90
<i>Gabbert v. Star Tribune Media Co.</i>	
2022 Minn. App. Unpub. LEXIS 469 (Minn. App. July 25, 2022).....	87
<i>Geraci v. Eckankar</i>	
526 N.W.2d 391 (Minn. App. 1995)	84

<i>Gernander v. Winona State Univ.</i>	
428 N.W.2d 473 (Minn. Ct. App. 1988).....	87
<i>Gertz v. Robert Welch, Inc.</i>	
418 U.S. 323 (1974).....	83, 90, 91
<i>Gibson v. Special Sch. Dist. #1</i>	
2020 WL 1129871, 2020 Minn. App. Unpub. LEXIS 191 (Minn. App. Mar. 9, 2020).....	78
<i>Harte-Hanks Communications, Inc. v. Connaughton</i>	
491 U.S. 657, 665-67 (1989).....	92
<i>Harvey v. Wackenhut Corp.</i>	
2006 Minn. App. Unpub. LEXIS 628 (Minn. App. June 13, 2006).....	98
<i>Hunt v. University of Minn.</i>	
465 N.W.2d 88 (Minn. App. 1991)	82, 83
<i>Hunter v. Coughlin</i>	
2021 WL 1962905, 2021 Minn. App. Unpub. LEXIS 488 (Minn. App. May 17, 2021).....	57, 83, 92
<i>Hunter v. Hartman</i>	
545 N.W.2d 699 (Minn. App. 1996) <i>rev. denied</i> (Minn. June 19, 1996)	78, 79, 80, 81, 82
<i>Huyen v. Driscoll</i>	
479 N.W.2d 76 (Minn. App. 1991), <i>rev. denied</i> (Minn. Feb. 10, 1992).....	83
<i>In re Charges of Unprofessional Conduct</i>	
720 N.W.2d 807 (Minn. 2006).....	92
<i>Jacobson v. Rochester Commc'ns Corp.</i>	
410 N.W.2d 830 (Minn. 1987)	75
<i>Jadwin v. Minneapolis Star & Tribune Co.</i>	
367 N.W.2d 476 (Minn. 1985).....	91, 92, 93
<i>Jadwin v. Minneapolis Star & Tribune Co.</i>	
390 N.W.2d 437 (Minn. App. 1986)	78, 79, 81
<i>Jevremovic v. Courville</i>	
2023 U.S. Dist. LEXIS 139440 (D.N.J. Aug. 10, 2023).....	84
<i>Jha v. Mahmood Khan</i>	
520 P.3d 470 (Wash. 2022).....	74, 98

Jirak v. Eichten

2012 WL 2505748, 2012 Minn. App. Unpub. LEXIS 606 (Minn. App. July 2, 2012).....79, 83

Johnson v. Freborg

995 N.W.2d 374 (Minn. 2023), *cert. denied*, 144 S. Ct. 819 (2024).....75, 91

Konikoff v. Prudential Ins. Co. of America

234 F.3d 92 (2d Cir. 2000)86

Lake v. Wal-Mart Stores, Inc.

582 N.W.2d 231 (Minn. 1998)86

Larson v. Gannett Co.

940 N.W.2d 120 (Minn. 2020)82, 86, 87

Latour v. Minneapolis Community & Tech. College

2001 Minn. App. LEXIS 210 (Minn. App. Feb. 27, 2001)97

Lewis v. Univ. Chronicle

2008 Minn. App. Unpub. LEXIS 210 (Minn. App. Jan. 25, 2008).....91, 92

Logan v. Fairfield

1989 Ohio App. LEXIS 5008 (Ohio Ct. App. Oct. 26, 1989).....84

Longbehn v. Schoenrock

727 N.W.2d 153 (Minn. App. 2007)92

Lund v. Chi. & Nw. Transp. Co.

467 N.W.2d 366 (Minn. App. 1991)83

MacDonald v. Brodkorb

939 N.W.2d 468 (Minn. App. 2020)82, 86, 88, 93, 94

Maethner v. Someplace Safe, Inc.

929 N.W.2d 868 (Minn. 2019)75, 89, 91, 92, 95

Martens v. Minn. Mining & Mfg. Co.

616 N.W.2d 732 (Minn. 2000)77

Masson v. New Yorker Magazine, Inc.

501 U.S. 496 (1991)78

McCabe v. Rattiner

814 F.2d 839 (1st Cir. 1987).....84

McGovern v. Cargill, Inc.

463 N.W.2d 556 (Minn. App. 1990)96

<i>McKee v. Cosby</i>	
236 F. Supp. 3d 427 (D. Mass.), <i>aff'd</i> , 874 F.3d 54 (1st Cir. 2017).....	84
<i>McKee v. Laurion</i>	
825 N.W.2d 725 (Minn. 2013)	passim
<i>Meeker v. IDS Prop. Cas. Ins. Co.</i>	
862 N.W.2d 43 (Minn. 2015)	96
<i>Metcalf v. KFOR-TV, Inc.</i>	
828 F. Supp. 1515 (W.D. Okla. 1992).....	84
<i>Michaelis v. CBS, Inc.</i>	
119 F.3d 697 (8th Cir. 1997)	86
<i>Miller v. City of West Columbia</i>	
471 S.E.2d 683 (S.C. 1996).....	90
<i>Molnar v. Klammer</i>	
2005 Ohio App. LEXIS 6227 (Ohio App. Dec. 23, 2005).....	84
<i>Moreno v. Crookston Times Printing Co.</i>	
610 N.W.2d 321 (Minn. 2000)	passim
<i>NBC Subsidiary (KCNC-TV), Inc. v. Living Will Center</i>	
879 P.2d 6 (Colo. 1994).....	84
<i>New York Times v. Sullivan</i>	
376 U.S. 254 (1964)	87, 89
<i>Newson v. Henry</i>	
443 So. 2d 817 (Miss. 1983)	90
<i>Nixon v. Dispatch Printing Co.</i>	
112 N.W. 258 (Minn. 1907)	87
<i>Northfield Care Ctr., Inc. v. Anderson</i>	
707 N.W.2d 731 (Minn. App. 2006)	98
<i>O'Donnell v. City of Buffalo</i>	
2008 Minn. App. Unpub. LEXIS 124 (Minn. App. Feb. 5, 2008)	90, 92
<i>Open Source Sec., Inc. v. Perens</i>	
803 F. App'x 73 (9th Cir. 2020)	85
<i>Orr v. Lynch</i>	
60 A.D.2d 949 <i>aff'd</i> , 45 N.Y.2d 903 (N.Y. 1978)	90

<i>Paterson v. Little, Brown & Co.</i>	
502 F. Supp. 2d 1124 (W.D. Wash. 2007)	84
<i>Phantom Touring, Inc. v. Affiliated Publ'ns</i>	
953 F.2d 724 (1st Cir. 1992).....	84
<i>Phillips v. KIRO-TV, Inc.</i>	
817 F. Supp. 2d 1317 (W.D. Wash. 2011)	84
<i>Pishgoo v. Langroudi</i>	
2018 Cal. App. Unpub. LEXIS 2165 (Cal. App. Mar. 27, 2018).....	84, 85
<i>Quinn v. Thomas</i>	
2010 U.S. Dist. LEXIS 78035 (D. Nev. July 28, 2010)	84
<i>Richie v. Paramount Pictures Corp.</i>	
544 N.W.2d 21 (Minn. 1996)	95, 96
<i>Rinsley v. Brandt</i>	
700 F.2d 1304 (10th Cir. 1983)	84
<i>Samost v. Voorhees</i>	
2013 N.J. Super. Unpub. LEXIS 554 (N.J. Sup. Ct. App. Div. Mar. 14, 2013)	84
<i>Smartmatic USA Corp. v. Michael J. Lindell & My Pillow, Inc.</i>	
2022 U.S. Dist. LEXIS 168165 (D. Minn. Sep. 19, 2022)	91, 92
<i>Smith v. City of Crosby</i>	
2022 Minn. App. Unpub. LEXIS 33 (Minn. App. Jan. 18, 2022).....	92
<i>Snyder v. Phelps</i>	
562 U.S. 443 (2011)	75, 89
<i>Sohn v. Arbisi</i>	
2023 Minn. App. Unpub. LEXIS 580 (Minn. App. July 17, 2023).....	96, 97
<i>St. Amant v. Thompson</i>	
390 U.S. 727 (1968).....	93
<i>State v. Turner</i>	
864 N.W.2d 204 (Minn. App. 2015)	91
<i>Stephens v. Geoghegan</i>	
702 So. 2d 517 (Fl. App. 1997).....	90
<i>Stevenson v. Stevenson</i>	
2023 Minn. Dist. LEXIS 5301 (Otter Tail Cnty. Dist. Ct. June 16, 2023).....	78

<i>Time, Inc. v. Pane</i>	
401 U.S. 279 (1971)	90
<i>Times Herald Printing Co. v. Bessent</i>	
601 S.W.2d 487 (Tex. Ct. App. 1980)	90
<i>Tousignant v. St. Louis Cty.</i>	
615 N.W.2d 53 (Minn. 2000)	77
<i>Trivedi, LLC v. Lang</i>	
2017 Minn. App. Unpub. LEXIS 389 (Minn. App. May 1, 2017)	89
<i>Turkish Coal. of Am., Inc. v. Bruininks</i>	
678 F.3d 617 (8th Cir. 2012)	84
<i>Uzamere v. Daily News, L.P.</i>	
946 N.Y.S.2d 69 (N.Y. Cnty. Sup. Ct. 2011)	84, 85
<i>Weinberger v. Maplewood Review</i>	
668 N.W.2d 667 (Minn. 2003)	89
<i>West v. Media Gen. Operations, Inc.</i>	
250 F. Supp. 2d 923 (E.D. Tenn. 2002)	87

STATUTES

Minn. Stat. § 541.07	96
Minn. Stat. § 554.07	74
Minn. Stat. § 554.08	75, 76
Minn. Stat. § 554.12	77, 88
Minn. Stat. § 554.13	passim
Minn. Stat. § 554.16	98
Minn. Stat. § 554.17	78

RULES

Minn. R. Civ. P. 3.01	96
-----------------------------	----

TREATISES

Minn. Laws, ch. 123, art. 18 (2024)	74
RESTATEMENT (SECOND) OF TORTS § 581A (1977)	78

RESTATEMENT (SECOND) OF TORTS § 611 (1975).....86

INTRODUCTION

In April 2021, certain Minneapolis Police Department (“MPD”) senior officers, including Plaintiff Katie Blackwell (“Blackwell”), testified that Officer Derek Chauvin violated MPD’s policies in connection with George Floyd’s death on May 25, 2020. Blackwell claims Defendants defamed her based on statements that it “seems” like Blackwell lied when she testified that Chauvin used an unrecognized, “improvised position” that MPD did not train.

On May 25, 2020, MPD’s written policy manual explicitly allowed officers to use an “arm or leg” to compress “one or both sides of a person’s neck.” From at least 2005 into 2020, numerous MPD training pictures show its officers attempting to restrain a person by putting their knee on the side of the person’s neck. The U.S. Department of Justice, the Minnesota Department of Human Rights, and myriad media outlets have described how MPD’s policy manual not only authorized MPD officers to use knee-on-neck restraints prior to George Floyd’s death, but also that MPD officers regularly did so. With this motion, 33 former MPD officers who served with Blackwell, and one who currently serves with her, have sworn that MPD trained this restraint as part of the “maximal-restraint technique” (“MRT”) and otherwise. Indeed, 14 of these officers have sworn—under oath—their belief that Blackwell perjured herself.

The First Amendment is essential because it guarantees United States citizens’ right to expose governmental misconduct, critique official policies, and demand transparency. These ideals become even more important when reporters expose senior law-enforcement officers’ attempts to shift responsibility to, and scapegoat, rank-and-file officers. Such is the case here.

Minnesota recently enacted the bipartisan Uniform Public Expression Protection Act (“UPEPA”) to protect First-Amendment rights. UPEPA provides that if a plaintiff, such as Blackwell, fails to prove that a factual and legal basis exists for his/her civil-defamation claims, the claims must be dismissed with prejudice. Here, Blackwell has not come remotely close to

sustaining this burden. Blackwell remarkably claims that Collin and Chaix defamed her when they opined that it “*seemed*” like Blackwell lied. In reality, this opinion was far more generous than necessary. It is a fact.

In addition to the truth and Defendants’ opinion, the fair-reporting privilege, the absence of any constitutional actual malice, and Blackwell’s lack of injury provide independent grounds for this Court to grant Defendants’ special motion. Furthermore, and despite Defendants’ counsel’s offer to sign a waiver-of-service form within the statute of limitations, Blackwell’s claims against Collin and Chaix contravene the two-year statute of limitations applicable to the book, i.e., *THEY’RE LYING: THE MEDIA, THE LEFT, AND THE DEATH OF GEORGE FLOYD* (hereinafter “the Book”). Accordingly, for the multiple bases described herein, Defendants respectfully request that this Court grant their special motions to dismiss in accordance with their Proposed Order.

I. ISSUES

Pursuant to Minn. R. Gen. Prac. 115.01(d)(1), the issues which are the grounds for this motion include whether any Defendant defamed Blackwell, including whether the allegedly defamatory statements are true/substantially true, whether they constitute unactionable opinion, whether the fair-reporting privilege immunizes Defendants, whether Defendants acted with constitutional actual malice, whether Defendants served their Complaint on Collin and Chaix within the statute of limitations applicable to the Book, whether Alpha News had anything to do with the Book, whether White Birch Publishing, LLC had anything to do with the Documentary,¹ and whether Blackwell can claim attorneys’ fees when no law supports such a claim.

¹ The “Documentary” in this memorandum refers to the documentary film *The Fall of Minneapolis*. The Documentary film was provided to the Court on a USB stick and is attached to the Declaration of Kelsey Lund (Jan. 2, 2025) at Exhibit 1. A transcript of the Documentary can be found in the Lund Decl. at Exhibit 2.

II. DOCUMENTS COMPRISING THE RECORD

Pursuant to Minn. R. Gen. Prac. 115.01(d)(2), Defendants identify the following:

Complaint filed on October 15, 2024			
Declarations with exhibits attached thereto:			
Matthew Alberts	Paul Hatle	Thomas Mack	Marvin Schumer
Carl Blad	Lindsay Herron	Chris Madel	Joe Sheeran
James Carlson	Christopher House	Corey Miltimore	Brandy Steberg
Dr. JC Chaix	Grant Johnson	Stephen Moore	Chris Steward
Liz Collin	Sen. Mark Johnson	Aaron Morrison	Ken Tidgwell
Scott Creighton	Mark Kaspszak	Rep. Harry Niska	David Voss
Scott DeFoe	Bill Kenow	Charles Peter	Kimberly Voss
Ron Eibensteiner	Alex Kharam	Brian Peters	Darrin Waletzki
Rep. Brad Finstad	Joel Kimmerle	David Pleoger	Joseph Will
Rep. Michelle Fischbach	Jeremiah Kocher	Kurt Radke	Alan Williams
Michael Geere	Bob Kroll	Jason Reimer	
Scott Grabowski	Clint Letch	David Roiger	
Anna Hansen	Kelsey Lund	Jim Schultz	

III. FACTS²

A. Before George Floyd's Death, MPD Trained Its Officers to Use Knee-on-Neck Restraints

1. In 2005, MPD's training materials included knee-on-neck restraints

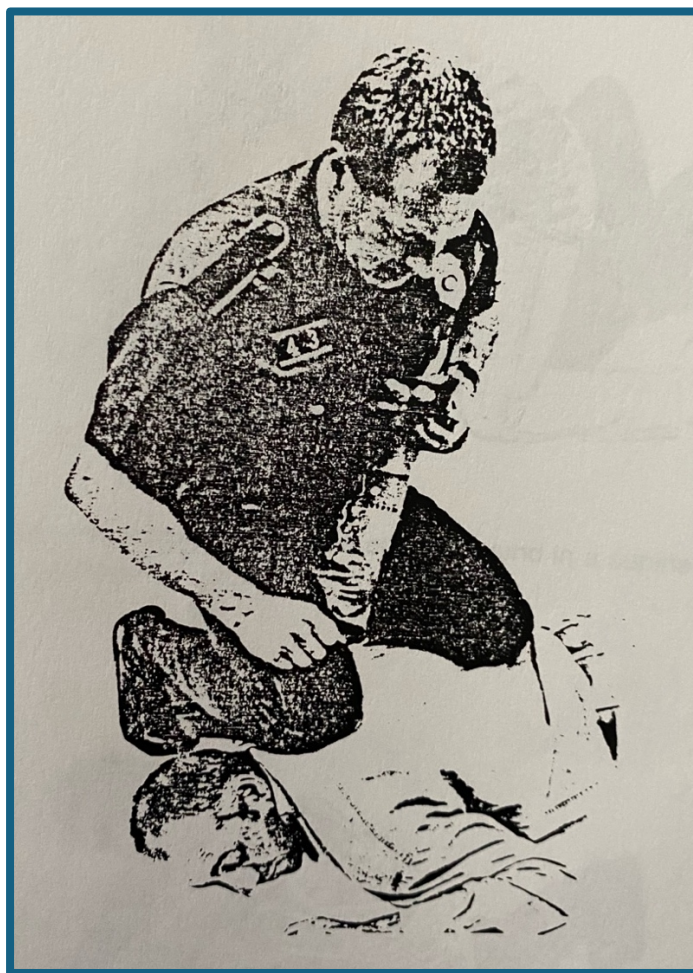
In 2005, MPD distributed a manual entitled "Use of Force and Force Applications."³ Collin reviewed this manual as part of her research for the Book.⁴ This MPD manual included this image:⁵

² These facts are tendered to the Court pursuant to Minn. Gen. R. Prac. 115.01(d)(3).

³ Declaration of Liz Collin at ¶ 60 and Ex. D (Dec. 30, 2024). (copy of actual 2005 MPD Training Book).

⁴ *Id.* at ¶ 60.

⁵ *Id.* The Documentary included this picture. Documentary at 1:01:40 – 1:01:52 (Lund Decl. at Ex. 1).



2. In 2009, MPD's training included knee-on-neck restraints

MPD Officer Tou Thao was one of the four officers criminally charged for the death of George Floyd.⁶ MPD trained Thao to become an MPD officer in 2009.⁷ Thao's MPD training included knee-on-neck restraints.⁸

⁶ Declaration of Dr. JC Chaix at ¶ 47 (Dec. 30, 2024);

⁷ Defendant Tou Thao's Closing Argument, *State of Minnesota v. Thao*, Court File No. 27-CR-20-12949, at 11 (Henn. Cty. Jan. 31, 2023) (Lund Decl. at Ex. 3).

⁸ *Id.* at 11-19, 26-27, 46-47, and 53-54.



3. In 2010-15, MPD's training included knee-on-neck restraints

As part of their research for the Book, Collin and Chaix obtained additional pictures from MPD officers that depict MPD training of knee-on-neck restraints:⁹

⁹ Collin Decl. at ¶¶ 63, 85, and Ex. B.



4. In 2018-19, MPD's training included knee-on-neck restraints


MPD's 2018-19 training materials show that MPD trained its officers to place a knee on a subject's neck and shoulders.¹⁰ These materials included the following picture from a PowerPoint presentation, complete with MPD's badge in the lower-right hand portion of the slide:¹¹

¹⁰ Chauvin's Memorandum of Law in Support of Defendant's Motion to Dismiss, *State v. Chauvin*, File 27-CR-20-12646 at 17 (Aug. 28, 2020) (in Lund Decl. at Ex. 5); Thao Closing Argument, *supra* note 7, at 24-30.

¹¹ *See id.*; *see also* Exhibit 8 to Memorandum of Law in Support of Defendant's Motion to Dismiss, *State v. Chauvin*, File 27-CR-20-12646 at 002596 (Aug. 28, 2020) (in Lund Decl. at Ex. 6); Thao Closing Argument, *supra* note 7 at 24-28 (in Lund Decl. at Ex. 3) (stating this PowerPoint slide

Ok they are in handcuffs now what.

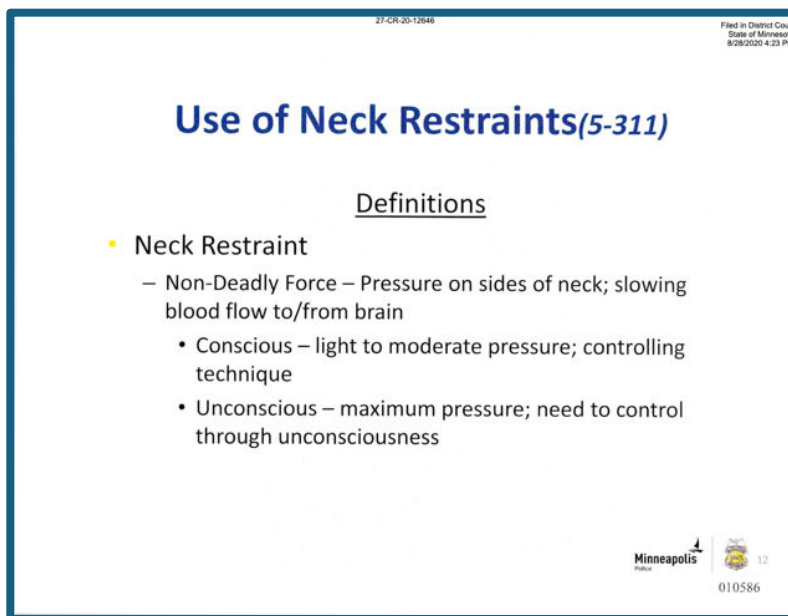
- Sudden cardiac arrest typically occurs immediately following a violent struggle
- Place the subject in the recovery position to alleviate positional asphyxia
- Once in handcuffs, get EMS on scene quickly to monitor and transport
- Sign a transport hold on these individuals
- Complete a CIC report

MPD training also included references to the MPD Policy Manual, and specifically § 5-311 (neck restraints) and § 5-316 (maximal restraint technique, or MRT) during the time that Blackwell was commander of MPD training. For example, a PowerPoint slide entitled “2019 MPD Policy” cites and describes MPD Policy Manual § 5-311:¹²

was used during MPD training in 2019); *id.* at 27 (“This slide shows a training officer with his knee on the neck of a person restrained in handcuffs in the prone position. Other officers look on and also aid in holding down the man.”); *see also* Pilar Melendez, *Minneapolis PD Trained Officers to Use the Neck Restraint That Killed George Floyd: Docs*, THE DAILY BEAST (July 8, 2020), <https://www.thedailybeast.com/minneapolis-police-department-trained-officers-to-use-neck-restraint-that-killed-george-floyd-manual-shows/> (showing and discussing this PowerPoint slide) (Lund Decl. at Ex. 7).

The Book also included this PowerPoint training slide. Book at 110 (Collin Decl. at Ex. A).¹² 2019 MPD Policy PowerPoint at 010586 (Lund Decl. at Ex. 8) (this PowerPoint is cited as Exhibit 15 in Memorandum of Law in Support of Defendant’s Motion to Dismiss, *State v. Chauvin*, File 27-CR-20-12646 at 14) (Aug. 28, 2020) (in Lund Decl. at Ex. 5).



Note that this slide specifically mentions “pressure on sides of neck” and does not say that the officer employing the restraint should only use his/her arms—as opposed to his arms *and* legs.¹³ Indeed, as shown below, MPD’s Policy Manual in effect on May 25, 2020 specifically authorized using arms and legs with respect to neck restraints.¹⁴ This same PowerPoint presentation includes several slides regarding the MRT.¹⁵

5. In 2020, MPD’s training included knee-on-neck restraints

The MPD Policy Manual in effect at the time of George Floyd’s death in May 2020 is attached to the Chaix Declaration at Exhibit 9.¹⁶ It is referred to herein as the “MPD Policy Manual.”

¹³ *See id.*

¹⁴ *See infra* § III.A.5.a.

¹⁵ Lund Decl. at Ex. 8 at 010596-98.

¹⁶ *MPD Policy & Procedure Manual, § 5-311, Use of Neck Restraints and Choke Holds*, MINNEAPOLIS POLICE DEPARTMENT (Oct. 21, 2019) [hereinafter “MPD Policy Manual”] in Chaix Decl. at Ex. 9 As noted below, Collin and Chaix also republished this MPD Policy Manual in the “RESEARCH” web page associated with their documentary, *The Fall of Minneapolis* (hereinafter the “Documentary”). (See <https://www.thefallofminneapolis.com/research> (described *infra*)).

a. **MPD Policy Manual § 5-311 (“USE OF NECK RESTRAINTS”)**

Section 5-311 of the MPD Policy Manual¹⁷ provided:

5-311 USE OF NECK RESTRAINTS AND CHOKE HOLDS (10/16/02) (08/17/07) (10/01/10) (04/16/12)

DEFINITIONS I.

Choke Hold: Deadly force option. Defined as applying direct pressure on a person’s trachea or airway (front of the neck), blocking or obstructing the airway (04/16/12)

Neck Restraint: Non-deadly force option. Defined as compressing one or both sides of a person’s neck with an arm or leg, without applying direct pressure to the trachea or airway (front of the neck). Only sworn employees who have received training from the MPD Training Unit are authorized to use neck restraints. The MPD authorizes two types of neck restraints: Conscious Neck Restraint and Unconscious Neck Restraint. (04/16/12)

Conscious Neck Restraint: The subject is placed in a neck restraint with intent to control, and not to render the subject unconscious, by only applying light to moderate pressure. (04/16/12)

Unconscious Neck Restraint: The subject is placed in a neck restraint with the intention of rendering the person unconscious by applying adequate pressure. (04/16/12)

PROCEDURES/REGULATIONS II.

- A. The Conscious Neck Restraint may be used against a subject who is actively resisting. (04/16/12)
- B. The Unconscious Neck Restraint shall only be applied in the following circumstances: (04/16/12)
 - 1. On a subject who is exhibiting active aggression, or;
 - 2. For life saving purposes, or;
 - 3. On a subject who is exhibiting active resistance in order to gain control of the subject; and if lesser attempts at control have been or would likely be ineffective.
- C. Neck restraints shall not be used against subjects who are passively resisting as defined by policy. (04/16/12)
- D. After Care Guidelines (04/16/12)
 - 1. After a neck restraint or choke hold has been used on a subject, sworn MPD employees shall keep them under close observation until they are released to medical or other law enforcement personnel.
 - 2. An officer who has used a neck restraint or choke hold shall inform individuals accepting custody of the subject, that the technique was used on the subject.

As § 5-311 of the MPD Policy Manual clearly stated, a “Neck Restraint” was “[d]efined as compressing one or both sides of a person’s neck with an arm *or leg*.”¹⁸ Moreover, § 5-311 provided officers with the discretion to use a variety of different knee-on-neck restraints depending on the situation, including compressing one or both sides of a person’s neck when a subject “is actively

¹⁷ MPD Policy Manual at § 5-311.

¹⁸ *Id.* (emphasis added).

resisting” and using a deadly chokehold for life-saving purposes.¹⁹

b. MPD Policy Manual § 5-316 (“MAXIMAL RESTRAINT TECHNIQUE”)

The MPD Policy Manual also contained a section on the “maximal restraint technique,” or “MRT.”²⁰ The “purpose” section of the MPD’s MRT policy generally associated the MRT with the “hobble restraint,” i.e., it described the need to “establish a policy on the use of ‘hobble restraint devices’ and the method of transporting prisoners who have been handcuffed with a hobble restraint applied.”²¹ Section 5-316 defined “hobble restraint” as “[a] device that limits the motion of a person by tethering both legs together. Ripp Hobble™ is the only authorized brand to be used.”²² But the definition of “Maximal Restraint Technique (MRT)” did not limit the MRT to using a “hobble restraint”: it defines MRT as a “[t]echnique used to secure a subject’s feet to their waist in order to prevent the movement of legs and limit the possibility of property damage or injury to him/her or others.”²³ In addition, the section “Maximal Restraint Technique—Safety (06/13/14)” provides that “[i]f the hobble restraint device is used, the person shall be placed in the side recovery position,”²⁴ thus leaving the possibility that the MRT could be employed without a hobble restraint.

MPD’s 2018 training materials show that officers were “trained to place a knee on a subject’s neck and shoulders when implementing MRT.”²⁵ And as shown below, numerous MPD officers confirm that MPD trained the knee-to-neck restraint as part of the MRT process.²⁶

¹⁹ *Id.*

²⁰ MPD Policy Manual at § 5-316.

²¹ *Id.* at I. (“PURPOSE”); *see also* Complaint at ¶ 28 (“The MRT is described in MPD policy and training materials. It involves using a hobble device, which is a tethered rope, to restrain a subject’s ankles and secure them at the waist.”).

²² MPD Policy Manual at § 5-316 at III. (“DEFINITIONS”).

²³ *Id.*

²⁴ *Id.* at § 5-316 at IV. B(1)(a) (emphasis added).

²⁵ Chauvin’s Memorandum of Law in Support of Defendant’s Motion to Dismiss, *State v. Chauvin*, File 27-CR-20-12646 at 17 (Aug. 28, 2020) (in Lund Decl. at Ex. 5).

²⁶ *See infra* at § III.D. and the 34 declarations cited therein.

c. MPD Policy Manual §§ 5-311 and 5-316 were in effect when Blackwell led the MPD Training Division

During the *State v. Chauvin* trial, Blackwell testified that she was “commander in the [MPD] training division” between April 14, 2019 and January 31, 2021.²⁷ She testified that she “oversaw” the MPD’s training curriculum while she was the commander of training.²⁸

Before George Floyd’s death on May 25, 2020, the relevant portions of § 5-311 were last amended on April 16, 2012,²⁹ and the relevant portions of § 5-316 were last amended on June 13, 2014.³⁰ Section 5-311 was then amended after Floyd’s death in May 2020.³¹ Blackwell, therefore, was commander of the MPD training division when the above-quoted §§ 5-311 and 5-316 were in effect at the MPD.³²

B. May 25, 2020: George Floyd’s Arrest & Death

On May 25, 2020, George Floyd died while in MPD custody.³³ Four MPD officers were involved during the process of his arrest: Derek Chauvin, Tou Thao, J. Alexander Kueng, and Thomas Lane.³⁴

In addition to their legal filings,³⁵ the four officers’ bodycams showed their individual and collective belief they were employing the MRT on Floyd. During the process of arrest, Lane said

²⁷ Transcript of Proceedings, *State of Minnesota v. Chauvin*, Vol. 18, File 27-CR-12646, at 3897:10-15, 3900:2-19 (April 5, 2021) (hereinafter “*State v. Chauvin* Transcript”) (Lund Decl. at Ex. 4).

²⁸ *Id.* at 3900:20-25.

²⁹ See MPD Policy Manual at § 5-311 (showing the date “04/16/12” after definitions of “Choke Hold,” “Neck Restraint,” “Conscious Neck Restraint,” “Unconscious Neck Restraint,” and after sentence “The Conscious Neck Restraint may be used against a subject who is actively resisting.”).

³⁰ See MPD Policy Manual at § 5-316 (showing the date “06/13/2014” after “Maximal Restraint Technique”).

³¹ Chaix Decl. at Ex 10.

³² Chaix Decl. at ¶¶ 71-72. The Book contains extensive discussion of MPD’s Policy Manual. See, e.g., Book at 26, 109-10, 202, 206-12 (Collin Decl. at Ex. A).

³³ Thao Closing Argument, *supra* note 7 at 6-8 (Lund Decl. at Ex. 3).

³⁴ *Id.* at 6-7.

³⁵ See *infra* at §§ III.G., III.H, III.I. and III.J.

to Kueng, “Let’s take him out and just MRE [sic].”³⁶ Thao then stated, “Just lay him on the ground.”³⁷ Lane stated, “Can you just get up on the, I appreciate that, I do.”³⁸ As noted *supra*, the MPD’s MRT involves a “hobble.”³⁹ One of the officers then stated, “Do you got your ah, restraint, hobble?”⁴⁰ Lane stated, “Mine’s in my side, it’s listed, it’s labeled. It says hobble, it’s in the top.”⁴¹ After Kueng stated, “EMS is on their way,” Thao responded, “Well do you want a hobble at this point then?”⁴² Lane responded, “Um, OK, all right.”⁴³ Thao also provided “hobble” restraint straps.⁴⁴ The four officers came to a group decision to not use the hobble because “at this point in time he was aware EMS was coming, and it would have impaired their work if Floyd was hobbled upon their arrival.”⁴⁵ All of these facts were recounted in the Book.⁴⁶

C. June 11, 2020: Chief Arradondo Discussed MRT with FBI & BCA Agents

On June 11, 2020, the Federal Bureau of Investigation (“FBI”) and Minnesota Bureau of Criminal Apprehension (“BCA”) interviewed MPD Chief Medaria Arradondo.⁴⁷ When asked about the maximal-restraint technique (MRT), Chief Arradondo noted that MPD officers referred

³⁶ Chaix Decl. at Ex. 7 at 13; Chaix Decl. at Ex. 6 at 00:10:44-00:10:47. While Lane’s counsel filed briefs contending that Lane stated “MRT,” Lane’s Memorandum Supporting Motion to Dismiss, *State v. Lane*, No. 27-CR-20-12951 at 5-6 (July 7, 2020) (Lund Decl. at Ex. 9), the bodycam video appears to show Lane accidentally stated “MRE” instead of “MRT.” Chaix Decl. at Ex. 7 at 13; Chaix Decl. at Ex. 6 at 00:10:44-00:10:47.

³⁷ Chaix Decl. at Ex. 7 at 13; Chaix Decl. at Ex. 6 at 00:10:50-00:10:53.

³⁸ Chaix Decl. at Ex. 7 at 13; Chaix Decl. at Ex. 6 at 00:10:53-00:10:56.

³⁹ MPD Policy Manual at § 5-316; *see supra*.

⁴⁰ Chaix Decl. at Ex. 7 at 13; Chaix Decl. at Ex. 6 at 00:11:02-00:11:08; Chaix Decl. at Ex. 4 at 00:11:32-00:11:38; Chaix Decl. at Ex. 8 at 00:02:40-00:02:45.

⁴¹ Chaix Decl. at Ex. 4 at 00:12:23-00:12:28.

⁴² Chaix Decl. at Ex. 7 at 14; Chaix Decl. at Ex. 8 at 00:03:48-00:03:53.

⁴³ Chaix Decl. at Ex. 7 at 14; Chaix Decl. at Ex. 6 at 00:12:15-00:12:20; Chaix Decl. at Ex. 8 at 00:03:53-00:03:58.

⁴⁴ Chaix Decl. at Ex. 8 at 00:02:59- 00:03:42; Thao Closing Argument, *supra* note 7 at 35-36, 55 (Lund Decl. at Ex. 3) (“Thao found and retrieved the hobble in Lane’s duty bag and handed it to Chauvin.”).

⁴⁵ Thao Closing Argument, *supra* note 7 at 35-36. (Lund Decl. at Ex. 3).

⁴⁶ Book at 209-12; *see also infra* (reproducing the text from the Book).

⁴⁷ BCA Transcript of Interview of Medaria Arradondo (June 11, 2020) (Lund Decl. at Ex. 10).

to it as the “hobble.”⁴⁸ This fact is also noted on the Documentary’s “RESEARCH” web page, discussed *infra*.⁴⁹

D. Numerous MPD Officers Have Provided Sworn Declarations Stating that MPD Trained the Knee-on-Neck Restraint To All MPD Officers

In this case, 34 MPD officers have sworn, under oath, that MPD trained them to use a knee-on-neck restraint in a variety of situations, including as part of the MRT process.⁵⁰ These officers swore that this training was well known—indeed, common knowledge—and omnipresent.⁵¹

For example, a former MPD defensive tactics instructor located and saved photographs

⁴⁸ *Id.* at 18.

⁴⁹ *See infra* at § III.T.3.

⁵⁰ Declaration of Matthew Alberts at ¶ 6 (Oct. 30, 2024); Declaration of Carl Blad at ¶ 6 (Nov. 4, 2024); Declaration of James Carlson at ¶ 6 (Oct. 29, 2024); Declaration of Scott Creighton at ¶ 6 (Oct. 23, 2024); Declaration of Michael Geere at ¶ 7 (Nov. 14, 2024); Declaration of Scott Grabowski at ¶¶ 6, 8 (Nov. 8, 2024); Declaration of Anna Hansen at ¶ 7 (Nov. 13, 2024); Declaration of Paul Hatle at ¶ 7 (Oct. 31, 2024); Declaration of Lindsay Herron at ¶ 7 (Oct. 21, 2024); Declaration of Christopher House at ¶¶ 6, 9 (Dec. 12, 2024); Declaration of Grant Johnson at ¶ 6 (Oct. 30, 2024); Declaration of Mark Kaspszak at ¶ 6 (Dec. 3, 2024); Declaration of Bill Kenow at ¶ 6 (Oct. 24, 2024); Declaration of Joel Kimmerle at ¶ 6 (Oct. 28, 2024); Declaration of Jeremiah (Jeb) Kocher at ¶¶ 6, 9 (Dec. 11, 2024); Declaration of Robert (Bob) Kroll at ¶¶ 15, 17 (Dec. 30, 2024); Declaration of Clint Letch at ¶ 10 (Nov. 18, 2024); Declaration of Thomas Mack at ¶ 6 (Oct. 29, 2024); Declaration of Stephen Moore at ¶ 8 (Oct. 31, 2024); Declaration of Aaron Morrison at ¶ 6 (Nov. 22, 2024); Declaration of Charles Peter at ¶ 6 (Oct. 30, 2024); Declaration of David Pleoger at ¶ 7 (Dec. 4, 2024); Declaration of Kurt Radke at ¶ 6 (Oct. 24, 2024); Declaration of Jason Reimer at ¶ 6 (Oct. 23, 2024); Declaration of David Roiger at ¶ 7 (Nov. 1, 2024); Declaration of Marvin Schumer at ¶ 7 (Oct. 28, 2024); Declaration of Brandy Steberg at ¶ 7 (Dec. 12, 2024); Declaration of Chris Steward at ¶ 6 (Dec. 4, 2024); Declaration of Ken Tidgwell at ¶ 9 (Nov. 26, 2024); Declaration of David Voss at ¶ 6 (Oct. 29, 2024); Declaration of Kim Voss at ¶ 6 (Oct. 29, 2024); Declaration of Darrin Waletzki at ¶ 6 (Oct. 23, 2024); Declaration of Joe Will at ¶ 5 (Dec. 9, 2024); Declaration of Alan Williams at ¶ 6 (Nov. 13, 2024).

⁵¹ *See, e.g.*, Creighton Decl. at ¶ 8 (“Besides me, numerous Minneapolis Police Officers participated in the training that I described in this declaration. It certainly wasn’t a secret.”); House Decl. at ¶ 11 (“Not only was the knee-to-neck/upper shoulder restraint trained, its use was common knowledge and part of MPD policy.”); Kenow Decl. at ¶ 8 (“Besides me, numerous Minneapolis Police Officers participated in the training that I described in this declaration. It certainly wasn’t a secret.”); Kocher Decl. at ¶ 12 (“In accordance with the training Minneapolis Police Officers received through the MPD on using the knee-to-neck/upper shoulder restraint, I witnessed MPD officers use the knee-to-neck restraint on many occasions throughout my

consistent with how he was trained, certified, and trained others, including the photograph shown below (red circling provided by the instructor):⁵²



career.”); Kroll Decl. at ¶ 17 (“Besides me, I know that numerous MPD officers were trained to place their knee on the side of a subject’s neck when dealing with a combative subject. It was common knowledge; it was trained in the open; and I saw numerous MPD officers perform it in training and in the field.”); Reimer Decl. at ¶ 8 (“Besides me, numerous Minneapolis Police Officers participated in the training that I described in this declaration. It certainly wasn’t a secret. It is necessary for an officer to pin a person to the ground while handcuffing the same person, and officers’ use of knee-to-neck/upper shoulder restraint was common during use-of-force training when I was at the MPD. That use-of-force training was mandatory by the Minnesota Board of Peace Officer Standards and Training (‘POST’).”); Steberg Decl. at ¶ 10 (“Besides me, numerous Minneapolis Police Officers participated in the training that I described in this declaration.”); Tidgwell Decl. at ¶ 13 (“Besides me, numerous Minneapolis Police Officers participated in the training that I described in this declaration. There was both classroom and hands-on training that involved the restraints that I described in this declaration.”); Waletzki Decl. at ¶ 8 (“Besides me, numerous Minneapolis Police Officers participated in the training that I described in this declaration. The training was department-wide.”); Will Decl. at ¶ 8 (“Besides me, numerous Minneapolis Police Officers participated in the training that I described in this declaration. There was both classroom and hands-on training that involved the restraints that I described in this declaration.”).

⁵² See Letch Decl. at ¶¶ 9–10 (noting that he trained officers to have the subject’s head facing away from the officer but that the photograph was otherwise consistent with how he was trained, certified, and trained others).

Consistent with several sources' statements to Collin and Chaix,⁵³ 14 MPD officers signed sworn declarations in this case stating their belief that Blackwell perjured herself.⁵⁴

E. Blackwell, Her Public-Official Position, and Her “Prominent” Testimony in the *Chauvin* trial

1. Blackwell's professional roles

In her own words, Blackwell has had an “extensive” career with the MPD.⁵⁵ After joining the MPD as a civilian in 1999 and as a community service officer in 2000, Blackwell became a sworn MPD officer in 2002.⁵⁶ She was later promoted to the commander of the training division.⁵⁷ During the *State v. Chauvin* trial, Blackwell testified that she was “commander in the [MPD] training division” between April 14, 2019 and January 31, 2021.⁵⁸ She stated that her “position as commander of the training division placed her at the forefront of officer development and policy implementation.”⁵⁹

Blackwell says that following the *Chauvin* trials, her “expertise was further recognized through significant promotions.”⁶⁰ “In January 2021, she was appointed inspector of the Fifth Precinct, overseeing operations for a substantial portion of Minneapolis.”⁶¹ “This promotion demonstrated the department's confidence in her leadership and operational knowledge.”⁶²

⁵³ Collin Decl. at ¶ 64; Chaix Decl. at ¶¶ 80-85.

⁵⁴ Alberts Decl. at ¶¶ 8-9; Geere Decl. at ¶¶ 8-9; Hansen Decl. at ¶¶ 8-9; Hatle Decl. at ¶¶ 8-9; Kaspszak Decl. at ¶¶ 8-9; Kocher Decl. at ¶¶ 7-8; Kroll Decl. at ¶ 18; Roiger Decl. at ¶¶ 8-9; Steberg Decl. at ¶¶ 8-9; Tidgwell Decl. at ¶¶ 11-12; Voss (David) Decl. at ¶¶ 7-8; Voss (Kim) Decl. at ¶¶ 8-9; Will Decl. at ¶¶ 6-7; Williams Decl. at ¶¶ 8-9.

⁵⁵ Complaint at ¶ 14.

⁵⁶ *Id.* at ¶ 16.

⁵⁷ *Id.*

⁵⁸ *State v. Chauvin* Transcript at 3897:10-15, 3900:2-19 (Lund Decl. at Ex. 4); *see also* Complaint at ¶ 17 (“Blackwell was promoted to commander of the training division in April 2019.”).

⁵⁹ Complaint at ¶ 18.

⁶⁰ *Id.* at ¶ 19.

⁶¹ *Id.*

⁶² *Id.*

In August 2023, Chief Brian O’Hara “appointed Blackwell as one of two new assistant chiefs in a major departmental reorganization.”⁶³ “In this role, she oversees daily operations, including patrol and investigations, placing her at the helm of MPD’s efforts to reform and improve policing practices.”⁶⁴ She is now an “Assistant Chief of the Minneapolis Police Department,”⁶⁵ publicly known as the MPD’s second-in-command.⁶⁶ Blackwell skipped over the rank of Deputy Chief, i.e., she was promoted straight from Inspector to Assistant Chief, consistent with the deprecating moniker MPD officers had already given her: “The Rocket.”⁶⁷

In her role as Assistant Chief, Blackwell has handled high-profile MPD statements. For example, on May 30, 2024, Blackwell briefed the media regarding the murder of MPD officer Jamal Mitchell.⁶⁸

2. Blackwell’s testimony in the state and federal *Chauvin* trials

Chauvin was subsequently charged with murder in state court and civil-rights crimes in federal court.⁶⁹ Blackwell alleged that she testified in both “high-profile” (her words) trials, stating

⁶³ *Id.* at ¶ 20; Louis Krauss, *Minneapolis Police Chief O’Hara says restructuring aimed at restoring community trust*, STAR TRIBUNE (Aug. 7, 2023), <https://www.startribune.com/minneapolis-restructures-police-department-two-divisions-operations-community-trust/600295487> (Lund Decl. at Ex. 11); Deena Winter, *Some of MPD’s newly appointed leaders have stains on their lengthy records*, MINNESOTA REFORMER (Aug. 29, 2023), <https://minnesotareformer.com/2023/08/29/some-of-mpds-newly-appointed-leaders-have-stains-on-their-lengthy-records/> (Lund Decl. at Ex. 12).

⁶⁴ Complaint at ¶ 20.

⁶⁵ *Id.* at ¶ 21.

⁶⁶ *See, e.g.,* Police Chief and Administration, CITY OF MINNEAPOLIS, <https://www.minneapolismn.gov/government/departments/police/police-chief-administration/> (last visited Dec. 2, 2024) (Lund Decl. at Ex. 13); Jeff Day, *Defamation lawsuit against ‘The Fall of Minneapolis’ documentary faces high legal hurdles*, STAR TRIBUNE (Oct. 25, 2024), <https://www.startribune.com/the-fall-of-minneapolis-defamation-lawsuit-liz-collin-alpha-news-katie-blackwell/601169494> (describing Blackwell as the “No. 2 ranking officer in the department”) (Lund Decl. at Ex. 14); Collin Decl. at ¶ 40 (describing Blackwell as MPD’s second-in-command).

⁶⁷ Chaix Decl. at ¶ 94.

⁶⁸ Lund Decl. at Ex. 15 at 04:23—06:40 (<https://www.youtube.com/watch?v=LOR8L-1sctI&t=273s>).

⁶⁹ Lund Decl. at Ex. 5 at 6; Complaint at ¶ 14; Lund Decl. at Ex. 84.

that “[h]er testimony was instrumental in establishing the standards against which Chauvin’s actions were judged.”⁷⁰ She has described her role in the trials as “pivotal”⁷¹ and “crucial.”⁷² She further claims that her “unique” qualifications were “prominently demonstrated” in the trials.⁷³

On April 5, 2021, during direct examination from the State, Blackwell testified regarding Exhibit 17,⁷⁴ i.e., the ubiquitous image of Derek Chauvin with his knee on the back of George Floyd’s neck:⁷⁵

20	Q. I'd like to show you what's been received as	
21	Exhibit 17. I'm going to ask you, Officer, as	
22	you look at Exhibit 17, is this a trained	
23	technique that's by the Minneapolis Police	
24	Department when you were overseeing the training	
25	unit?	

⁷⁰ Complaint at ¶ 14.

⁷¹ *Id.* at ¶ 19.

⁷² *Id.* at ¶ 14.

⁷³ *Id.*

⁷⁴ Exhibit 17 is attached to the Collin Declaration at Exhibit C.

⁷⁵ *State v. Chauvin* Transcript at 3922:20—3923:13 (Lund Decl. at Ex. 4); *see also id.* at 3667:14 (indicating testimony occurred on April 5, 2021).

27-CR-20-12646		Filed in District Court State of Minnesota 1/18/2022 8:28 AM
INSPECTOR KATIE BLACKWELL - CROSS-EXAMINATION		3923
1	A. It is not.	
2	Q. Why not?	
3	A. Well, use of force, according to policy, has to	
4	be consistent with MPD training. And what we	
5	train are neck restraints, the conscious and	
6	unconscious neck restraint. So per policy, a	
7	neck restraint is compressing one or both sides	
8	of the neck using an arm or leg, but what we	
9	train is using one arm or two arm to do a neck	
10	restraint.	
11	Q. And how does this differ?	
12	A. I don't know what kind of improvised position	
13	that is. So that's not what we train.	
14	MR. SCHLEICHER: Thank you. I have no	
15	further questions.	

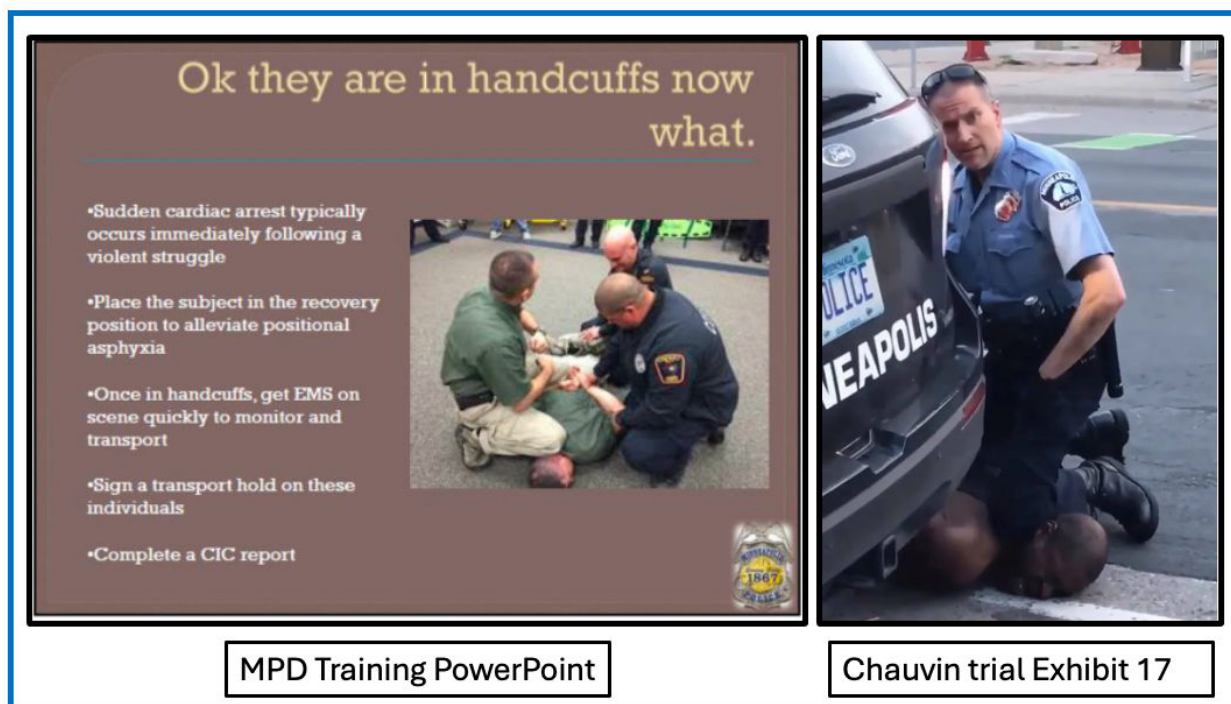
In the federal trial, Blackwell testified that “[t]he MRT is described in MPD policy and training materials”⁷⁶ but that “[t]he restraint technique used with George Floyd was not the MRT.”⁷⁷ As indicated above, 34 current and former MPD officers in this case have sworn, under oath, that MPD trained officers to use a “knee on neck/upper back” restraint as part of the MRT process.⁷⁸ Indeed, juxtaposing the picture from the PowerPoint slide above⁷⁹ with Exhibit 17 reveals that MPD trained its officers to use the knee-on-neck restraint:

⁷⁶ Complaint at ¶ 28.

⁷⁷ *Id.*

⁷⁸ *See supra.*

⁷⁹ Lund Decl. at Ex. 6 at 002596.



MPD Training PowerPoint

Chauvin trial Exhibit 17

This PowerPoint slide and Exhibit 17 were extensively displayed, and discussed, in the Book.⁸⁰

And like this brief, the Book also displayed two similar pictures side-by-side.⁸¹

3. Blackwell's IMDb page

“Launched online in 1990 and a subsidiary of Amazon.com since 1998, IMDb is the world’s most popular and authoritative source for movie, TV and celebrity content, designed to help fans explore the world of movies and shows and decide what to watch.”⁸² Blackwell has her own IMDb page that details some of her media appearances.⁸³

F. June 5, 2020: MPD Agreed with the Minnesota Department of Human Rights to Amend MPD Policy Manual § 5-311.

On June 5, 2020, MPD entered into an agreement with the Minnesota Department of

⁸⁰ Book at 109-10.

⁸¹ *Id.* at 110.

⁸² *IMDb Help Center*, IMDb, https://help.imdb.com/article/imdb/general-information/what-is-imdb/G836CY29Z4SGNMK5?ref_=helpsect_cons_1_1# (last visited Dec. 2, 2024) (Lund Decl. at Ex. 16).

⁸³ <https://www.imdb.com/name/nm11596350/> (Lund Decl. at Ex. 54).

Human Rights to amend § 5-311 of the MPD Policy Manual to “prohibit the use of all neck restraints or choke holds for any reason.”⁸⁴

G. July 7, 2020: Lane’s Motion to Dismiss

On July 7, 2020, MPD officer Lane filed a memorandum of law in support of his motion to dismiss the criminal charges against him.⁸⁵ In his brief, Lane contended that MPD trained knee-on-neck restraints to its officers:⁸⁶

- “The training material supports that neck restraint was something taught to officers.”⁸⁷
- “Lane is a trained police officer who, although new to the job, knew that officers are allowed to use reasonable force when needed...Based on Floyd’s actions up to this point, the officers had no idea what he would do next – hurt himself, hurt the officers, flee, or anything else, but he was not cooperating.”⁸⁸
- “As seen in the body camera footage, Chauvin was calmly positioned near Floyd’s neck and back area. Further evidence that the force used by Chauvin by kneeling was not substantial, is that there were no physical findings of asphyxia (see Complaint).”⁸⁹

In his brief, Lane also noted that the “Maximum restraint technique or hobble” was one of the “important topics found in the manual” and “taught to Lane.”⁹⁰ Lane recounted that in dealing with Floyd:

Officers ended up bringing Floyd to the ground after the struggle to get him in the car because Floyd was out of control. Chauvin, Lane, and Kueng restrained him on the ground. Lane said let’s use the “MRT”, Maximum Restraint Technique, which is what you use on someone who is handcuffed and not complying. Lane suggested

⁸⁴ Stipulation and Order at 4-5, *State of Minnesota by Rebecca Lucero, Commissioner of the Minnesota Department of Human Rights vs. City of Minneapolis Police Department, City of Minneapolis*, (June 5, 2020), <https://lms.minneapolismn.gov/Download/File/3732/Stipulation%20and%20Order.pdf> (Lund Decl. at Ex. 17); see also Jason Slotkin, *Minneapolis Agrees to Ban Chokeholds and Neck Restraints by Police*, NPR (June 5, 2020), <https://www.npr.org/sections/live-updates-protests-for-racial-justice/2020/06/05/870996757/minneapolis-agrees-to-ban-chokeholds-and-neck-restraints-by-police> (Lund Decl. at Ex. 18).

⁸⁵ Lane’s Memorandum Supporting Motion to Dismiss, *supra* note 35 (Lund Decl. at Ex. 9).

⁸⁶ *Id.* at 15.

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ *Id.* at 9.

using the hobble because he learned that that is what to use when you have someone who is handcuffed that is physically resisting. Lane was trying to get Floyd's legs into a leg cross for that. Floyd was kicking around at that point.⁹¹

Collin and Chaix read Lane's brief before the Book and Documentary were published.⁹²

H. August 5, 2020: Thao's Motion to Dismiss and Related Proceedings

Approximately one month later, MPD officer Thao filed a memorandum of law in support of a motion to dismiss the criminal charges against him.⁹³ In his brief, Thao stated that MPD trained the neck restraint used by the officers, that it was "properly us[ed] force authorized by MPD policy," and that they were preparing to use the hobble restraint:⁹⁴

- "Officer Thao and the other three officers had been repeatedly trained to use neck restraints. When Officer Thao observed Mr. Floyd on the ground, the three other MPD officers were properly using force authorized by MPD policy. Officer Thao saw his partner, Officer Chauvin, using a MPD authorized neck restraint on Mr. Floyd."⁹⁵
- "The Use of Force Section of the Minneapolis Police Department Policy and Procedure Manual authorizes police officers to use neck restraints on subjects who are actively resisting."⁹⁶
- "During his lawful arrest, Mr. Floyd became agitated and resisted in both active and passive manners. To subdue Mr. Floyd, Officer Chauvin utilized his training and experience to administer a non-deadly, MPD-approved neck restraint."⁹⁷
- "As a trained and licensed Minneapolis Police Officer, Officer Chauvin was acting within the scope of Minnesota Law by using the authorized use of force of a neck restraint on Mr. Floyd."⁹⁸
- "Officer Chauvin then placed Mr. Floyd in a prone position and secured him using a neck restraint. Officer Lane and Officer Kueng assisted by placing themselves on top of Mr. Floyd's midsection and feet respectively. Mr. Floyd continued to resist by moving his legs, arms, and torso. At this point, Officer Thao went to the rear of the squad car and retrieved a hobble restraint and offered it to the other three officers as an alternative to their neck

⁹¹ *Id.* at 5-6.

⁹² Collin Decl. at ¶ 61; Chaix Decl. at ¶¶ 47 and 91.

⁹³ Thao's Memorandum in Support of Motion to Dismiss, *State v. Thao*, No. 27-CR-20-12949) (Aug. 5, 2020) (Lund Decl. at Ex. 19).

⁹⁴ *Id.* at 6.

⁹⁵ *Id.*

⁹⁶ *Id.* at 10.

⁹⁷ *Id.* at 11.

⁹⁸ *Id.* at 12.

restraint. The officers refused the hobble restraint and stayed the course of keeping Mr. Floyd in a neck restraint in a prone position.”⁹⁹

Collin and Chaix read Thao’s brief before the Book and Documentary were published.¹⁰⁰

Thao’s closing argument directly questioned the veracity of Blackwell’s testimony: “Contrary to testimony of Inspector Katie Blackwell and Officer Nicole Mackenzie, MPD consistently trained its officers to restrain people in the prone position using their body weight, specifically including the use of putting a knee on the neck/upper back of the person being restrained.”¹⁰¹ Thao provided a number of pictures with MPD recruits being trained to use a knee-on-neck restraint, including a picture of Thao himself being trained to use a knee-on-neck/upper shoulder restraint:¹⁰²



⁹⁹ *Id.* at 2.

¹⁰⁰ Collin Decl. at ¶ 61; Chaix Decl. at ¶ 47.

¹⁰¹ Thao’s Closing Argument, *supra* note 7 at 7 (Lund Decl. at Ex. 3).

¹⁰² *Id.* at 15.

I. August 27, 2020: Kueng’s Motion to Dismiss

MPD officer Kueng’s memorandum of law in support of his motion to dismiss stated that the neck restraint used by Chauvin was “reasonable” and that MPD trained its officers to use the restraint:¹⁰³

- “The restraint used on Floyd by Chauvin was reasonable. As the complaint notes, officers are trained on how to use the neck restraint involved here. Moreover, the restraint has been found to be reasonable when the subject actively resists. ‘We must assess the actions of each officer from the perspective of a reasonable officer on the scene, including what the officer knew at the time, not with the 20/20 vision of hindsight.’ *Lombardo v. City of St. Louis*, 956 F.3d 1009, 1013 (8th Cir. 2020). ‘This Court has previously held that the use of prone restraint is not objectively unreasonable when a detainee actively resists officer directives and efforts to subdue the detainee.’ *Id.* In *Lombardo*, decided on April 20, 2020, one of the plaintiffs was in a neck restraint for fifteen minutes. *Id.* at 1014.”¹⁰⁴
- “Given Floyd’s resistance, the use of neck restraint was reasonable, especially given the decision in *Lombardo*.”¹⁰⁵
- “Chauvin brought Floyd to the ground and reasonably initiated the neck restraint.”¹⁰⁶

Collin and Chaix read Kueng’s brief before the Book and Documentary were published.¹⁰⁷

J. August 28, 2020: Chauvin’s Motion to Dismiss

Like the other three officers, Chauvin also filed a motion to dismiss the criminal charges against him.¹⁰⁸ In his brief, Chauvin stated that MPD trained its officers to place their knee on a suspect’s neck as part of the MRT process:¹⁰⁹

- “An illustration from 2018 MPD training materials clearly shows that officers are trained to place a knee on a subject’s neck and shoulders when implementing MRT.”¹¹⁰
- “Mr. Chauvin and other officers executed the MRT takedown and holds as MPD policy allows and as Mr. Chauvin was trained.”¹¹¹

¹⁰³ Kueng’s Memorandum in Support of Motion to Dismiss at 5, *State v. Kueng*, No. 27-CR-20-12953 (Aug. 27, 2020) (Lund Decl. at Ex. 20).

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ *Id.* at 7.

¹⁰⁷ Collin Decl. at ¶ 61; Chaix Decl. at ¶ 47.

¹⁰⁸ Chauvin’s Memorandum of Law in Support of Defendant’s Motion to Dismiss, *supra* note 24 (Lund Decl. at Ex. 5).

¹⁰⁹ *Id.* at 17-19.

¹¹⁰ *Id.* at 17.

¹¹¹ *Id.*

- “Similarly, a 2019 MPD training video, which was used during an in-service to teach defensive tactics to MPD officers, demonstrates a maneuver called ‘take down to neck restraint’ in which an officer completes the maneuver by placing his knee on a subject’s neck and shoulder (Ex. 13). A neck restraint is clearly authorized by MPD policy when a subject is actively resisting (Ex. 7), and officers are trained to use their knees to effect such restraints after a take down and when implementing MRT. (See Ex. 8 at Bates 2596; Ex. 13, *generally*).”¹¹²
- “Mr. Chauvin acted according to MPD policy, his training, and within his duties as a licensed peace officer of the State of Minnesota. If one compares the Defensive tactics training video with the training material photo, and the positioning of Mr. Chauvin, *supra*, it is clear that Mr. Chauvin did exactly as he was trained to do. The State has offered no evidence beyond its bald assertions to indicate otherwise. There was simply no ‘gross deviation from the standard of care’ on the part of Mr. Chauvin. Mr. Chauvin, therefore, was not objectively, grossly negligent in his interactions with Mr. Floyd.”¹¹³

Collin and Chaix read Chauvin’s brief before the Book and Documentary were published.¹¹⁴

K. April 27, 2022: The Minnesota Department of Human Rights Noted that MPD Policy Permitted “Neck Restraints.”

In its April 27, 2022 “Findings” related to its investigation into the City of Minneapolis and the Minneapolis Police Department, the Minnesota Department of Human Rights (“MDHR”) stated:¹¹⁵

Prior to June 2020, MPD policy permitted the use of neck restraints,²² even to render someone unconscious. In June 2020, after an MPD officer murdered George Floyd, the temporary court order requested by the Minnesota Department of Human Rights required MPD to ban the use of neck restraints, without exception.

¹¹² *Id.* at 18.

¹¹³ *Id.* at 19.

¹¹⁴ Collin Decl. at ¶ 61; Chaix Decl. at ¶ 47.

¹¹⁵ Minnesota Department of Human Rights, *Investigation into the City of Minneapolis and the Minneapolis Police Department: Findings from the Minnesota Department of Human Rights* at 12 (Apr. 27, 2022) (found at https://mn.gov/mdhr/assets/Investigation%20into%20the%20City%20of%20Minneapolis%20and%20the%20Minneapolis%20Police%20Department_tcm1061-526417.pdf) (hereinafter “MDHR MPD Findings”) (Lund Decl. at Ex. 21).

MDHR also found that “[n]eck restraints are prohibited under MPD’s updated use of force policy *as of June 16, 2020*.”¹¹⁶ MDHR also found that MPD had not removed neck restraints from their use-of-force materials taught in the MPD Academy as of the fall of 2021.¹¹⁷ “Rather, MPD simply placed a strike through [the phrase] ‘neck restraints’ in the continuum and noted that the use of neck restraints *currently* violates policy.”¹¹⁸

Collin and Chaix read the MDHR’s Findings before the Book and Documentary were published.¹¹⁹

L. The Federal Bureau of Investigation and the “Knee-on-Neck” Restraint

In January 2024, a former law enforcement officer who watched *The Fall of Minneapolis* contacted Collin and reported that a similar technique—“placing the knee on a suspect’s neck”—was: (a) used by the Federal Bureau of Investigation; (b) taught to FBI special agents; and (c) printed in training manuals “throughout the 80’s, 90’s, 2000’s, and 2010’s.”¹²⁰ The contents of the (redacted) information sent to Collin include the following (highlighting was in the original):¹²¹

¹¹⁶ MDHR MPD Findings at 10 n.15 (emphasis added).

¹¹⁷ *Id.*

¹¹⁸ *Id.* (emphasis added).

¹¹⁹ Collin Decl. at ¶ 62; Chaix Decl. at ¶ 52.

¹²⁰ Collin Decl. at ¶ 83.

¹²¹ *Id.* at ¶ 84 (highlighting in original). “SA” refers to an FBI “special agent.” *Id.* at ¶ 84 n.2; *see also* U.S. Department of Justice Archives, ORGANIZATION AND FUNCTIONS MANUAL, § 12 *Abbreviations Used in FBI Reports* (available at <https://www.justice.gov/archives/jm/organization-and-functions-manual>) (“SA—Special Agent (FBI)”).

(10) The SA applies the handcuff and maintaining his grip on the handcuff and the subject's hand the SA starts the movement toward the subject's back.

(a) It is important that hand of the subject be held high off the back.

(11) The SA uses the knee closest to the subject's head to apply stabilizing pressure at the subject's neck while the shin portion of the opposite leg is used to jam the subject's upper arm to his body.

(12) The SA continues his full hand grip on the handcuff and converts the control hold to a bent wrist technique using his shin as the anchor point of the subject's elbow.

M. National Use-of-Force Expert Scott DeFoe: The “Knee-to-Neck” Restraint is Consistent with Police Training Countrywide

Before becoming a national use-of-force expert, Scott DeFoe served the Los Angeles Police Department for approximately over 26 years, starting as a Police Officer and ending as a Sergeant II+1 Special Weapons and Tactics (SWAT) Supervisor.¹²² He served as a Special Agent for the Organized Crime Drug Task Force (OCDETF) as part of the U.S. Customs Service.¹²³ He was a Deputy Sheriff for the Riverside County Sheriff's Department.¹²⁴ He served as the Director of Security for two different organizations,¹²⁵ and he has extensive experience in police-tactical

¹²² Lund Decl. at Ex. 47 at 3-5 (Scott DeFoe's *curriculum vitae* (hereinafter “DeFoe CV”)); Declaration of Scott DeFoe at ¶ 4b (Dec. 11, 2024) (the “DeFoe Decl.”).

¹²³ DeFoe CV at 5; DeFoe Decl. at ¶ 4a.

¹²⁴ DeFoe CV at 2; DeFoe Decl. at ¶ 4d.

¹²⁵ DeFoe CV at 1-2; DeFoe Decl. at ¶ 4e.

training, supervisor training, crisis-negotiations/mental-health training, and detective training.¹²⁶ He also holds master's degrees from California State University (Public Administration) and Pepperdine Law School (Legal Studies).¹²⁷

In April 2013, DeFoe created his limited-liability company, On-Scene Consulting Group, LLC, which provides in-depth analysis and investigations of, among other things, critical incidents.¹²⁸ He has testified in approximately 280 depositions and provided trial testimony approximately 72 times.¹²⁹ He has issued approximately 525 expert reports.¹³⁰ He has testified, and provided expert reports, in cases throughout the United States, including, but not limited to, 26 states.¹³¹

DeFoe noted that Defendants' counsel provided him with the below photograph:¹³²

¹²⁶ DeFoe CV at 5-7; DeFoe Decl. at ¶ 5.

¹²⁷ *Id.* at 7.

¹²⁸ *Id.* at 1; DeFoe Decl. at ¶¶ 2-3, 6-7.

¹²⁹ DeFoe Decl. at ¶ 3.

¹³⁰ *Id.*

¹³¹ *Id.*

¹³² *See id.* at ¶ 9 (“Counsel for the defendants has provided me with the below photograph, which I understand was shown as part of the Minneapolis Police Department’s officer training:”).

**Ok they are in handcuffs now
what.**

- Sudden cardiac arrest typically occurs immediately following a violent struggle
- Place the subject in the recovery position to alleviate positional asphyxia
- Once in handcuffs, get EMS on scene quickly to monitor and transport
- Sign a transport hold on these individuals
- Complete a CIC report





And then DeFoe swore the following:¹³³

10. The knee-to neck/upper shoulder restraint shown in the above photograph is consistent with training provided to numerous law enforcement agencies nationwide.

I declare under penalty of perjury that everything I have stated in this document is true and correct.

Executed on December 11, 2024, in Huntington Beach, Orange County, California.



Scott DeFoe

Defendants' counsel asked DeFoe to send an invoice for his work associated with his declaration.¹³⁴ He refused.¹³⁵

¹³³ *Id.* at ¶ 10.

¹³⁴ Declaration of Chris Madel at ¶ 5 (Dec. 31, 2024).

¹³⁵ *Id.*

N. Before the Book & the Documentary Were Published, the Media Extensively Reported Regarding George Floyd's Death, The Resulting Trials, and How MPD Permitted Neck Restraints.

George Floyd's death, and the circumstances that led to it, were extensively reported by the local,¹³⁶ national,¹³⁷ and international¹³⁸ media. Likewise, the resulting trials received local,¹³⁹ national,¹⁴⁰ and international¹⁴¹ media coverage. Chauvin's trial was subject to analysis from public figures, including Joe Biden, the then-president of the United States.¹⁴² Indeed, after this case was filed, a Saturday Night Live skit identified George Floyd as a name that everyone remembers.¹⁴³

Shortly after George Floyd's death, the media extensively reported about MPD's policies and training that authorized knee-on-neck restraints—and how Minneapolis later banned the

¹³⁶ See, e.g., Jennifer Bjorhus, *A deeper look at the four officers fired after George Floyd death*, STAR TRIBUNE (May 30, 2020), <https://www.startribune.com/a-deeper-look-at-the-four-officers-fired-after-george-floyd-death/570885592> (Lund Decl. at Ex. 22); see also Lund Decl. at Exs. 30, 59, 77 and 87; Lund Decl. at ¶ 84.

¹³⁷ See, e.g., Douglas Belkin, et al., *George Floyd Memorial Followed by 10th Night of Protests*, WALL STREET JOURNAL (June 5, 2020), <https://www.wsj.com/articles/largely-peaceful-protests-of-george-floyd-killing-continue-nationwide-11591276983> (Lund Decl. at Ex. 23); see also Lund Decl. at Exs. 7, 18, 26-27, 29, 38-39, 56, 58, 61, 64-65, 71-72, 74, 78, 80-83, and 85; Lund Decl. at ¶ 74.

¹³⁸ See, e.g., *George Floyd: What happened in the final moments of his life*, BBC (July 15, 2020), <https://www.bbc.com/news/world-us-canada-52861726> (Lund Decl. at Ex. 24); *George Floyd: London anti-racism protests leave 27 officers hurt*, BBC (June 7, 2020), <https://www.bbc.com/news/uk-england-london-52954899> (Lund Decl. at Ex. 25); see also Lund Decl. at Exs. 57, 60, 62-63, 66-70, 73, 76, 79, and 84.

¹³⁹ Lund Decl. at Exs. 59, 77 and 87; Lund Decl. at ¶ 84.

¹⁴⁰ See, e.g., *The Trial Over George Floyd's Death*, N.Y. TIMES, <https://www.nytimes.com/news-event/trial-of-george-floyd-killing> (dedicated landing page for The New York Times's coverage of Chauvin's criminal trial) (last visited Dec. 8, 2024) (Lund Decl. at Ex. 26); see also Lund Decl. at Exs. 27, 56, 58, 61, 64-65, 71-72, 74, 78, 80-83, and 85; Lund Decl. at ¶ 74.

¹⁴¹ Lund Decl. at Exs. 57, 60, 62-63, 66-70, 73, 76, 79, and 84.

¹⁴² Kevin Liptak, et al., *Biden suggests the evidence in Chauvin trial is 'overwhelming': 'I'm praying that the verdict is the right verdict'*, CNN (Apr. 20, 2021), <https://www.cnn.com/2021/04/20/politics/biden-george-floyd-brother/index.html> (Lund Decl. at Ex. 27).

¹⁴³ Saturday Night Live, *What's That Name: Election Edition - SNL*, YOUTUBE (Nov. 2, 2024), <https://www.youtube.com/watch?v=E1atbVu662s> (Lund Decl. at Ex. 28).

technique in June 2020.¹⁴⁴ For example, on June 1, 2020, NBC News stated that despite a Minneapolis city official claiming the knee-on-neck restraint used by Chauvin was not permitted, “the Minneapolis Police Department’s policy manual that is available on-line, however, does permit the use of neck restraints that can render suspects unconscious, and the protocol for their use has not been updated for more than eight years.”¹⁴⁵ Likewise, on June 6, 2020, the Editorial Board of the Star Tribune also commented how § 5-311 of the MPD Policy Manual permitted knee-on-neck restraints and that the technique was “put to use” by MPD officers.¹⁴⁶ On July 8, 2020, the *Daily Beast* published this headline:¹⁴⁷

Minneapolis PD Trained Officers to Use the Neck Restraint That Killed George Floyd: Docs

Even Hennepin County Attorney Mary Moriarty, who was then the Chief Public Defender for Hennepin County, stated knee-on-neck restraints were regularly used by the MPD: “We look at bodycam, we look at dashcam... and we frequently see officers put their knees in a client’s back or neck.”¹⁴⁸

¹⁴⁴ Lund Decl. at Exs. 7, 18, and 29-30.

¹⁴⁵ Emily R. Siegel et al., *Minneapolis police rendered 44 people unconscious with neck restraints in five years*, NBC NEWS (June 1, 2020), <https://www.nbcnews.com/news/us-news/minneapolis-police-rendered-44-people-unconscious-neck-restraints-five-years-n1220416> (Lund Decl. at Ex. 29).

¹⁴⁶ Editorial Board, *Good riddance to neck-restraint tactic: It’s been in the MPD policy manual and has been put to use*, STAR TRIBUNE (June 6, 2020), <https://www.startribune.com/good-riddance-to-neck-restraint-tactic/571059552> (Lund Decl. at Ex. 30).

¹⁴⁷ *Minneapolis PD Trained Officers to Use the Neck Restraint That Killed George Floyd: Docs*, *supra* note 25 (Lund Decl. at Ex. 7).

¹⁴⁸ *Good riddance to neck-restraint tactic: It’s been in the MPD policy manual and has been put to use*, *supra* note 146 (Lund Decl. at Ex. 30).

O. October 17, 2022: the Book was Published.

1. Collin's decision to write the Book

Collin did not set out to write the Book.¹⁴⁹ Before she began writing the Book, she had been personally and professionally attacked because of her marriage to Bob Kroll, the former President of the MPD Federation.¹⁵⁰ She knew that following a Chauvin-related story would likely make things even worse.¹⁵¹

Collin began hearing that senior MPD officers were telling people that Derek Chauvin's "knee-on-neck/upper back" restraint was not trained by the MPD.¹⁵² She knew that it was trained, but she believed that *someone, somewhere* in the media would turn to that story.¹⁵³ When no one did, she provided the story to colleagues.¹⁵⁴ Again, "nobody reported it—at least not to any degree of fairness."¹⁵⁵ And the story regarding "knee-on-neck/upper back" restraint was not the only story that was not being reported—*many* stories, including how a similar arrest of George Floyd took place in 2019 that MPD originally denied, how politicians and MPD senior leaders did practically nothing to stop the riots and protect law enforcement, the role of the police federation and how it had nothing to do with the officers involved in the past, what was and was not allowed in Derek Chauvin's trial, questionable tactics by the prosecution in the case including hay stacking and creating conflicts of interest, and the ongoing fallout in the form of skyrocketing crime and officers retiring and leaving the department in droves that was directly tied to the scapegoating of the city's

¹⁴⁹ Collin Decl. at ¶ 29.

¹⁵⁰ *Id.*; Kroll Decl. at ¶ 3 (Kroll is former President of MPD Federation).

¹⁵¹ Collin Decl. at ¶ 29.

¹⁵² *Id.* at ¶ 25.

¹⁵³ *Id.*

¹⁵⁴ *Id.* at ¶ 26.

¹⁵⁵ *Id.*

police officers went unreported.¹⁵⁶ Collin was “very frustrated.”¹⁵⁷ After hearing “truly heart-breaking stories” from her husband’s friends and former colleagues, she knew their stories and the facts could no longer be ignored “if there was any hope left for truth and civility in Minnesota.”¹⁵⁸

2. Collin asked Chaix to help work on the Book

As a media insider, Collin recognized that she had a unique perspective of how the media avoided the truth.¹⁵⁹ Although she was no longer an anchor and her reporting assignments were extremely limited, she felt compelled to do something to bring more of the truth to light, just as she had done for years covering other stories.¹⁶⁰ Since this was, and still is, ultimately a story about news and social media, Collin teamed up with Dr. JC Chaix, a media scholar and former law-enforcement officer, who also shared a hunger with Collin for hard work, investigating facts, and helping others.¹⁶¹ Collin knew Chaix had common passions of investigation, research, and reporting truth.¹⁶² Collin noted “[i]t would be fair to say we have bonded over being ‘news nerds.’”¹⁶³

Collin wrote the Book, and Chaix edited it.¹⁶⁴

3. Collin and Chaix’s extensive research

Collin worked on the research that led to the Book from the time of George Floyd’s death to the time she finished the Book in September 2022.¹⁶⁵ From approximately May 2020 to October

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

¹⁵⁸ *Id.* at ¶ 29.

¹⁵⁹ *Id.* at ¶ 27.

¹⁶⁰ *Id.*

¹⁶¹ *Id.*

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ *Id.* at ¶ 47; Chaix Decl. at ¶ 27; Book at ii (“Edited by Dr. JC Chaix”).

¹⁶⁵ Collin Decl. at ¶ 30.

2022, she worked thousands of hours researching, writing, and discussing the Book with Chaix.¹⁶⁶ The process of research and writing the Book “was time-consuming, fascinating, and, at times, infuriating.”¹⁶⁷ In addition to the mountains of court documentation, public records, and other information, when Collin and Chaix started gathering people’s personal stories and perspectives, “truly shocking discrepancies began to emerge.”¹⁶⁸ Collin stated that “[i]t soon became clear that bringing this information to light was absolutely necessary because most of it was being ignored or censored by corporate media.”¹⁶⁹ Collin knew that if Chaix and she “didn’t take this on, it was highly likely that nobody else with such perspective and insight would do so anytime soon.”¹⁷⁰

Following George Floyd’s death, Chaix began conducting his own, independent research of the incident.¹⁷¹ He followed the reporting in real time and compiled articles and news pieces.¹⁷² Chaix said he was initially interested in (a) “the role the media plays in shaping our assumptions and conclusions”; (b) “how a medium which may seem to capture everything on its face, such as a video, may also mislead viewers who only see things from one angle and without contextual information and evidence”; and (c) “the epistemological aspects of this case.”¹⁷³ Chaix was subsequently introduced to Collin and, over the following months, they regularly communicated about the death of Floyd and subsequent fallout in Minneapolis.¹⁷⁴ Chaix and Collin then decided to work together on a “joint project that would provide more facts than the mainstream media narrative” did “concerning the death of George Floyd, the trial of the involved officers, the chaos

¹⁶⁶ *Id.*

¹⁶⁷ Collin Decl. at ¶ 28.

¹⁶⁸ *Id.*

¹⁶⁹ *Id.*

¹⁷⁰ *Id.*

¹⁷¹ Chaix Decl. at ¶ 30.

¹⁷² *Id.*

¹⁷³ *Id.*

¹⁷⁴ *Id.* at ¶ 31-32.

and destruction that engulfed Minneapolis, and harmful attacks on the law enforcement profession.”¹⁷⁵ The outcome of the project was the Book and the Documentary.¹⁷⁶ Chaix “dedicated more than 1,400 hours researching, analyzing court documents and evidence, conducting interviews, and handling correspondence in relation to [his] work” on the Book.¹⁷⁷ He “dedicated approximately another 1,200 hours developing *The Fall of Minneapolis*.”¹⁷⁸ Chaix said one of the purposes of the Documentary was to “provide a voice for those involved in the arrest of Floyd and [the officers who] responded to the subsequent riots—in their own words, whether written or spoken—so viewers could formulate a more informed opinion for themselves.”¹⁷⁹

The Book is over 250 pages and contains 220 footnotes that source material.¹⁸⁰ It contains numerous pictures, PowerPoint slides, and other depictions.¹⁸¹ Collin and Chaix included pictures of MPD training materials that were taken directly from exhibits used at trial by the four-defendant MPD officers.¹⁸²

4. Collin and Chaix’s sources told them about MPD’s use of the “knee-to-neck/upper shoulder” restraint

Both Collin and Chaix were told by multiple sources that not only was the knee-to-neck restraint trained at MPD, it was common knowledge, and its use was part of MPD policy.¹⁸³ Multiple sources also told Collin and Chaix that Chauvin and the three other officers were

¹⁷⁵ *Id.* at ¶ 32.

¹⁷⁶ *Id.* at ¶ 33.

¹⁷⁷ *Id.* at ¶ 46.

¹⁷⁸ *Id.* at ¶ 49.

¹⁷⁹ *Id.* at ¶ 41.

¹⁸⁰ *See* Book at 239 (showing footnote 220); Chaix Decl. at ¶ 115.

¹⁸¹ *See, e.g.*, Book at 19, 33, 46-49, 58, 62-63, 70-71, 73, 77, 83-87, 90-93, 99-100, 102-105, 110, 122, 136, 143-144, 149, 165, 168-169, 179-180, 183, 193, 200, 202-203, 208-209, 211, 221, 224, 226, 229, 231, 233 and 238.

¹⁸² Book at 110, 203, 208-09, 211.

¹⁸³ Collin Decl. at ¶ 64; Chaix Decl. at ¶¶ 76-79, 81-83.

collectively employing the neck restraint as part of the MRT process.¹⁸⁴ Sources also told Collin and Chaix that Blackwell, along with Chief Arradondo, perjured themselves or otherwise lied at trial.¹⁸⁵

5. Sources told Collin and Chaix disparaging allegations about Blackwell that Collin and Chaix chose not to include in the Book or Documentary

During their work on the Book and, subsequently, the Documentary, Collin and Chaix also learned several disparaging allegations regarding Blackwell.¹⁸⁶ Collin and Chaix determined these allegations were not pertinent and thus did not include them in the Book or Documentary.¹⁸⁷ Neither Collin nor Chaix has ever met Blackwell.¹⁸⁸

6. White Birch Publishing, LLC's role in the Book and lack of role in the Documentary

Collin, through her limited-liability company, White Birch Publishing LLC, published the Book on October 17, 2022.¹⁸⁹ White Birch Publishing does business as “Paper Birch Press.”¹⁹⁰ While White Birch Publishing LLC participated in the publication of the Book, it played no role in the creation, financing, publishing, or distribution of the Documentary, and it has earned no money from it.¹⁹¹

¹⁸⁴ Collin Decl. at ¶ 64; Chaix Decl. at ¶¶ 81-83, 86-92.

¹⁸⁵ Collin Decl. at ¶ 64; Chaix Decl. at ¶ 81.

¹⁸⁶ Collin Decl. at ¶ 65; Chaix Decl. at ¶¶ 94-95.

¹⁸⁷ Collin Decl. at ¶ 65; Chaix Decl. at ¶¶ 96-98.

¹⁸⁸ Collin Decl. at ¶ 40; Chaix Decl. at ¶ 94.

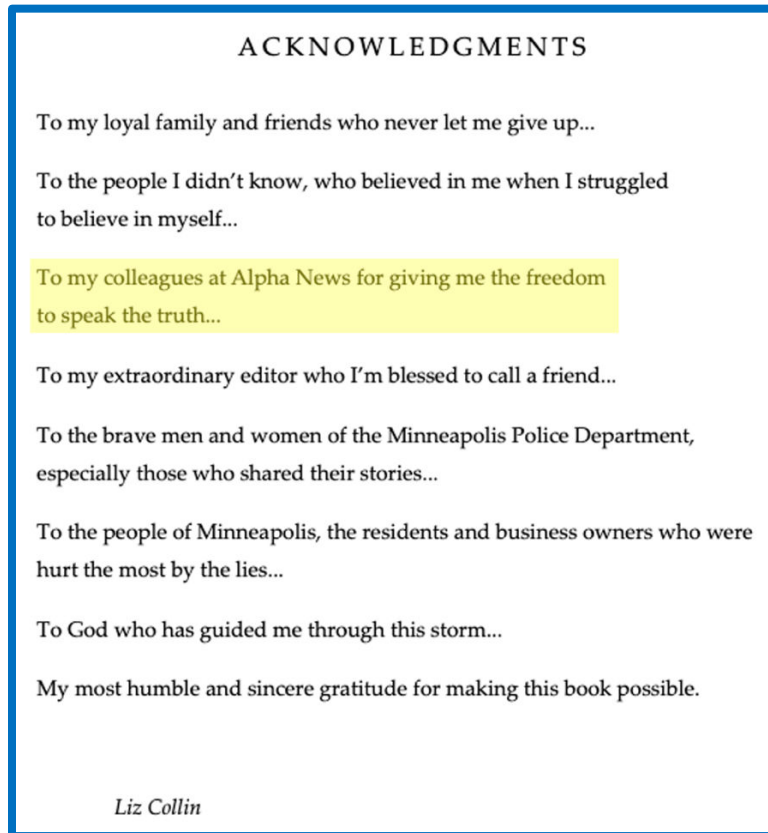
¹⁸⁹ Collin Decl. at ¶ 45; Lund Decl. at Ex. 31 (U.S. Copyright Public Catalog; “Date of Publication: 2022-10-17”). Blackwell alleged it was published a day later, i.e., October 18, 2022. (Complaint at ¶ 3.)

¹⁹⁰ Collin Decl. at ¶ 45; *see also* Lund Decl. at Ex. 32 (Minn. Sec’y of State Business Filing).

¹⁹¹ Collin Decl. at ¶¶ 46, 54.

7. Alpha News had no role in the Book

Collin did not write or publish the Book as an employee of Alpha News.¹⁹² While Alpha News knew that Collin was working on the Book in her free time, it did not participate in the writing, financing, or publication of the Book.¹⁹³ Collin’s “acknowledgements” in the Book imply this:¹⁹⁴



P. June 16, 2023: The U.S. Department of Justice Repeatedly Stated that MPD Policy Permitted “Neck Restraints.”

The U.S. Department of Justice (“USDOJ”) cited the MPD Policy Manual in its June 2023 report regarding the MPD.¹⁹⁵ The USDOJ stated, “[p]rior to June 9, 2020, MPD defined neck

¹⁹² Collin Decl. at ¶ 47; Declaration of Alex Kharam at ¶¶ 4-5 (Dec. 20, 2024).

¹⁹³ Collin Decl. at ¶ 47; Kharam Decl. at ¶¶ 4-5.

¹⁹⁴ Collin Decl. at ¶ 47; Book at “ACKNOWLEDGEMENTS” (highlighting added).

¹⁹⁵ United States Department of Justice Civil Rights Division and United States Attorney’s Office District of Minnesota Civil Division, *Investigation of the City of Minneapolis and the Minneapolis*

restraints as ‘compressing one or both sides of a person’s neck with an arm or leg, without applying direct pressure to the trachea or airway (front of the neck),’” and that MPD “policy” divided such restraints into two categories.¹⁹⁶ The USDOJ then stated that it found “dozens of incidents where MPD officers used neck restraints.”¹⁹⁷ The USDOJ noted that “[o]fficers warned that the ban [on all neck restraints] would lead to an increase in force overall, because, as one officer put it, ‘if you can’t touch the head or neck, the result is you punch ‘em.’”¹⁹⁸ The USDOJ’s June 2023 report noted that “MPD policy *now* prohibits neck restraints...”¹⁹⁹

Q. May 2023: Attorney General Keith Ellison Claims Blackwell’s Testimony was “Crucial for the [S]tate.”

Attorney General Keith Ellison, whose office led the prosecution team, wrote a book that referenced how “Blackwell’s testimony” that the “Minneapolis Police Department trained officers to use their arms to carry out neck restraints, instead of using the[ir] knee as Chauvin did” was “crucial for the [S]tate.”²⁰⁰

R. The Documentary and Lieutenant Kim Voss’ June 15, 2023 Interview

Like the Book, Collin never intended to make a documentary film.²⁰¹ However, after completing the Book, many people came forward and said they were inspired and wanted to tell their stories.²⁰² Collin and Chaix realized that it was perhaps best, if not more effective and practical, to allow these people to speak for themselves in a documentary format, rather than

Police Department, DEPARTMENT OF JUSTICE (June 16, 2023), https://www.justice.gov/d9/2023-06/minneapolis_findings_report.pdf [hereinafter “DOJ MPD Report”] (Lund Decl. at Ex. 33).

¹⁹⁶ *Id.* at 13.

¹⁹⁷ *Id.* at 14.

¹⁹⁸ *Id.* at 15.

¹⁹⁹ *Id.* at 2 (emphasis added).

²⁰⁰ Keith Ellison, *BREAK THE WHEEL* 213 (Twelve Books, Hachette Book Group) (May 2023) (Lund Decl. at Ex. 34).

²⁰¹ Collin Decl. at ¶ 49.

²⁰² *Id.*

another book.²⁰³

1. *The Fall of Minneapolis* followed the Book's research

The Documentary was based on the Book.²⁰⁴ Collin and Chaix used much of the research for the Book as a basis for the Documentary, but they continued their research and interviews after the Book was released.²⁰⁵ For example, Collin and Chaix continued their research of everything relating to the death of George Floyd, including all aspects of the Chauvin trial, the investigations and trials relating to the other officers, facts and issues associated with the riots, and MPD policies and procedures.²⁰⁶

At the time, few people in the media were willing to approach the subject or work with Collin and Chaix.²⁰⁷ They finally put together a small production crew to make the documentary possible, however the situation was far from ideal.²⁰⁸ “Over the course of several days of filming, we listened to the heartbreak, anger, and frustration of former MPD officers, medical professionals, family members, and others as we began what would become *The Fall of Minneapolis* documentary project.”²⁰⁹

Collin and Chaix liked how the Documentary permitted others to speak freely.²¹⁰ As Collin stated, “[f]or many, especially the former and current MPD officers, it was the very first time they

²⁰³ *Id.*

²⁰⁴ Alpha News Staff, *Alpha News documentary ‘The Fall of Minneapolis’ out now*, Alpha News (Nov. 26, 2023) <https://alphanews.org/alpha-news-documentary-the-fall-of-minneapolis-out-now/> (“The film is based on Liz Collin’s Amazon bestseller, ‘They’re Lying: The Media, The Left, and The Death of George Floyd,’ which exposes the holes in the prevailing narrative surrounding George Floyd’s death, the trial of Derek Chauvin, and the fallout the city of Minneapolis has suffered ever since.”) (Lund Decl. at Ex. 35); *see also* Documentary at 1:37:48 (noting the Documentary was based on the Book).

²⁰⁵ Chaix Decl. at ¶¶ 33, 37, and 48-52; Collin Decl. at ¶ 50.

²⁰⁶ *Id.*

²⁰⁷ Collin Decl. at ¶ 51; Chaix Decl. at ¶ 32.

²⁰⁸ Collin Decl. at ¶ 51.

²⁰⁹ Collin Decl. at ¶ 51; Chaix Decl. at ¶¶ 51, 53-54, 59.

²¹⁰ Collin Decl. at ¶ 52; Chaix Decl. at ¶¶ 38-39.

even had an opportunity to do so. They trusted us with their stories and to get it right.”²¹¹

Collin worked as the producer of the Documentary by organizing interviews and the crew.²¹² Chaix worked as director and writer of the Documentary, crafting the overall narrative from the words and opinions reported by interview participants and supporting them with related documents, evidence, and other facts.²¹³ In post-production, Collin worked to track down video and sources and highlight certain sound bites as part of the storytelling process.²¹⁴

2. Lieutenant Voss’s interview on June 15, 2023

On June 15, 2023, Collin interviewed MPD Lieutenant Kim Voss for the Documentary.²¹⁵

At 1:22:29 of the Documentary, Lieutenant Voss stated:

VOSS: One day I was sitting there having lunch, it was probably a group of 20 of us and somebody had said, hey, uh LT, uh, I heard – I heard you’re leaving. What’s your last day? And I said, well, today in about ten minutes. Said, in fact, um, could one of you guys give me a ride home because I had to leave my squad here. And, uh, the one guy that gave me a ride home, he’s like, okay, let’s, you know, I got my squad right here, so we’re in a marked squad. I still had a uniform on, and I see a guy walking, and I see as he’s going to raise his hand, and I was – I was like, oh, hey, somebody wants to wave at us. And then he flipped us off and I went, holy crap, this was the – this was the right decision. Yeah. Everything changed. And it didn’t have to. Had we had strong leadership right from, from the very top. The governor, the mayor, our chief of police, City Council of Minneapolis, the assistant chief and the deputy chiefs. This is how you treat your people. You just turn your back on us.²¹⁶

S. August 2023: Blackwell Promoted to Assistant Chief.

In August 2023, Blackwell was promoted to Assistant Chief of MPD.²¹⁷

²¹¹ Collin Decl. at ¶ 52.

²¹² Collin Decl. at ¶ 53.

²¹³ Chaix Decl. at ¶¶ 49-56.

²¹⁴ Collin Decl. at ¶ 53.

²¹⁵ Collin Decl. at ¶¶ 80-81.

²¹⁶ Documentary at 01:22:29—01:23:40; Lund Decl. at Ex. 2 at 52.

²¹⁷ Complaint at ¶ 20; Collin Decl. at ¶ 81.

T. November 2023: The Documentary is Published.

1. Release of the Documentary

In conjunction with Alpha News, the Documentary was released in November 2023.²¹⁸ The Documentary was released on YouTube, Rumble, and the Alpha News website.²¹⁹ In addition, Collin and Chaix created a website for the Documentary at www.thefallofminneapolis.com.²²⁰

The Documentary was never about money—it was more of an academic project from the very beginning.²²¹ Collin and Chaix “decided to offer the Documentary for free, just like any other news story or any other academic research.”²²²

2. The Documentary acknowledged it contained opinions

At its conclusion, the Documentary contained the following:²²³

Notice

This documentary is intended for educational purposes toward demonstrating evidence and opinions of the participants; it is not intended for commercial distribution. This documentary may not be distributed, copied, recorded, stored, reproduced, displayed, modified, transmitted, or otherwise kept or shared in any form or manner without prior written consent from Alpha News, a non-profit organization. The use of any reference material and any depictions therefrom, whether in audio, print, video, or other format, follows the production of qualitative media meta-analysis and academic socio-historical commentary and documentation and does not constitute approval or endorsement from the source of such material or any intermediation therebetween. Alpha News does not condone any acts of violence, criminal behavior, or profanity that may be depicted in any reference material, or the production of media while engaged in criminal activity or behavior of any kind. All opinions expressed by the individuals interviewed in this documentary are solely the opinions of those individuals and do not reflect the opinions of Alpha News.

²¹⁸ Complaint at ¶ 4.

²¹⁹ Collin Decl. at ¶¶ 55-56.

²²⁰ Collin Decl. at ¶ 55.

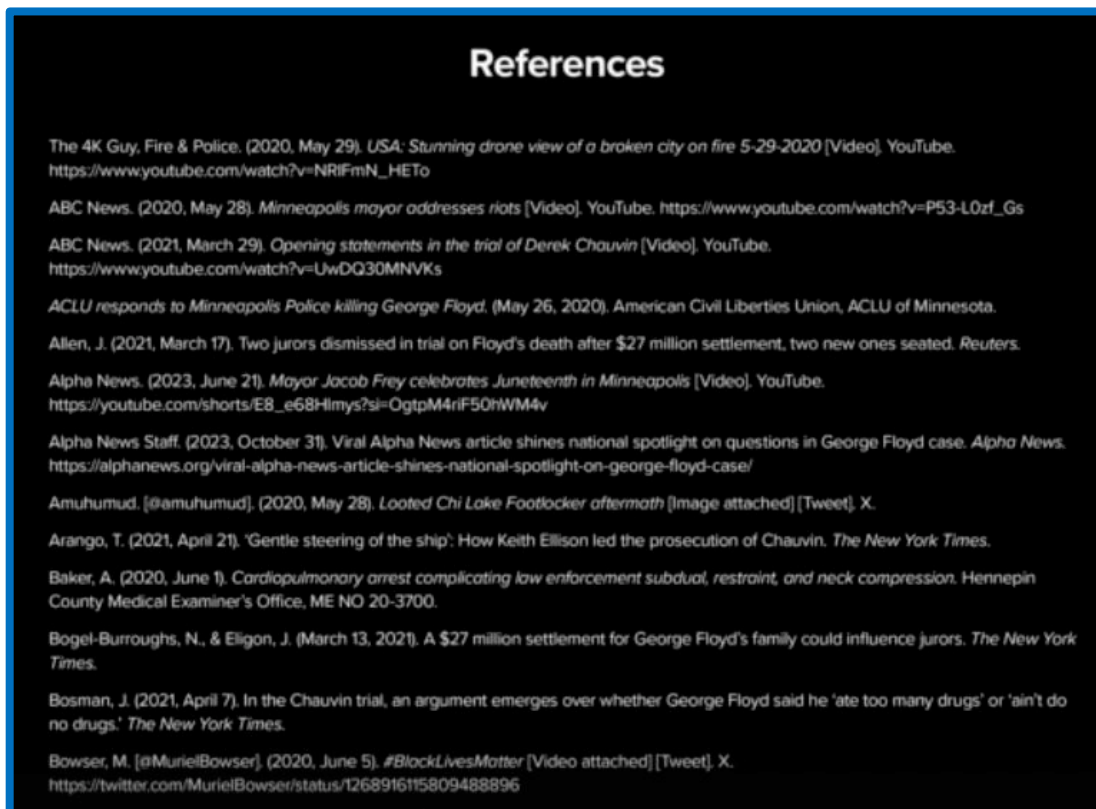
²²¹ Collin Decl. at ¶ 54.

²²² *Id.*

²²³ Documentary at 1:39:16-1:39:40.

3. Research underlying the Documentary

After the above “Notice,” the Documentary includes a long list of “References” underlying the Documentary.²²⁴



These citations scroll for approximately three minutes.²²⁵

Collin and Chaix realized that no matter what they produced in the Documentary, they would be criticized.²²⁶ Consequently, in addition to the “References” built into the Documentary itself, Collin conceived of the idea to create a web page that includes some of the original, empirical data underlying the Documentary.²²⁷ She did this to “permit the public, as well as readers of my

²²⁴ Documentary at 1:39:31-1:42:15.

²²⁵ See *id.*

²²⁶ Collin Decl. at ¶ 59; Chaix Decl. at ¶ 45.

²²⁷ Collin Decl. at ¶ 59; Chaix Decl. at ¶¶ 52, 159.

book and viewers of the Documentary, to be able to read the original source information, reach their own conclusions, and form their own opinions.”²²⁸

This web page, entitled “RESEARCH,” exists today.²²⁹ When reduced to screenshots, it produces 32 pages (image follows on next page):²³⁰

²²⁸ Collin Decl. at ¶ 59.

²²⁹ <https://www.thefallofminneapolis.com/research>. Defendants captured this webpage and included it in the Lund Declaration at Exhibit 36.

²³⁰ *Id.*

<h2>THE FALL OF MINNEAPOLIS</h2> <p>RESEARCH MAY 18, 2020 11:31 AM</p> <h3>RESEARCH</h3> <p>The Fall of Minneapolis... RESEARCH</p> <p>THE ARREST OF GEORGE FLOYD</p> <h4>George Floyd's Criminal History</h4> <p>George Floyd's Criminal History... THE ARREST OF GEORGE FLOYD</p>				
<h4>The police body-worn camera videos</h4> <p>Body-worn camera videos...</p>	<h4>Officer Thomas Lane: Body-worn Camera Video</h4> <p>Officer Thomas Lane...</p>	<h4>Officer Tom Thiel: Body-worn Camera Video</h4> <p>Officer Tom Thiel...</p>	<h4>Official Derek Chauvin Body-worn Camera Video</h4> <p>Official Derek Chauvin...</p>	
<h4>Officer Scott Croughan: Body-worn Camera Video of George Floyd's Arrest in 2019</h4> <p>Officer Scott Croughan...</p>	<h4>Minneapolis Police MRT Training</h4> <p>Minneapolis Police MRT Training...</p>	<h4>Minneapolis Police MRT Training</h4> <p>Minneapolis Police MRT Training...</p>	<h4>Thomas Lane explains MRT during interview with FBI & MN BCA</h4> <p>Thomas Lane explains MRT...</p>	<h4>The Minneapolis Police Department Policy 9-318 - MRT</h4> <p>The Minneapolis Police Department Policy 9-318 - MRT...</p>
<h4>Chief Arneson discussed MRT during interview with FBI & BCA special agents</h4> <p>Chief Arneson discussed MRT...</p>		<h4>THE AUTOPSY</h4> <p>THE AUTOPSY...</p>	<h4>The Only Official Autopsy Report</h4> <p>The Only Official Autopsy Report...</p>	<h4>In-custody death: Carfax arrest, drugs, and asphyxia in context</h4> <p>In-custody death: Carfax arrest, drugs, and asphyxia in context...</p>
<h4>Dr. Baker: "The kind of case that ends careers" - sworn testimony of prosecutor Amy Dewdney</h4> <p>Dr. Baker: "The kind of case that ends careers" - sworn testimony of prosecutor Amy Dewdney...</p>		<h4>Ben Crump's "Independent Autopsy" announcement</h4> <p>Ben Crump's "Independent Autopsy" announcement...</p>	<h4>The Office of the Armed Forces Medical Examiner's autopsy "report"</h4> <p>The Office of the Armed Forces Medical Examiner's autopsy "report"...</p>	<h4>THE FALL OF THE 3RD PRECINCT</h4> <p>The official altercation review...</p>
<h4>The "ladder" of the 3rd precinct: A riot-friendly report</h4> <p>The "ladder" of the 3rd precinct: A riot-friendly report...</p>	<h4>The Stage of the Third Precinct Incident</h4> <p>The Stage of the Third Precinct Incident...</p>	<h4>Read the Official Court Documents</h4> <p>Read the Official Court Documents...</p>	<h4>Ethics Violation: Motion to disqualify Mike Freeman, The Hennepin County Attorney</h4> <p>Ethics Violation: Motion to disqualify Mike Freeman, The Hennepin County Attorney...</p>	<h4>Appeal denied: Derek Chauvin's appeal by the Court of Appeals of Minnesota</h4> <p>Appeal denied: Derek Chauvin's appeal by the Court of Appeals of Minnesota...</p>
<h4>THE AFTERMATH</h4> <p>Lies & Crime Continued...</p>	<h4>THE TRIAL OF DEREK CHAUVIN</h4> <p>THE TRIAL OF DEREK CHAUVIN...</p>		<h4>Derek Chauvin's federal appeal</h4> <p>Derek Chauvin's federal appeal...</p>	
<h4>The 2020 BLM Protests Against Liz Collins</h4> <p>The 2020 BLM Protests Against Liz Collins...</p>	<h4>Mayor Fry: "Crime is down"</h4> <p>Mayor Fry: "Crime is down"...</p>	<h4>The Scoping-out of Derek Chauvin, Part I</h4> <p>The Scoping-out of Derek Chauvin, Part I...</p>		

The Documentary’s “Research” page includes links to the *State of Minnesota v. Derek Chauvin* docket,²³¹ the *State of Minnesota v. J. Alexander Kueng* docket,²³² the *State of Minnesota v. Thomas K. Lane* docket,²³³ and the *State of Minnesota v. Tou Thao* docket.²³⁴ It also contains links to myriad additional original documents and video, including, but not limited to, George Floyd’s criminal history,²³⁵ and bodycam video for Chauvin,²³⁶ Kueng,²³⁷ Lane,²³⁸ and Thao,²³⁹ Officer Scott Creighton’s bodycam video from a 2019 arrest of George Floyd (some of which was shown to the *Chauvin* jury),²⁴⁰ links to videos of Mayor Frey speaking about how “that particular technique that was used was not authorized by the MPD,”²⁴¹ “Minneapolis Police Training” (including actual exhibits used during the *Chauvin* trial),²⁴² and a transcript of Lane explaining the MRT technique in an interview with the Federal Bureau of Investigation and the Minnesota Bureau of Criminal Apprehension.²⁴³ The “Research” page also includes a reproduction of MPD’s Police Manual § 5-300 *et seq.*, i.e., MPD’s “Use of Force” policy.²⁴⁴ As the “Research” page indicates, “[t]his copy was obtained from the Internet Archive, as collected from the minneapolismn.gov website on May 23, 2020—two days before George Floyd was arrested.”²⁴⁵

²³¹ *Id.*

²³² *Id.*

²³³ *Id.*

²³⁴ *Id.*

²³⁵ *Id.*

²³⁶ *Id.*

²³⁷ *Id.*

²³⁸ *Id.*

²³⁹ *Id.*

²⁴⁰ *Id.*

²⁴¹ *Id.*

²⁴² *Id.*

²⁴³ *Id.*

²⁴⁴ *Id.*

²⁴⁵ *Id.* (hyperlink removed from original).

The “Research” page also includes a transcript of Chief Arradondo’s interview on June 11, 2020 with FBI and BCA special agents.²⁴⁶ During this interview, Arradondo described how MRT “involved a restraint device known as a ‘hobble’ as he stated in his own words.”²⁴⁷ The page then reproduces MPD Policy Manual § 5-316,²⁴⁸ which could also be found earlier on the same page by scrolling down in the MPD Policy Manual from § 5-300 *et seq.*²⁴⁹

The “Research” page then includes “The Only Official Autopsy Report,” and permits users to scroll through it.²⁵⁰ In this section, the page notes “The official autopsy of George Floyd was conducted on May 26, 2020 approximately 12 hours after he died by pathologist Dr. Andrew M. Baker, the Hennepin County Medical Examiner.”²⁵¹

Next, the “Research” page provides that “[a]long with the official autopsy report and Minneapolis Police Department documents, producer Liz Collin and writer/director Dr. JC Chaix reviewed hundreds of sources to better understand the context of in-custody deaths involving restraint, cardiac arrest, asphyxia, and other aspects.”²⁵² The page then states:²⁵³

²⁴⁶ *Id.*

²⁴⁷ *Id.*

²⁴⁸ *Id.*

²⁴⁹ *See id.* (section entitled “The Minneapolis Police Department Policy 5-316—MRT” includes the entire § 5-300 series).

²⁵⁰ *Id.*

²⁵¹ *Id.* (hyperlink removed from original).

²⁵² *Id.*

²⁵³ *Id.*

Some of the many sources they reviewed include:

- [Prone restraint cardiac arrest in in-custody and arrest-related deaths \(Weedn, Steinberg, Speth, 2022\)](#)
- [Restraint asphyxia. An analysis of the circumstances and mechanism of death in agitated, physically restrained individuals \(Konopka, et al., 2022\)](#)
- [Possible acromegaly complicating the death of George Floyd \(Howsepian, 2022\)](#)
- [Prone restraint cardiac arrest: A comprehensive review of the scientific literature and an explanation of the physiology \(Steinberg, 2021\)](#)
- [Arrest-related death on the basis of a drug-induced excited delirium syndrome \(Kudzu, Þórðardóttir, Jónasson, 2021\)](#)
- [Sudden death during physical restraint by the Dutch police \(Dijkhuizen, Kubat, Duijst, 2020\)](#)
- [Applied force during prone restraint \(Kroll, Brave, et al., 2018\)](#)
- [Recognising positional asphyxia: not always the cause of death in victims in an unusual position \(Reijnen, et al., 2017\)](#)
- [On positional asphyxia and death in custody \(Karch, Brave, & Kroll, 2016\)](#)
- [Sudden cardiac death with stress and restraint: The association with sudden adult death syndrome, cardiomyopathy and coronary artery disease \(Krex, et al., 2015\)](#)
- [Restraint asphyxia in in-custody deaths: Medical examiner's role in prevention of deaths \(Sathyavagiswaran, Rogers, Noguchi, 2007\)](#)
- [Reexamination of custody restraint position and positional asphyxia \(Chan, Vilke, Neuman, 1998\)](#)
- [Positional asphyxia—sudden death \(1995\)](#)
- [Positional asphyxia during law enforcement transport \(Laposata, 1993\)](#)
- [Scientific self-defence \(Fairbairn, 1931\)](#)

As noted, each of these sources contains a hyperlink to the research paper.²⁵⁴

Next, the “Research” page provides the sworn testimony of former Assistant Hennepin County Attorney Amy Sweasy.²⁵⁵ In addition to providing the entire deposition transcript,²⁵⁶ the

²⁵⁴ *Id.*

²⁵⁵ *Id.*

²⁵⁶ *Id.*

“Research” page provides quotations of Sweasy’s deposition testimony with citations to page and line numbers:²⁵⁷

Sweasy testified under oath that Dr. Baker said:

- “there were no medical findings that showed any injury to the vital structures of Mr. Floyd’s neck” (p. 59, lines 5-7)
- “there were no medical indications of asphyxia or strangulation” (page 59, lines 8-9)
- “what happens when the actual evidence doesn’t match up with the public narrative that everyone’s already decided on?” (page 59, lines 10-12)
- “this is the kind of case that ends careers” (p. 59, lines 13-14).

This section of the “Research” page ends with links to “Court docs reveal ‘extreme’ public pressure on prosecutors in George Floyd case” and “Court filing: Four prosecutors opposed charging Chauvin’s partners.”²⁵⁸

The “Research” page then provides information regarding attorney Ben Crump’s “‘independent autopsy’ announcement.”²⁵⁹ It notes that “[o]n June 1, 2020, Crump [sic] a press conference to announce the results of an “independent autopsy” authored by Dr. Michael Baden and Dr. Allecia Wilson (who were hired on behalf of the family of George Floyd).”²⁶⁰ And immediately below the sentence, “[c]oincidentally, Crump announced the ‘independent autopsy’ the same day that the results of the official autopsy report were released to the public,”²⁶¹ the “Research” page provides an embedded YouTube video of Crump, Baden, and Wilson’s press

²⁵⁷ *Id.*

²⁵⁸ *Id.* (hyperlinks removed).

²⁵⁹ *Id.*

²⁶⁰ *Id.*

²⁶¹ *Id.*

conference regarding their “independent autopsy.”²⁶² The “Research” page concludes this section by stating that “[o]ther versions of this press conference can be seen here: NBC News NOW: Pathologists Deliver Findings Of George Floyd’s Independent Autopsy[;] Law & Crime: The Floyd Family Along with Their Attorney to Release Autopsy Results,” with hyperlinks to each.²⁶³

The “Research” page then provides a link to “yet another autopsy ‘review’ of the original, official autopsy conducted by Dr. Andrew M. Baker.”²⁶⁴ This “review,” the page states, was Exhibit 19 in the *Chauvin* trial, and is produced in full.²⁶⁵ The “Research” page also notes that “[t]his report from Office of the Armed Forces Medical Examiner was submitted as evidence during the trial of Derek Chauvin and is available on the Minnesota Judicial Branch website: 27-CR-20-12646: State vs. Derek Chauvin.”²⁶⁶

Next, the “Research” page states that “[f]ollowing the riots and civil unrest, the City of Minneapolis hired a consulting firm, Hillard Heintze, to conduct an after-action review and write an official report.”²⁶⁷ Characterizing this report as “scathing,”²⁶⁸ the “Research” page includes a link to, and copy of, the full report.²⁶⁹

The “Research” page then includes a link to a publication by “CRIMETHINC”²⁷⁰ entitled *The Siege of the Third Precinct in Minneapolis[:] An Account and Analysis*, dated June 10, 2020.²⁷¹

²⁶² *Id.*

²⁶³ *Id.* (hyperlinks removed).

²⁶⁴ *Id.*

²⁶⁵ *Id.*

²⁶⁶ *Id.* (hyperlink removed).

²⁶⁷ *Id.*

²⁶⁸ *Id.*

²⁶⁹ *Id.*

²⁷⁰ This name is pronounced “Crime think.”

²⁷¹ *Id.* (providing hyperlink to

<https://static1.squarespace.com/static/64ce5a7bf2719a0e6e8c2d3e/t/6582f29e610c8937b71e92ab/1703080607159/CrimethInc-The+Siege+of+the+Third+Precinct+in+Minneapolis+An+Account+and+Analysis.pdf>).

This publication “attempts to explain how ‘different tactics compelled the police to abandon the Third Precinct during the rioting in Minneapolis in 2020’” and “offers tips for future ‘sieges’ and advises ‘rebels to set up the Telegram app on burner phones in order to stay informed while preventing police stingrays (false cell phone towers) from gleaning their personal information.’”²⁷²

The “Research” page then provides more information regarding “The Trial of Derek Chauvin.”²⁷³ It provides a link to “[t]he official court documents—including the exhibits of evidence, motions, and other facts and information.”²⁷⁴ It provides the original Complaint (and Statement of Probable Cause).²⁷⁵ It provides Chauvin’s actual motion to disqualify Hennepin County Attorney Mike Freeman, which was later granted, as well as links to several news articles reporting the same.²⁷⁶ And it includes the Minnesota Court of Appeals’ decision in Chauvin’s appeal.²⁷⁷

Finally, the “Research” page provides a section called “The Aftermath,” including information, links to articles, and links to original documents relating to: (1) Chief Arradondo’s belief that he was on “the right side of history”; (2) protests at Collin’s home; (3) Chauvin’s *pro se* appeal (with original documents); and (4) Mayor Frey’s contention that “crime is down.”²⁷⁸

4. White Birch Publishing LLC’s lack of any role in the Documentary

White Birch Publishing had no role in the Documentary, whether via publishing, financing, or otherwise.²⁷⁹

²⁷² <https://www.thefallofminneapolis.com/research> (quoting CRIMETHINC, *The Siege of the Third Precinct in Minneapolis[:] An Account and Analysis* at 8 (June 10, 2020) (pages unnumbered) (Lund Decl. at Ex. 36).

²⁷³ *Id.*

²⁷⁴ *Id.*

²⁷⁵ *Id.*

²⁷⁶ *Id.*

²⁷⁷ *Id.*

²⁷⁸ *Id.*

²⁷⁹ Collin Decl. at ¶ 46.

U. Collin and Chaix’s Attempts To Invite MPD Senior Leadership to Participate In the Book and the Documentary

In their declarations, Collin and Chaix describe their respective, extensive work on both the Book and the Documentary.²⁸⁰ As part of that work, Collin and Chaix asked MPD senior leadership to provide an interview for the Book and later, the Documentary.²⁸¹ Collin and Chaix did this to, *inter alia*, verify the statements being made against senior MPD officers that they (1) lied under oath with respect to MPD training (including with respect to neck restraints); (2) lied under oath with respect to the four officers’ use of MRT with respect to Floyd, and (3) acted poorly with respect to defending the City of Minneapolis against the riots.²⁸² MPD ignored their requests.²⁸³

V. The Reception of the Book and the Documentary

1. The Book’s reception

The Book has been an Amazon “Best Seller.”²⁸⁴ It has received 1,119 ratings on Amazon (with an average rating of 4.8 out of 5 stars)²⁸⁵ and 533 ratings on Goodreads (with an average rating of 4.49 out of 5 stars).²⁸⁶

2. The Documentary’s reception

The *Fall of Minneapolis* has garnered over 10 million views/impressions across multiple

²⁸⁰ Collin Decl. at ¶¶ 24-30, 50-66, 73; Chaix Decl. at ¶¶ 46-69.

²⁸¹ Collin Decl. at ¶ 66; Chaix Decl. at ¶ 59.

²⁸² Collin Decl. at ¶ 66; Chaix Decl. at ¶¶ 61-66.

²⁸³ Collin Decl. at ¶ 66; Chaix Decl. at ¶ 59.

²⁸⁴ Collin Decl. at ¶ 48.

²⁸⁵ Lund Decl. at ¶ 4; *see also* <https://www.amazon.com/Theyre-Lying-Media-Death-George/dp/B0BJNG6N8D>.

²⁸⁶ Lund Decl. at ¶ 4; *see also* <https://www.goodreads.com/book/show/63047122-they-re-lying>.

websites.²⁸⁷ It has over 10,000 comments on YouTube.²⁸⁸ It has also generated its own extensive media coverage.²⁸⁹

Collin won a prestigious award for the Documentary. Founded in 1986, the Caux Round Table for Moral Capitalism (“CRT”) is an international network of principled business leaders working to promote a moral capitalism.²⁹⁰ CRT was founded to “promote its principles, which are universal, of social responsibility in business and public trust in government.”²⁹¹ Each year, the CRT awards the “Dayton Award,” which recognizes “those Minnesotans who today, in this time of crisis, carry forward that legacy and those ideals—no matter what their power or position.”²⁹²

In 2021, the CRT’s Board of Directors awarded the Dayton Award to MPD Chief Arradondo.²⁹³ Following *The Fall of Minneapolis*’s release on November 16, 2023,²⁹⁴ the CRT’s Board of Directors awarded Collin the Dayton Award in June 2024 for her work on the

²⁸⁷ Collin Decl. at ¶ 56.

²⁸⁸ Lund Decl. at ¶ 5.

²⁸⁹ See, e.g., Tyler Stone, Megyn Kelly: *George Floyd Documentary Will Completely Change How You Think About The Case, “It Was Built On A Lie”*, REALCLEAR POLITICS (Nov. 16, 2023), https://www.realclearpolitics.com/video/2023/11/16/megyn_kelly_george_floyd_documentary_will_completely_change_how_you_think_about_the_case_it_was_built_on_a_lie.html (Lund Decl. at Ex. 37); Coleman Hughes, *What Really Happened to George Floyd?*, THE FREE PRESS (Jan. 16, 2024), <https://www.thefp.com/p/what-really-happened-to-george-floyd> (Lund Decl. at Ex. 38); Fox News Staff, *JESSE WATTERS: The George Floyd story is very different, depending on who you talk to*, FOX NEWS (Nov. 20, 2023), <https://www.foxnews.com/media/jesse-watters-george-floyd-story-very-different-depending-on-who-you-talk-to> (Lund Decl. at Ex. 39).

²⁹⁰ Lund Decl. at Ex. 40 (<https://www.cauxroundtable.org/about/>).

²⁹¹ Lund Decl. at Ex. 41 (<https://www.cauxroundtable.org/2022/04/06/please-join-us-for-the-presentation-of-the-2021-dayton-awards-friday-may-6/>).

²⁹² *Id.*


²⁹³ *Id.*; Lund Decl. at Ex. 42 (<https://www.cauxroundtable.org/2024/06/17/caux-round-table-presents-2023-dayton-award-to-liz-collin-of-alpha-news/>).

²⁹⁴ Collin Decl. at ¶ 14; see also Complaint at ¶ 4 (“Collin also produced and starred in a ‘documentary’ called *The Fall of Minneapolis*, released in November of 2023 which is ostensibly about the death of George Floyd at the hands of Derek Chauvin and other employees of the Minneapolis Police Department, and which sparked a series of protests marked by arson and violence and the subsequent convictions of Chauvin for Floyd’s murder and for violating Floyd’s civil rights.”).

Documentary.²⁹⁵ At the time, the CRT's Board included both Republicans and Democrats.²⁹⁶ On September 23, 2024, recognizing Collin, the CRT's Board stated:²⁹⁷

Video of Dayton Award Presentation

CRT Admin
September 23, 2024
Commentary



These are not the happiest of times for the United States of America or for our world, for that matter. There are two wars underway between rival peoples with unhappy historic memories of each other. Many say that the post-World War II international order is not what it once was.

Already several years ago now, a friend of the Caux Round Table said to me: "Everyone knows that we are living at the end of an age. They don't know what the next age will bring or how they will need to adjust. So, everyone just does today what they did yesterday."

In such circumstances, as the tides of time shift their flow, discernment is needed more than ever – discernment of what is happening, discernment of what is fundamental, discernment of what is eternal and discernment of the truth.

As important as discernment is having the courage to act on the truth.

With these moral parameters in mind, our board selected reporter Liz Collin of Alpha News to receive the 2023 Dayton Award for her documentary, [The Fall of Minneapolis](#).

Her work in that documentary provides discernment of disturbing facts and conditions in our new America. Bringing before the public a different perspective on a tragic event was an act of civic courage.

You may watch the event [here](#).

Many thanks to Loren Swanson, one of our regular participants, for recording it.

²⁹⁵ Lund Decl. at Ex. 42; Collin Decl. at ¶ 39.

²⁹⁶ See Collin Decl. at ¶ 39 (noting CRT's Board included Republican Kendall Qualls and Democrat Mark Ritchie).

²⁹⁷ Lund Decl. at Ex. 43 (<https://www.cauxroundtable.org/2024/09/23/video-of-dayton-award-presentation/>). On November 7, 2024, the CRT published additional compliments for Collin and Chaix's latest documentary released in October 2024, *Minnesota v. We The People*. Lund Decl. at Ex. 44 (<https://www.cauxroundtable.org/2024/11/07/a-moving-documentary-from-minnesota/>).

W. Blackwell's Complaint

1. Service of the complaint (and failure to serve Defendant Chaix)

Blackwell served her Complaint on Alpha News on October 10, 2024 and on White Birch Publishing, LLC on October 11, 2024.²⁹⁸ The day after Alpha News was served, Defendants' counsel wrote Blackwell's counsel.²⁹⁹ In the letter, Defendants' counsel apprised Blackwell's counsel of Minnesota's newly enacted UPEPA, Minn. Stat. § 554.07 *et seq.*, and warned Blackwell's counsel that the then-forthcoming motion could result in Blackwell paying “tens of thousands of dollars” of attorneys' fees.³⁰⁰ Nonetheless, Defendants' counsel concluded this letter by stating: “If you desire to proceed despite our warnings (including unequivocal law against your client), please send me a waiver of service form by the end of business on October 14 for each Defendant. Personal service is unnecessary and therefore, harassing.”³⁰¹ Blackwell's counsel responded by filing her Complaint with the Court on October 11, 2024.³⁰² Blackwell's counsel has never asked Defendants' counsel to waive service of the Complaint with respect to any Defendant.³⁰³

Blackwell served Defendant Collin's husband on October 28, 2024.³⁰⁴ As December 31, 2024, Plaintiff has not filed an affidavit of service for service of the complaint and summons on Defendant Collin.³⁰⁵

Defendant Chaix has never been served with the Complaint.³⁰⁶

²⁹⁸ Lund Decl. at Exs. 45-46.

²⁹⁹ Madel Decl. at ¶ 2 and Ex. A (letter from Madel to Jennifer Moore, Christopher L. Paul, and Daniel J. Wilcox dated October 11, 2024).

³⁰⁰ *Id.*

³⁰¹ *Id.*

³⁰² Madel Decl. at ¶ 3 and Ex. B; Ms. Moore's letter indicated that Plaintiff filed her complaint on October 11, 2024, however, the complaint was officially filed and accepted by the Court on October 15, 2024.

³⁰³ Madel Decl. at ¶ 4.

³⁰⁴ Kroll Decl. at ¶ 24.

³⁰⁵ Lund Decl. at ¶ 52.

³⁰⁶ Chaix Decl. at ¶ 2.

2. Blackwell's defamation allegations

The statements that Blackwell alleges constitute purported defamation are found in paragraphs 30-32 of her Complaint under the heading, "Defamatory Statements."³⁰⁷ For the Court's convenience, Defendants have attempted to list and identify Blackwell's alleged defamatory communications as numbered "Statements" herein:³⁰⁸

Statement #	Statement	Complaint ¶
1.	"...it doesn't seem like Inspector Blackwell knows how MPD officers are trained—or maybe she was lying."	30(a)
2.	"With that in mind, it doesn't seem like Blackwell, Arradondo, Mercil, and other so-called expert witnesses, were telling the truth."	30(b)
3.	"It seems more like they were lying by omission, if not lying outright."	30(c)
4.	Through "deceptive framing and editing," Blackwell testified that the MRT, or the maximal restraint technique, was not a part of Minneapolis police policy.	31
5.	Blackwell lied when she testified that the "technique used by Chauvin" was not part of the MRT.	31
6.	Blackwell turned her back on the City of Minneapolis.	31
7.	Blackwell's testimony was responsible in part for a whole host of public safety concerns, including police officer attrition, rising crime, and general deterioration of the city.	31

a. Alleged defamation in the Book

Blackwell alleges that three statements in the Book constitute defamation:

(1) Statement #1 from Complaint/actual passage

Alleged defamatory Statement #1 from Blackwell's Complaint is: "...it doesn't seem like Inspector Blackwell knows how MPD officers are trained—or maybe she was lying."³⁰⁹ The actual passage from the Book provides:³¹⁰

³⁰⁷ Complaint at ¶¶ 30-32.

³⁰⁸ The Minnesota Supreme Court followed this numeric-statement approach in *McKee v. Laurion*, 825 N.W.2d 725, 729 (Minn. 2013).

³⁰⁹ Complaint at ¶ 30(a) (citing p. 207 of the Book).

³¹⁰ Book at 207.

Let's give Arradondo the benefit of the doubt. Besides, if anyone should be able to recognize MPD training techniques, it would be the person in charge of MPD training. That would be Inspector Katie Blackwell. She was in charge of the Minneapolis Police training division when George Floyd was arrested and died. She also testified during Chauvin's trial. When the prosecution asked her about how Chauvin and the other officers were trying to restrain Floyd, she testified:¹⁸⁵

"I don't know what kind of improvised position that is. So that's not what we train."

While that sounds perfectly reasonable, it doesn't seem like Inspector Blackwell knows how MPD officers are trained—or maybe she was lying. The procedure the four officers were following was and still is part of MPD training. It was clearly written in MPD policy. To be a bit more specific, again, it's policy 5-316, "Maximal Restraint Technique."

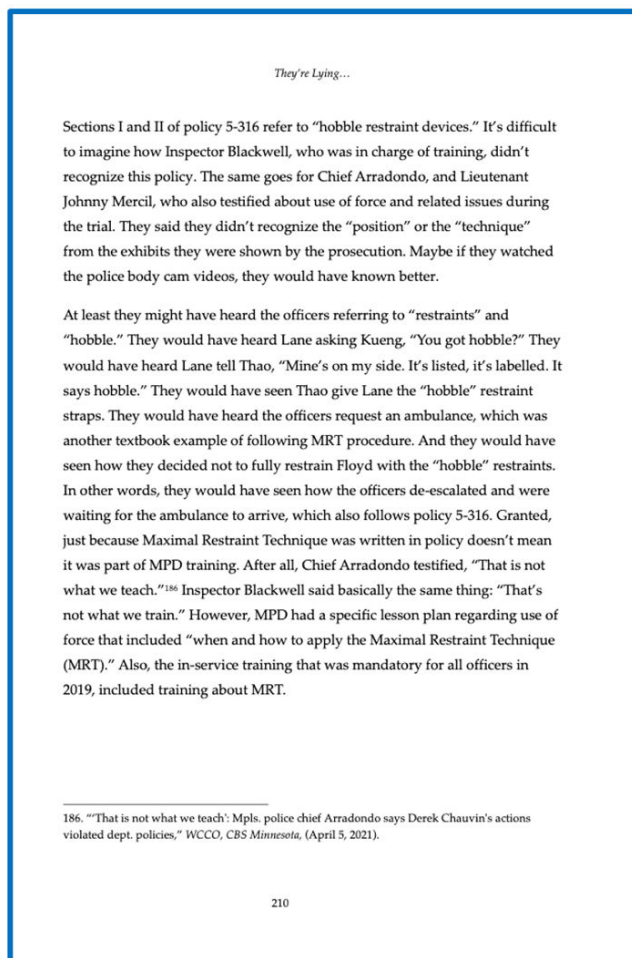
(2) Statements #2 & #3 from Complaint/actual passage

Alleged defamatory Statement #2 from Blackwell's Complaint is: "With that in mind, it doesn't seem like Blackwell, Arradondo, Mercil, and other so-called expert witnesses, were telling the truth."³¹¹ And alleged defamatory Statement #3 from Blackwell's Complaint is: "It seems more like they were lying by omission, if not lying outright."³¹² The actual passage from the Book provides:³¹³

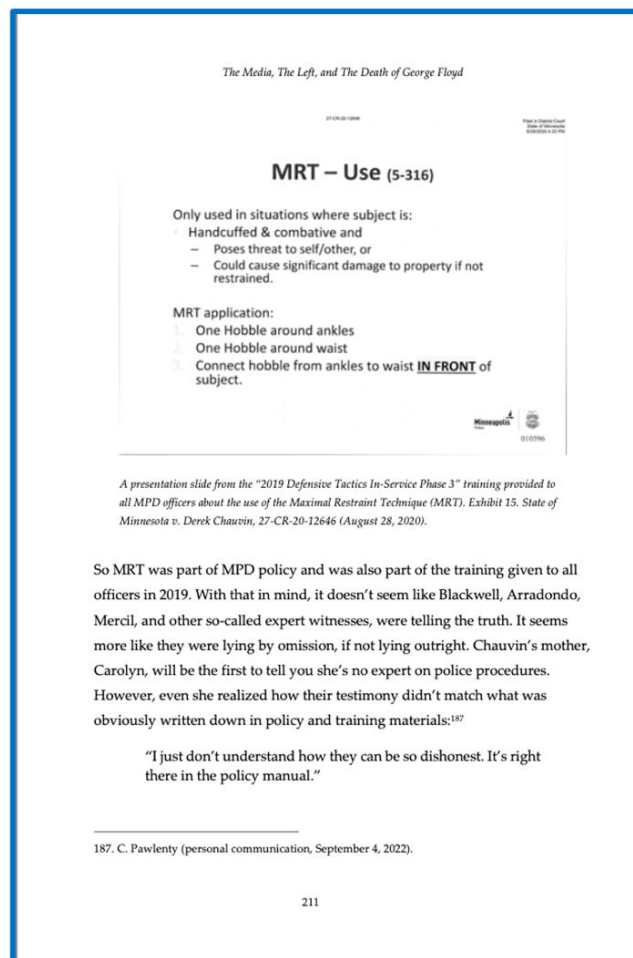
³¹¹ *Id.* at ¶ 30(b) (citing p. 211 of the Book).

³¹² *Id.* at ¶ 30(c) (citing p. 211 of the Book).

³¹³ Book at 210-11.



¹⁸⁶. “That is not what we teach”: Mpls. police chief Arradondo says Derek Chauvin’s actions violated dept. policies,” WCCO, CBS Minnesota, (April 5, 2021).



¹⁸⁷. C. Pawlenty (personal communication, September 4, 2022).

(3) Blackwell was hardly mentioned in the Book

The Book is over 250 pages.³¹⁴ It mentions Floyd by name 493 times, Chauvin 202 times,³¹⁵ and Chief Arradondo 168 times.³¹⁶ In contrast, the Book mentions Blackwell by name eight times.³¹⁷ As Collin and Chaix explain, they concentrated on Chief Arradondo in the Book because of his role as the head of MPD.³¹⁸ The Book mentions attorney Ben Crump by name almost four times more than Blackwell.³¹⁹

³¹⁴ Chaix Decl. at ¶ 115.

³¹⁵ Lund Decl. at ¶ 3.

³¹⁶ *Id.*

³¹⁷ *See id.* (noting that Blackwell was mentioned 8 times and now Judge Jerry W. Blackwell was mentioned 7 times).

³¹⁸ Collin Decl. at ¶ 41; Chaix Decl. at ¶ 112.

³¹⁹ Lund Decl. at ¶ 3.

The Book’s references to Blackwell are not entirely about her testimony in court. The Book reproduced an email sent to Blackwell and others from MPD Lieutenant Gary Nelson.³²⁰ In this pre-Floyd email, Lieutenant Nelson suggested that MPD develop riot-training protocols that “we currently either do not have or struggle to achieve.”³²¹ The Book stated, “Gary’s proposal would have made a difference during the riots, but it was basically ignored.”³²²

Blackwell does not claim this statement is defamatory.³²³

b. Alleged defamation in the Documentary

Blackwell’s allegations regarding the Documentary are less clear.³²⁴ It appears that Blackwell claims that Collin and Chaix lied about the “nature of Blackwell’s testimony” via the Documentary’s “deceptive framing and editing” “with the hope that the viewer will believe that Blackwell perjured herself by stating that the MRT was not part of police policy.”³²⁵ Blackwell alleges, “[i]n reality, Blackwell testified that she did not recognize the technique used by Chauvin as any technique officers are trained to use, including the MRT.”³²⁶ Blackwell alleges that “[t]hough it is true that the MRT was trained by the MPD, it is not true that the MRT was the ‘technique’ Chauvin used.”³²⁷ Blackwell also took issue with what she described as a conclusion

³²⁰ Book at 70 (email).

³²¹ *Id.*

³²² Book at 71.

³²³ See Complaint at ¶¶ 30-31.

³²⁴ Cf. *Hunter v. Coughlin*, 2021 WL 1962905, 2021 Minn. App. Unpub. LEXIS 488, at *5 (Minn. App. May 17, 2021) (“*Coughlin*”) (“Defamation suits require greater specificity in pleading and have generally required the defamatory matter to be set out verbatim.”) (citing *Moreno v. Crookston Times Printing Co.*, 610 N.W.2d 321, 326-27 (Minn. 2000)).

³²⁵ See Complaint at ¶ 31 (“In the film’s deceptive framing and editing, Collin and Chaix lie about the nature of Blackwell’s testimony with the hope that the viewer will believe that Blackwell perjured herself by stating that the MRT was not part of police policy. In reality, Blackwell testified that she did not recognize the technique used by Chauvin as any technique officers are trained to use, including the MRT.”).

³²⁶ *Id.*

³²⁷ *Id.*

from the Documentary: Blackwell “turned her back on the City of Minneapolis” and Blackwell’s testimony “was responsible in part for a whole host of public safety concerns, including police officer attrition, rising crime, and general deterioration of the city.”³²⁸

(1) Statements #4-#7

In sum, therefore, it appears Blackwell makes four defamation allegations regarding the Documentary: (4) through “deceptive framing and editing,” Blackwell testified that the MRT, or the maximal-restraint technique, was not a part of Minneapolis police policy (Statement #4);³²⁹ (5) Blackwell lied when she testified that the “technique used by Chauvin” was not part of the MRT (Statement #5);³³⁰ (6) Blackwell “turned her back on the City of Minneapolis” (Statement #6);³³¹ and (7) Blackwell’s testimony “was responsible in part for a whole host of public safety concerns, including police officer attrition, rising crime, and general deterioration of the city.”³³²

(2) What is actually in the Documentary

With respect to Statements #4 and #5, the transcript of the relevant portion of the Documentary³³³ shows that the point of the Documentary was identical to the Book, i.e., that the four officers used the neck restraint as part of the MRT process, and that the officers’ actions were, in fact, trained by MPD:

Time of documentary	Speaker	Statement
00:59:26 – 00:59:39	Eric Nelson	You would agree, Chief, that from the perspective of Miss Frazier’s camera, it appears that Officer Chauvin’s knee is on the neck of Mr. Floyd?
00:59:41 - 00:59:42	Medaria Arradondo	Yes.

³²⁸ *Id.*

³²⁹ *Id.*

³³⁰ *Id.*

³³¹ *Id.*

³³² *Id.*

³³³ The transcript of the entire Documentary is attached to the Lund Declaration at Exhibit 2.

Time of documentary	Speaker	Statement
00:59:46 – 00:59:56	Eric Nelson	Would you agree that from the perspective of Officer Kueng’s body camera, it appears that Officer Chauvin’s knee was more on Mr. Floyd’s shoulder blade?
00:59:58 – 01:00:00	Medaria Arradondo	Um, yes.
01:00:02 - 01:00:03	Eric Nelson	I have no further questions.
01:00:05 - 01:00:22	Steve Schleicher	I’d like to show you uh, what’s been received as exhibit 17. Is this a trained technique that’s, uh, by the Minneapolis Police Department when you were, uh, overseeing the training unit?
01:00:22 - 01:00:24	Katie Blackwell	It is not.
01:00:24 - 01:00:26	Steve Schleicher	And how does this differ?
01:00:28 - 01:00:33	Katie Blackwell	I don’t know what kind of improvised position that is. So that’s not what we train.
01:00:33 - 01:00:44	Steve Schleicher	Alright. As you reflect on exhibit 17, I must ask you, is this a trained Minneapolis Police Department defensive tactics technique?
01:00:44 - 01:00:45	Medaria Arradondo	It is not.
01:00:47 - 01:00:56	Carolyn Pawlenty	When I heard that part of the testimony, I really wanted to get up off my chair and yell bullshit.
01:00:56 – 01:01:05	Liz Collin	Several of those witnesses testified that MRT, or the maximal restraint technique, was not a part of Minneapolis police policy.
01:01:05 - 01:01:37	Carolyn Pawlenty	Oh the, um, it wasn’t part of the training? The pages that were – didn’t want to be presented in court because they weren’t in the manual? I’ve seen the manual. I’ve read through the manuals. I’ve seen – I’ve seen them. Hmm, they’re not in the manuals? Well, they sure as hell are in Derek’s training manuals. So how can they say that they don’t exist?
01:01:39 - 01:01:40	Liz Collin	That’s Derek’s manual?
01:01:40 - 01:01:42	Carolyn Pawlenty	These are Derek’s training manuals.
01:01:43 - 01:01:45	Liz Collin	And MRT is in there?
01:01:45 - 01:02:00	Carolyn Pawlenty	Yes, it’s in there. So how can you say that’s not part of the training? So, the chief of police at that time told a frickin’ lie.
01:02:21- 01:02:23	Automated voice	This call is from a federal prison.

Time of documentary	Speaker	Statement
01:02:30-01:02:48	Liz Collin	During the trial, several witnesses, including Chief Arradondo, and Inspector Blackwell, testified that they didn't recognize the technique you and the other officers were using as if it was not a part of Minneapolis police training. But was MRT, the maximal restraint technique, part of training and policy?
01:02:50-01:02:58	Derek Chauvin	Absolutely. In fact, I'm looking at it right now, 5-316. Maximal restraint technique, right in their written policy manual.

Statements #6 and #7 relate to MPD Lieutenant Voss's statement in the Documentary:

Yeah. Everything changed. And it didn't have to. Had we had strong leadership right from, from the very top. The governor, the mayor, our chief of police, City Council of Minneapolis, the assistant chief and the deputy chiefs. This is how you treat your people. You just turn your back on us.³³⁴

Blackwell claims that when Voss communicated Statements #6 and #7, Voss was talking about Blackwell.³³⁵ Nothing in Voss's statement mentions Blackwell by name.³³⁶ The Documentary noted Blackwell was an "Inspector" at the time.³³⁷ Voss's above statement refers to "[t]he governor, the mayor, our chief of police, City Council of Minneapolis, the assistant chief and the deputy chiefs."³³⁸ Collin and Chaix filmed Voss's portion of the Documentary approximately two months *before* Blackwell became an MPD Assistant Chief,³³⁹ and Blackwell has never held the position of "deputy chief" at MPD.³⁴⁰ The only "assistant chief" referenced in the Documentary was by former MPD officer Lindsay Herron, but she referred to a male "assistant chief": "I end up on the phone with the assistant chief. *He's* like, so, our plan is we're going to take

³³⁴ Documentary at 01:23:12-01:23:40.

³³⁵ Complaint at ¶ 31.

³³⁶ *Compare* Complaint at ¶ 31 *with* Documentary at 01:23:12-01:23:40.

³³⁷ Documentary at 1:02:30-1:02:48.

³³⁸ *Id.* at 01:23:12-01:23:40.

³³⁹ *See* Collin Decl. at ¶ 81 (Collin interviewed Voss on June 15, 2023); *see also* Complaint at ¶ 20 ("Most recently, in August 2023, Chief Brian O'Hara appointed Blackwell as one of two new assistant chiefs in a major departmental organization.").

³⁴⁰ Kroll Decl. at ¶ 10; Collin Decl. at ¶ 81.

all the squad cars and everything around and make the precinct look abandoned. And if no one's there, it shouldn't be a target."³⁴¹ In addition, the pictures shown on the screen as Voss conveyed these words do not even include Blackwell:³⁴²



X. The Book and the Documentary Represent “Matters of Public Concern”

1. Blackwell’s Complaint

Blackwell’s Complaint provides several admissions that the Book and the Documentary are “matters of public concern.” For example, Blackwell noted that the Documentary “has a Facebook page,” the “film is routinely referenced on Twitter, as is the book, *They’re Lying*,” and “[i]t has been the subject of podcasts and articles on the internet where it is common to include a link to download the movie or purchase the book.”³⁴³ She averred that “[i]t is common to see the 2020 riots that occurred in Minneapolis discussed as ‘The Fall of Minneapolis’ online.”³⁴⁴ And she noted that there was “renewed interest in the film and book” after Governor Walz was selected as Kamala Harris’s vice presidential running mate.³⁴⁵

³⁴¹ Documentary at 00:27:30-00:27:42 (emphasis added).

³⁴² Documentary at 01:23:25-01:23:37.

³⁴³ Complaint at ¶ 34.

³⁴⁴ *Id.* at ¶ 36.

³⁴⁵ *Id.* at ¶ 35.

2. Public-concern declarations

In addition to the evidence above, Defendants have also submitted several declarations demonstrating that the Book and Documentary deal with matters of public concern.

a. Brian Peters, Executive Director of the MPPOA

Brian Peters, the Executive Director of the Minnesota Police and Peace Officers Association (“MPPOA”), which represents over 10,000 public-safety officials in Minnesota who hold active law-enforcement licenses, provided a detailed declaration as to how George Floyd’s death, and the resulting trials, received extensive national and international attention.³⁴⁶ Among other things, Peters swore:

- “As a result of Mr. Floyd’s death and Mr. Chauvin’s trial, many lawyers, commentators, and others in Minnesota and elsewhere advocated the existence of systemic issues related to race and justice. This sparked debates about how Black communities and other marginalized groups have been treated by the criminal-justice system. This was particularly relevant in the United States, where the trial fed into larger discussions about racial equality and criminal-justice reform. These discussions continue today.”³⁴⁷
- “Mr. Floyd’s death sparked worldwide demonstrations, riots, and discussions in Minnesota, throughout the United States, and internationally. The resulting trial of Mr. Chauvin was accordingly a matter of national and international public concern. It remains so today.”³⁴⁸
- “Mr. Chauvin’s trial influenced legislative actions at local, state, and federal levels, prompting discussions on changes to, among other things, police training, use-of-force policies, and qualified immunity. Lawmakers and community leaders often have cited, and continued to cite, Mr. Floyd’s death and Mr. Chauvin’s trial when advocating for certain reforms.”³⁴⁹

Peters also provided evidence that he heard law-enforcement officers discuss the veracity of “Minneapolis Police Chief Medaria Arradondo and other senior Minneapolis Police Department

³⁴⁶ Declaration of Brian Peters ¶¶ 2-3, 6-10 (Nov. 13, 2024).

³⁴⁷ *Id.* at ¶ 9.

³⁴⁸ *Id.* at ¶ 7.

³⁴⁹ *Id.* at ¶ 11.

officers (including Katie Blackwell)” before the Book or the Documentary were published.³⁵⁰ More specifically, Peters stated that long before the Book and Documentary were released, he “heard numerous people, both within law enforcement and without, (a) contend that these officers were distancing themselves from Mr. Chauvin to protect themselves and the Minneapolis Police Department’s reputation; (b) discuss whether these officers testified truthfully; (c) suggest that their testimony may have been influenced by the intense public scrutiny and pressure, and (d) contend that the officers may have selectively interpreted Minneapolis Police Department policies in order to support the State of Minnesota’s prosecution of Mr. Chauvin.”³⁵¹

b. U.S. Representative Brad Finstad

United States Representative Brad Finstad serves Minnesota’s First Congressional District.³⁵² In his declaration submitted with this case, he noted that “[t]he death of George Floyd on May 25, 2020 led to renewed interest, debate, and discussion regarding the criminal justice system and policing policy.”³⁵³ He stated that “[t]he subsequent trial of Derek Chauvin and corresponding media coverage continued the local, national, and international discussion and debate regarding the criminal justice system and policing practices.”³⁵⁴ Representative Finstad swore that he watched *The Fall of Minneapolis*, and that “[r]egardless of your political views, *The Fall of Minneapolis* clearly concerns matters of public concern.”³⁵⁵ He added that *The Fall of Minneapolis* “influenced and reiterated my belief that taking government action to support the law

³⁵⁰ *Id.* at ¶¶ 13-14.

³⁵¹ *Id.* at ¶ 14.

³⁵² Declaration of Rep. Brad Finstad at ¶ 2 (Nov. 21, 2024).

³⁵³ *Id.* at ¶ 6.

³⁵⁴ *Id.* at ¶ 7.

³⁵⁵ *Id.* at ¶ 10.

enforcement community is a matter of grave public concern,”³⁵⁶ and identified a piece of legislation he introduced with a Democrat to that end.³⁵⁷

c. U.S. Representative Michelle Fischbach

United States Representative Michelle Fischbach represents Minnesota’s Seventh Congressional District.³⁵⁸ Previously, she served as the 49th Lieutenant Governor of Minnesota (2018-2019) and was a member of the Minnesota Senate (1996-2018).³⁵⁹ In her declaration submitted with this case, she stated that “[t]he death of George Floyd on May 25, 2020 led to a renewed interest in criminal justice and policing policy—in Minnesota, America, and across the world.”³⁶⁰ She stated that “[f]ollowing the death of George Floyd, there were several pieces of legislation introduced in the U.S. House of Representatives regarding the criminal justice system and policing, including H.R. 1280, which is commonly referred to as the *George Floyd Justice in Policing Act*.”³⁶¹ She noted that George Floyd’s death also “led to a war on law enforcement,” including “anti-cop rhetoric; physical attacks on police officers; and calls to ‘defund the Police’ from policymakers, media members, nonprofits, and the public.”³⁶²

Representative Fischbach also watched *The Fall of Minneapolis*.³⁶³ She stated that she watched the documentary “to learn more about the death of George Floyd, gather information about policing practices, and help identify ways [she] could use government action to support the law enforcement community and promote public safety.”³⁶⁴ The documentary also “influenced and

³⁵⁶ *Id.* at ¶ 11.

³⁵⁷ *Id.* at ¶ 12.

³⁵⁸ Declaration of Rep. Michelle Fischbach at ¶ 2 (Dec. 10, 2024).

³⁵⁹ *Id.* at ¶ 3.

³⁶⁰ *Id.* at ¶ 6.

³⁶¹ *Id.* at ¶ 7.

³⁶² *Id.* at ¶ 8.

³⁶³ *Id.* at ¶¶ 10-12.

³⁶⁴ *Id.* at ¶ 10.

reiterated [her] belief that taking government action to support the law enforcement community is a matter of grave public concern.”³⁶⁵ She swore that “*The Fall of Minneapolis* has also influenced, and continues to influence, my work to use government action to support the law enforcement community. Further, regardless of your political views, *The Fall of Minneapolis* clearly concerns a matter of public concern.”³⁶⁶ Representative Fischbach has introduced and supported myriad bills to better serve the law-enforcement community, including H.R. 6521, the *Law Enforcement Education Grant Program Act*.³⁶⁷

d. Corey Miltimore

Since 2006, Corey Miltimore has served as Managing Partner of a government-affairs firm representing clients nationwide before state and local governments and in the public space.³⁶⁸ During this time, his firm has represented some of the nation’s largest telecommunications, pharmaceutical, and financial services companies on issues of governmental and public concern.³⁶⁹ He has also served as Director of Media Studies at the Center of the American Experiment, Minnesota’s premier public-policy organization, where he tracked and evaluated state and local media for potential bias in reporting in addition to accuracy, balance, and fairness in news coverage.³⁷⁰

After Miltimore tracked the events surrounding the death of George Floyd in May 2020, it became immediately clear to him that the public demonstrations and riots prompted by Floyd’s death “were definitionally a matter of significant national and international public concern.”³⁷¹ He

³⁶⁵ *Id.* at ¶ 11.

³⁶⁶ *Id.* at ¶ 12.

³⁶⁷ *Id.* at ¶ 13.

³⁶⁸ Declaration of Corey Miltimore at ¶ 2 (Dec. 4, 2024).

³⁶⁹ *Id.* at ¶ 3.

³⁷⁰ *Id.* at ¶¶ 4-5.

³⁷¹ *Id.* at ¶ 8.

added that “[t]he resulting extensive news coverage of looting, riots, and the burning of a Minneapolis police precinct headquarters, along with the attendant examination and discussion of law enforcement practices, racial justice, and systemic inequality made clear that not only were these events of public concern, but events arguably of the *greatest* public concern in Minnesota in my lifetime.”³⁷² Miltimore swore that “[s]o significant were the aforementioned events that their ramifications have been felt in succeeding years in a multitude of overarching social, political, and public safety consequences not just to the citizens of Minneapolis, but all of Minnesota and beyond.”³⁷³ He concluded that the Documentary addressed the same matters of public concern and that he found it “compelling, enlightening, and masterfully presented.”³⁷⁴

e. Minnesota Representative Harry Niska

Minnesota State Representative Harry Niska has been a licensed attorney in Minnesota since 2006.³⁷⁵ He served as a law clerk for the U.S. Court of Appeals for the Eighth Circuit, first for Judge Roger Wollman and later for Judge David R. Stras.³⁷⁶ He currently serves as a member of the Minnesota House of Representatives, representing District 31A, which includes Ramsey and western Andover in Anoka County.³⁷⁷

Representative Niska was a co-author of HF 3309, “the bipartisan anti-SLAPP bill in the Minnesota House of Representatives.”³⁷⁸ He noted that “HF 3309 passed the Minnesota House of Representatives unanimously, 129-0, and was subsequently signed into law on May 24, 2024 by Governor Tim Walz as the Uniform Public Expression Protection Act.”³⁷⁹ Representative Niska

³⁷² *Id.* at ¶ 9 (emphasis in original).

³⁷³ *Id.* at ¶ 10.

³⁷⁴ *Id.* at ¶ 11.

³⁷⁵ Declaration of Rep. Harry Niska at ¶ 2 (Dec. 11, 2024).

³⁷⁶ *Id.*

³⁷⁷ *Id.* at ¶ 3.

³⁷⁸ *Id.* at ¶ 4.

³⁷⁹ *Id.* at ¶ 5.

stated that “[t]he purpose of the Uniform Public Expression Protection Act was to protect the right to speak freely on issues of public interest and concern, especially for journalists and nonprofits.”³⁸⁰

Representative Niska swore that “[t]he Defendants’ speech referenced in the Complaint and included in the book *They’re Lying: The Media, the Left, and the Death of George Floyd* and the movie *The Fall of Minneapolis* is exactly the type of speech the Uniform Public Expression Protection Act was meant to protect.”³⁸¹ He added that the Book and the Documentary “are unequivocally about topics of grave public concern: policing in Minnesota and America; the criminal justice system; and trust in our institutions, notably the media and government officials.”³⁸² Representative Niska noted that he frequently reads and watches a wide variety of sources to inform his opinion, and that:

The information and challenged speech at issue in the litigation here is the type of information that has influenced, and continues to influence, my work as a member of the Minnesota House of Representatives, including how I can (a) help support the law enforcement community; (b) promote trust in our institutions; and (c) protect free speech.³⁸³

f. Minnesota Senator Mark Johnson

Minnesota State Senator Mark Johnson is a licensed attorney in Minnesota and North Dakota.³⁸⁴ He currently serves as a member of the Minnesota Senate, representing District 1 in Northwestern Minnesota.³⁸⁵ Senator Johnson is the Minority Leader of the Minnesota Senate, i.e. the Republican leader of the Minnesota Senate.³⁸⁶ Minority Leader Johnson is also the Ranking

³⁸⁰ *Id.* at ¶ 6.

³⁸¹ *Id.* at ¶ 7.

³⁸² *Id.* at ¶ 8.

³⁸³ *Id.* at ¶¶ 9-10.

³⁸⁴ Declaration of Sen. Mark Johnson at ¶ 2 (Dec. 19, 2024).

³⁸⁵ *Id.* at ¶ 3.

³⁸⁶ *Id.* at ¶ 4.

Minority Member of the Senate Rules & Administration Committee, the committee that directs the introduction and process of legislation through the Minnesota Senate.³⁸⁷

Senator Johnson stated that the Uniform Public Expression Protection Act was introduced in the Minnesota Senate “on a bipartisan basis” as SF 3317, and was subsequently signed into law by Governor Tim Walz.³⁸⁸ He further noted that that the “purpose of the Uniform Public Expression Protection Act is to *prevent* strategic lawsuits against public participation (‘SLAPP’) and *protect* the right to speak freely on issues of public interest and concern, especially for journalists and nonprofits.”³⁸⁹

Senator Johnson swore that the speech included in the Book and Documentary “is exactly the type of speech the Uniform Public Expression Protection Act was meant to protect.”³⁹⁰ He added that the Book and Documentary address “topics of significant public concern”³⁹¹ and that the “challenged speech at issue in the litigation here is the type of information that” influences his work in the Minnesota Senate.³⁹²

g. Ron Eibensteiner

Ron Eibensteiner serves as the Chairman of the Center of the American Experiment (“CAE”), Minnesota’s leading public-policy organization.³⁹³ It serves as a think tank, engages in public policy discussions and debates, and conducts exhaustive investigative reporting on issues of local, state, and national concern.³⁹⁴ The CAE issues a quarterly magazine, *Thinking Minnesota*, that circulates to approximately 110,000 subscribers in Minnesota and throughout the United

³⁸⁷ *Id.* at ¶ 5.

³⁸⁸ *Id.* at ¶¶ 6-7.

³⁸⁹ *Id.* at ¶ 8 (emphasis added).

³⁹⁰ *Id.* at ¶ 9.

³⁹¹ *Id.* at ¶ 10.

³⁹² *Id.* at ¶ 12.

³⁹³ Declaration of Ron Eibensteiner at ¶¶ 2-3 (Dec. 10, 2024).

³⁹⁴ *Id.* at ¶ 3.

States.³⁹⁵ Eibensteiner noted that the CAE extensively covered issues relating to George Floyd’s death, criminal justice, and policing policy in this magazine and on its website.³⁹⁶ *Thinking Minnesota* also “ran back-to-back cover stories on the response of Minnesota’s leadership to the events that followed George Floyd’s death.”³⁹⁷ The magazine also “had extensive coverage of [Derek] Chauvin’s trial, including on our website.”³⁹⁸ Eibensteiner stated that “[t]he Center of the American Experiment continues to cover the fallout of George Floyd’s death, the riots in Minneapolis, and Derek Chauvin’s trial. For example, on May 24, 2024, the *New York Post* printed an article by John Hinderaker, President of the Center American Experiment, on how Minneapolis is still scarred by the violence, riots, arson, and looting that followed the death of George Floyd.”³⁹⁹ Eibensteiner concluded that “[t]he robust and diligent coverage by the Center of the American Experiment indicates that George Floyd’s death, the Chauvin trial, riots in Minneapolis, policing practices, and treatment of law enforcement officers are matters of significant public concern.”⁴⁰⁰

h. Jim Schultz

Jim Schultz is a Harvard Law School graduate and the Republican nominee for Minnesota Attorney General in the 2022 general election.⁴⁰¹ He currently leads a business association dedicated to advancing commonsense public policies in Minnesota, particularly focused on the economy and public safety.⁴⁰² He will also be teaching constitutional law at the University of St. Thomas Law School this year.⁴⁰³

³⁹⁵ *Id.* at ¶ 4.

³⁹⁶ *Id.* at ¶ 5.

³⁹⁷ *See id.* at ¶ 6 and Exs. 1-6 attached thereto.

³⁹⁸ *Id.* at ¶ 8; *see also id.* at Ex. 7 (article “Before the verdict, these comments are ‘not helpful’”).

³⁹⁹ *Id.* at ¶ 10 and Exs. 11 and 12 attached thereto.

⁴⁰⁰ *Id.* at ¶ 11.

⁴⁰¹ Declaration of Jim Schultz at ¶¶ 2-3 (Dec. 9, 2024).

⁴⁰² *Id.* at ¶ 4.

⁴⁰³ *Id.* at ¶ 5.

Schultz noted that “[t]he death of George Floyd on May 25, 2020 led to renewed interest, debate, and discussion regarding the criminal justice system and policing policy.”⁴⁰⁴ He stated that “[t]he subsequent trial of Derek Chauvin and corresponding media coverage continued the local, national, and international discussion and debate regarding the criminal justice system and policing practices. That discussion continues today.”⁴⁰⁵ Indeed, Schultz noted that Chauvin’s trial “influenced legislative actions at local, state, and federal levels, prompting discussions on changes to, among other things, police training, use-of-force policies, and qualified immunity.”⁴⁰⁶

Schultz watched *The Fall of Minneapolis*, noting that the documentary “covers the arrest of George Floyd, the ensuing riots, and the Chauvin trial,”⁴⁰⁷ as well as leaders’ response to each.⁴⁰⁸

Schultz concluded:

[E]ach of these topics were matters of public concern. They remain so today. Indeed, because the arrest of George Floyd, the riots, and the Chauvin trial involved issues of significant social and political issues, as well as public safety, they remain matters of public concern, with implications that extend well beyond the parties and witnesses involved in the trial.⁴⁰⁹

i. William Wernz

During the Chauvin trial, the State of Minnesota filed the Affidavit of William J. Wernz, a partner at Dorsey & Whitney and former Director of the Minnesota Office of Lawyers Professional Responsibility.⁴¹⁰ In this affidavit, Wernz argued that the district court misapplied Minnesota Rule of Professional Responsibility 3.7 to disqualify certain prosecutors.⁴¹¹ As part of his undertaking,

⁴⁰⁴ *Id.* at ¶ 6.

⁴⁰⁵ *Id.* at ¶ 7.

⁴⁰⁶ *Id.* at ¶ 8.

⁴⁰⁷ *Id.* at ¶ 11.

⁴⁰⁸ *See id.* (“It also addresses certain leaders’ response and conduct relating to the arrest of George Floyd, the riots, and the Chauvin trial.”).

⁴⁰⁹ *Id.*

⁴¹⁰ Affidavit of William J. Wernz at ¶ 1 (Sept. 14, 2020) (Lund Decl. at Ex. 53).

⁴¹¹ *Id.* at ¶ 5.

he was required to assume certain facts,⁴¹² including the facts that “[i]n the early morning of May 26, 2020, video footage of Defendant’s actions and Mr. Floyd’s death were broadly disseminated on the Internet, *and the case immediately became an unparalleled matter of public interest and unrest.*”⁴¹³

Y. Blackwell and the University of Minnesota Riots in 2014

In April 2014, nineteen people were arrested after the Minnesota Gophers lost the NCAA hockey title to Union College.⁴¹⁴ “Almost a dozen fans jumped on a police car, threw bottles and cans, shot off fireworks and climbed a traffic light as officers from the University of Minnesota, Minneapolis police, the East Metro SWAT team and the State Patrol gathered to disperse the crowd.”⁴¹⁵ As the below picture demonstrates,⁴¹⁶ Blackwell was among the responding officers:

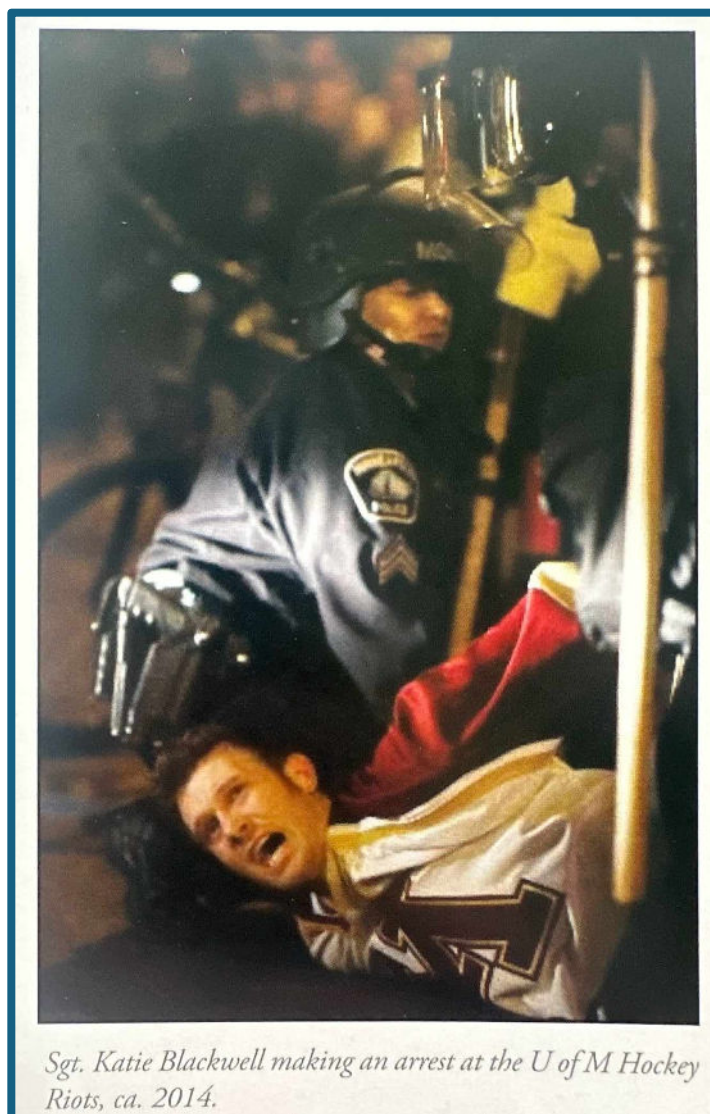
⁴¹² *Id.* at ¶ 6.

⁴¹³ *Id.* at Ex. 1 at 1 (emphasis added).

⁴¹⁴ Associated Press and Daily Mail Reporter, *19 arrested after University of Minnesota students riot for the second time in a week after Gophers lose hockey final*, DAILY MAIL (Apr. 13, 2014) (found at <https://www.dailymail.co.uk/news/article-2603717/19-arrested-University-Minnesota-students-riot-second-time-week-Gophers-lose-hockey-final.html>) (Lund Decl. at Ex. 48).

⁴¹⁵ Tim Nelson, *Gophers beat UND in Frozen Four semis; riot police break up Dinkytown fracas*, MPR NEWS (Apr. 11, 2014) (found at <https://www.mprnews.org/story/2014/04/11/gophers-beat-und-riot-police-break-up-dinkytown-fracas>) (Lund Decl. at Ex. 89).

⁴¹⁶ Lund Decl. at Exs. 48 and 49. A similar picture was found in a 150-year MPD anniversary book created by MPD officer Ken Tidgwell. Declaration of Ken Tidgwell at ¶ 5 (Nov. 26, 2024) (the “Tidgwell Decl.”) (also including picture); *see also* Lund Decl. at Ex. 50 (scanned-in copy of entire anniversary book).



The above picture is in an MPD anniversary book created by former MPD Sergeant Ken Tidgwell.⁴¹⁷ Sergeant Tidgwell swore that “[i]t appears that Katie Blackwell was employing the knee-to-neck/upper shoulder restraint,” and that MPD repeatedly trained the same restraint.⁴¹⁸ Tidgwell further stated his belief that Blackwell perjured herself during the *Chauvin* trial.⁴¹⁹

⁴¹⁷ Tidgwell Decl. at ¶ 5 (also including picture).

⁴¹⁸ *Id.* at ¶¶ 4-10, 13.

⁴¹⁹ *Id.* at ¶ 12.

Z. Defendants Are Members of the “Media”

Blackwell acknowledges that Alpha News is part of the “media.”⁴²⁰ Defendants have proffered evidence to that effect as well.⁴²¹

AA. Alpha News’ Second Documentary: *Minnesota v. We the People*

Alpha News released a second documentary, entitled *Minnesota v. We the People*, in October 2024.⁴²² This documentary honors the memory of five Minnesota first responders who were murdered in the line of duty in just 13 months.⁴²³

Blackwell appears in this second documentary.⁴²⁴ Blackwell is shown while Governor Walz delivers remarks regarding the death of MPD Officer Jamal Mitchell.⁴²⁵

⁴²⁰ See, e.g., Complaint at ¶ 10 (“Alpha News distributed and promoted *The Fall of Minneapolis* through its media channels, including *Rumble* and *You Tube* [sic], and on its website.”) (emphasis added and in original); *id.* at ¶ 8 (alleging Collin was on a “media tour”); *id.* at ¶ 40 (“These statements were made with malice such that they are not entitled to the qualified privilege *afforded to journalists* in disseminating information to the public.”) (emphasis added); *id.* at ¶ 46 (same).

⁴²¹ Collin Decl. at ¶ 34; Chaix Decl. at ¶ 57; see also Jeff Day, *supra* note 66, (“How [Blackwell’s] testimony was presented and edited in that scene, and how it was depicted in a book the film is based on, led Blackwell to file a defamation lawsuit against the conservative news site Alpha News, its star media figure Liz Collin and several other defendants last week in Hennepin County District Court.”) (emphasis added) (Lund Decl. at Ex. 14).

⁴²² Collin Decl. at ¶ 43. The *Minnesota v. We the People* documentary can be found at <https://rumble.com/v5iy8qd-minnesota-v.-we-the-people-full-documentary.html>.

⁴²³ *Id.*

⁴²⁴ Lund Decl. at ¶ 58. *Minnesota v. We the People* documentary at 41:55-42:29.

⁴²⁵ *Id.*

IV. ARGUMENT

A. Minnesota's Uniform Public Expression Protection Act (UPEPA)

1. UPEPA generally

In May 2024, Minnesota joined seven other states in adopting the Uniform Law Commission's Uniform Public Expression Protection Act.⁴²⁶ Governor Walz signed this new, bipartisan statutory regime, known as UPEPA,⁴²⁷ into law on May 24, 2024.⁴²⁸ Minnesota's UPEPA became "effective the day following final enactment and applies to a civil action pending on or commenced on or after that date,"⁴²⁹ i.e., May 25, 2024. Because Blackwell commenced this civil action after May 25, 2024, UPEPA applies.

Minnesota's UPEPA embodies a four-step process: (1) this Court must first determine whether the alleged defamatory speech involves a matter of public concern;⁴³⁰ (2) the non-moving party must then fail to establish UPEPA does not apply;⁴³¹ (3) the non-moving party must then establish a prima facie case for every essential element subject to the motion;⁴³² and then (4) the Court must determine whether the moving party established that the plaintiff failed to state a cause of action upon which relief may be granted *or* that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.⁴³³

⁴²⁶ *Minnesota*, REPORTERS COMMITTEE FOR FREEDOM OF THE PRESS, <https://www.rcfp.org/anti-slapp-guide/minnesota/> (last visited Dec. 8, 2024) (Lund Decl. at Ex. 51). Washington was the first state to adopt the uniform act. *See Jha v. Mahmood Khan*, 520 P.3d 470, 474 (Wash. 2022).

⁴²⁷ Minn. Stat. § 554.07.

⁴²⁸ *See* Minn. Laws, ch. 123, art. 18, § 1 (2024) ("Signed by the governor May 24, 2024, 9:15 a.m.") (found at <https://www.revisor.mn.gov/laws/2024/0/123/#laws.18.1.0>).

⁴²⁹ *See* Minn. Laws, ch. 123, art. 18, § 17 (2024) ("EFFECTIVE DATE. This article is effective the day following final enactment and applies to a civil action pending on or commenced on or after that date.") (found at <https://www.revisor.mn.gov/laws/2024/0/123/#laws.18.1.0>).

⁴³⁰ Minn. Stat. § 554.13(a)(1).

⁴³¹ Minn. Stat. § 554.13(a)(2).

⁴³² Minn. Stat. § 554.13(a)(3)(i).

⁴³³ Minn. Stat. § 554.13(3)(ii)(A) & (B).

2. UPEPA applies to Blackwell's claims

The threshold issue in a UPEPA motion is whether the movant establishes that the plaintiff's claims are "based on" defendants' "exercise of the right of freedom of speech...on a matter of public concern."⁴³⁴ "'Speech deals with matters of public concern' when the speech relates to 'a subject of legitimate news interest.'"⁴³⁵ In *Jacobson v. Rochester Commc'ns Corp.*,⁴³⁶ the Minnesota Supreme Court held that even though the petitioner was not a public figure, a news report describing his felony-arson trial and his "activities" were "matters of 'undoubted public concern.'"⁴³⁷ And in *Johnson v. Freborg*,⁴³⁸ the court held that a woman's post on Facebook regarding her dance instructors' alleged sexual assault was a "matter of public concern" made in the context of the #MeToo movement.⁴³⁹

Issues pertaining to law enforcement are generally matters of public concern. "There is a compelling need [] for public accountability, particularly with law enforcement."⁴⁴⁰ As stated by the USDOJ's MPD Findings, "[t]he First Amendment protects the public's right to expose truths and express their views—even when the focus of protected speech is the police themselves."⁴⁴¹

But here, Defendants' contested speech relates to much more than general law enforcement. It relates to George Floyd's death, the resulting trials, MPD tactics, MPD techniques, MPD training, the resulting riots, and a high-ranking MPD officer's conduct, including apparent perjury,

⁴³⁴ Minn. Stat. § 554.08(b)(3); Minn. Stat. § 554.13(a)(1).

⁴³⁵ *Maethner v. Someplace Safe, Inc.*, 929 N.W.2d 868, 881 (Minn. 2019) (quoting *Snyder v. Phelps*, 562 U.S. 443, 453 (2011)) (cleaned up).

⁴³⁶ 410 N.W.2d 830, 836 n.7 (Minn. 1987).

⁴³⁷ *Id.* (citing *Dun & Bradstreet, Inc. v. Greenmoss Builders, Inc.*, 472 U.S. 749, 756 (1985)).

⁴³⁸ 995 N.W.2d 374, 379 (Minn. 2023), *cert. denied*, 144 S. Ct. 819 (2024).

⁴³⁹ *Id.* at 385.

⁴⁴⁰ *Demers v. City of Minneapolis*, 468 N.W.2d 71, 74 (Minn. 1991); *see also City of Minneapolis v. Moe*, 450 N.W.2d 367, 370 (Minn. App. 1990) ("The image of integrity and trust is essential to the performance of a police officer's duties.").

⁴⁴¹ DOJ MPD Report at 55 (Lund Decl. at Ex. 33).

that resulted in the convictions of four MPD officers, including one of the most highly publicized trials in United States history. The Book has been an Amazon “Best Seller.” The Documentary has been viewed over 10 million times. This Court could end this analysis with the media coverage of the Book and the Documentary,⁴⁴² but when one adds the prominent citizens who have submitted declarations swearing this is a matter of public concern,⁴⁴³ it is obvious that Defendants have met their burden of showing the applicability of UPEPA.

Additionally, Blackwell’s claims are based Defendants’ “communication[s] on an issue under consideration or review in a legislative, executive, judicial, administrative, or other governmental proceeding.”⁴⁴⁴ Several politicians averred to this.⁴⁴⁵

B. Blackwell’s Defamation Claims Should Be Dismissed as a Matter of Law

For defamation, Blackwell must establish that: (1) the alleged defamatory statements were communicated to someone other than her; (2) the statements are false; (3) the statements tend to harm her reputation and to lower her in the estimation of the community; and (4) the recipient of the false statements reasonably understand them to refer to her.⁴⁴⁶ Even if Blackwell satisfies every element of a defamation claim, Defendants are not liable if a privilege applies.⁴⁴⁷

1. Blackwell cannot demonstrate a prima facie case as to each essential element of her defamation claims under Minn. Stat. § 554.13(a)(3)(i)

Once a movant demonstrates the underlying speech involves a matter of public concern,⁴⁴⁸

⁴⁴² See *Bowman v. Pulaski Cty. Special Sch. Dist.*, 723 F.2d 640, 644 (8th Cir. 1983) (stating that “media coverage” is “a good indication” challenged speech is a matter of public concern).

⁴⁴³ See § III.X.2., *supra*.

⁴⁴⁴ Minn. Stat. § 554.08(b)(2).

⁴⁴⁵ Finstad Decl. at ¶¶ 4, 10-12; Fischbach Decl. at ¶¶ 4, 10-13; Johnson Decl. at ¶¶ 9-12; Niska Decl. at ¶¶ 7-10.

⁴⁴⁶ *McKee v. Laurion*, 825 N.W.2d 725, 729-30 (Minn. 2013).

⁴⁴⁷ See *Moreno*, 610 N.W.2d at 329.

⁴⁴⁸ Minn. Stat. § 554.13(a)(1).

and the responding party fails to establish that UPEPA does not apply,⁴⁴⁹ this Court must dismiss a cause of action where the “responding party failed to establish a prima facie case as to each essential element of the cause of action” with prejudice.⁴⁵⁰ A prima facie case “means one that prevails in the absence of evidence invalidating it.”⁴⁵¹ For the reasons detailed immediately below (*see* IV.B.2), Blackwell cannot do so as a matter of law.

2. Blackwell’s defamation claims fail to state a cause of action upon which relief may be granted under Minn. Stat. § 554.13(a)(3)(ii)(A)

Under Minn. Stat. § 554.13(a)(3)(ii), if Defendants establish that Blackwell failed to state a cause of action upon which relief may be granted, this Court “shall dismiss” her claims “with prejudice.” In ruling on a “traditional” motion to dismiss, this Court may only consider documents referenced in the complaint or embraced by the pleadings.⁴⁵² But UPEPA changes the law applicable to a special motion to dismiss in a major way: UPEPA requires that in ruling on any special motion for expedited relief, “the court *shall* consider the pleadings, the motion, any reply or response to the motion, *and* any evidence that could be considered in ruling on a motion for summary judgment under Minnesota Rules of Civil Procedure 56.03.”⁴⁵³

In addition, the rules applicable to “traditional” motions to dismiss require this Court to assume a complaint’s allegations as true and provide the plaintiff with all reasonable inferences in their favor.⁴⁵⁴ This, too, is not only absent from UPEPA, but the statute requires the opposite: UPEPA “must be broadly construed *and applied* to protect the exercise of the right of freedom of

⁴⁴⁹ Minn. Stat. § 554.13(a)(2).

⁴⁵⁰ Minn. Stat. § 554.13(a)(3)(i).

⁴⁵¹ *Tousignant v. St. Louis Cty.*, 615 N.W.2d 53, 59 (Minn. 2000).

⁴⁵² *Martens v. Minn. Mining & Mfg. Co.*, 616 N.W.2d 732, 739 n.7 (Minn. 2000); *see also Brown v. State*, 617 N.W.2d 421, 424 (Minn. App. 2000) (reliance on documents referenced in complaint appropriate on motion to dismiss), *rev. denied*, 2000 Minn. LEXIS 743 (Minn. Nov. 21, 2000).

⁴⁵³ Minn. Stat. § 554.12 (emphasis added).

⁴⁵⁴ *DeRosa v. McKenzie*, 936 N.W.2d 342, 344 n.1 (Minn. 2019).

speech and of the press, the right to assemble and petition, and the right of association, guaranteed by the United States Constitution or Minnesota Constitution.”⁴⁵⁵

a. Each alleged defamatory statement is true

To establish a defamation claim, Blackwell must prove the falsity of each statement.⁴⁵⁶ But a “plaintiff cannot succeed in meeting the burden of proving falsity by showing only that the statement is not literally true in every detail. If the statement is true in substance, inaccuracies of expression or detail are immaterial.”⁴⁵⁷ “Minor inaccuracies do not amount to falsity so long as ‘the substance, the gist, the sting, of the libelous charge [is] justified.’”⁴⁵⁸ “A statement is substantially true if it would have the same effect on the mind of the reader or listener as that which the pleaded truth would have produced.”⁴⁵⁹ The substantial-truth test is “broad”: “if any ‘reasonable person’ could find the statements to be ‘supportable interpretations’ of their subjects, the statements are incapable of carrying a defamatory meaning, even if ‘a reasonable jury’ could find that the statements were mischaracterizations.”⁴⁶⁰ If the underlying statements are undisputed, the issue of

⁴⁵⁵ Minn. Stat. § 554.17 (emphasis added).

⁴⁵⁶ *McKee*, 825 N.W.2d at 730.

⁴⁵⁷ *Jadwin v. Minneapolis Star & Tribune Co.*, 390 N.W.2d 437, 441 (Minn. App. 1986) (“*Jadwin II*”); *accord Gibson v. Special Sch. Dist. #1*, 2020 WL 1129871, 2020 Minn. App. Unpub. LEXIS 191, at *20 (Minn. App. Mar. 9, 2020); *see also* RESTATEMENT (SECOND) OF TORTS § 581A at cmt. f (1977) (“Slight inaccuracies of expression are immaterial provided that the defamatory charge is true in substance.”).

⁴⁵⁸ *McKee*, 825 N.W.2d at 730 (quoting *Masson v. New Yorker Magazine, Inc.*, 501 U.S. 496, 517 (1991)).

⁴⁵⁹ *McKee*, 825 N.W.2d at 730.

⁴⁶⁰ *Hunter v. Hartman*, 545 N.W.2d 699, 707 (Minn. App. 1996) *rev. denied* (Minn. June 19, 1996); *see also id.* at 703, 707-08 (affirming summary judgment against doctor who claimed sports commentator Sid Hartman defamed him by stating “hardly any” of 12 players came back to play after he operated on them, that others came back at “about half their ability,” and that Gophers football coach fired him for “a good reason.”); *see also Alexander v. Ball*, 2021 WL 2201491, 2021 Minn. App. Unpub. LEXIS 519, at *7 (Minn. App. June 1, 2021) (affirming summary judgment of defamation claim; quoting *Hunter*); *Stevenson v. Stevenson*, 2023 Minn. Dist. LEXIS 5301, at *34 (Otter Tail Cnty. Dist. Ct. June 16, 2023) (granting summary judgment on defamation claim; quoting *Hunter*).

whether statements are substantially accurate is a question of law for the court.⁴⁶¹

(1) Statements #1-3 are true

Statements #1, #2, and #3 each deal with Chief Arradondo and Blackwell’s testimony that they did not recognize what Chauvin did as something MPD trained.⁴⁶² The Book noted that the four officers were following the MRT process.⁴⁶³ The Documentary said the same thing.⁴⁶⁴

Before May 25, 2020, the MPD Policy Manual specifically permitted MPD officers to “compress[] one or both sides of a person’s neck with an arm or leg.”⁴⁶⁵ It also permitted officers to use the MRT.⁴⁶⁶ Chief Arradondo told the FBI and BCA that “hobble” is another word for the MRT.⁴⁶⁷ The four officers involved with Floyd repeatedly referred to using the “hobble.” The officers argued in motion papers that they were employing the MRT. Their bodycams confirm this. Thirty-four MPD officers during Blackwell’s tenure have sworn that MPD trained its officers to place their knee on a subject’s neck/upper back as part of the MRT process and otherwise. Multiple pictures exist show this, and they look nearly identical to what Chauvin did. Moreover, the USDOJ report confirmed that MPD officers regularly used knee-on-neck restraints before Floyd, and that such restraints were consistent with MPD policy at the time. MDHR found the same thing. The FBI trained the restraint. A preeminent use-of-force expert swore the restraint has been trained

⁴⁶¹ See *Jirak v. Eichten*, 2012 WL 2505748, 2012 Minn. App. Unpub. LEXIS 606, at *12-13 (Minn. App. July 2, 2012) (“The determinations of whether statements are fact or opinion, and whether a statement is ‘substantially true’ are questions of law.”); accord *Hunter*, 545 N.W.2d at 707; *Jadwin II*, 390 N.W.2d at 441.

⁴⁶² Book at 206-11; Complaint at ¶ 30.

⁴⁶³ Book at 207 (“The procedure the four officers were following was and still is part of MPD training. It was clearly written in MPD policy. To be a bit more specific, again, it’s policy 5-316, ‘Maximal Restraint Technique.’”).

⁴⁶⁴ Documentary at 01:00:05-01:02:59, 01:05:03-01:05:18.

⁴⁶⁵ MPD Policy Manual § 5-311.

⁴⁶⁶ MPD Policy Manual § 5-316.

⁴⁶⁷ BCA Transcript of Interview of Medaria Arradondo at 18 (June 11, 2020) (Lund Decl. at Ex. 10).

nationwide. And although Blackwell also testified that she did not recognize Chauvin’s “improvised position”⁴⁶⁸ and “technique,”⁴⁶⁹ she did something remarkably similar in 2014.⁴⁷⁰

Given all this evidence, there is one inescapable conclusion: Statements #1, #2, and #3 are true, i.e., at a minimum, it does seem like Blackwell lied when she testified that she did not “know what kind of improvised position that is” and that MPD did not train it. And while it is hypothetically possible for Blackwell to continue to claim otherwise, her self-serving contentions are irrelevant to the instant defamation analysis: if “any reasonable person could find” Defendants’ “statements to be supportable interpretations,”⁴⁷¹ Blackwell’s claims must be dismissed. Here, Collin and Chaix’s sources corroborated everything they said.⁴⁷² Thirty-four MPD officers agree. The reporting constitutes “supportable interpretations.” In fact, Defendants do not need any evidence beyond the four officers’ bodycams and legal memoranda to win this motion, as these bodycams and legal memoranda indicate they were in the process of employing the MRT.

(2) Statements #4 and #5 are true

Statements #4 and #5, which come from the Documentary, are also true. Even using Blackwell’s tortured characterizations, these Statements mirror the Book’s Statements #1-#3, namely, that the four officers were not using MRT and were not trained to do what they did. Blackwell desires to use sleight-of-hand with respect to Statement #4 by trying to limit it to Collin’s statement to Chauvin’s mother that “[s]everal witnesses’ testified that the MRT or the Maximal

⁴⁶⁸ *State v. Chauvin* Transcript at 3922:20—3923:13 (Lund Decl. at Ex. 4).

⁴⁶⁹ Complaint at ¶ 31.

⁴⁷⁰ Tidgwell Decl. at ¶¶ 4-10, 13 (including picture); Lund Decl. at Exs. 48, 49 and 50 at 72. Blackwell will undoubtedly protest that her knee was not on the protestor’s neck. Even if true, this misses the point. Blackwell testified that she did not recognize Chauvin’s “improvised position.” *State v. Chauvin* Transcript at 3922:20—3923:13 (Lund Decl. at Ex. 4). That was clearly false—*she* employed the same “position.”

⁴⁷¹ *Hunter*, 545 N.W.2d at 707.

⁴⁷² Collin Decl. at ¶ 58; Chaix Decl. at ¶¶ 59-66.

Restraint Technique ‘was not a part of Minneapolis police policy.’”⁴⁷³ This is contrary to law.⁴⁷⁴ Before Collin spoke that sentence, the Documentary reproduced Arradondo and Blackwell’s testimony that they did not recognize Chauvin’s “knee on neck” “position” and that it was not a “trained technique”—*using the prosecutor’s words* during the *State v. Chauvin* trial.⁴⁷⁵ Collin then interviewed Chauvin’s mother and communicated Statement #4 at 01:00:56-01:01:05 of the Documentary using the exact same term the prosecutor used in his questioning of Arradondo and Blackwell.⁴⁷⁶ Then, speaking to Chauvin one minute and 25 seconds later, Collin repeated—*again*—the gist of what she wrote in the Book and what that part of the Documentary concerned:⁴⁷⁷

01:02:30- 01:02:48	Liz Collin	During the trial, several witnesses, including Chief Arradondo, and Inspector Blackwell, <i>testified that they didn’t recognize the technique—you and the other officers were using as if it was not a part of Minneapolis police training. But was MRT, the maximal restraint technique, part of training and policy?</i>
01:02:50- 01:02:58	Derek Chauvin	Absolutely. In fact, I’m looking at it right now, 5-316. Maximal restraint technique, right in their written policy manual.

Moreover, unlike Statements #1-#3 in the Book, i.e, it *seemed* like Arradondo and Blackwell were not telling the truth,⁴⁷⁸ in Statements #4 and #5, Blackwell alleges that the

⁴⁷³ Complaint at ¶ 31; *see also* Documentary at 01:00:56-01:01:05.

⁴⁷⁴ *See Jadwin II*, 390 N.W.2d at 443 (“The defamatory character of any particular statement must be construed in the context of the article as a whole.” (citation omitted)); *Hunter*, 545 N.W.2d at 706 (“The context of a remark ... may make an otherwise defamatory comment protected hyperbole.” (citations omitted)); *see also Chapin v. Knight-Ridder, Inc.*, 993 F.2d 1087, 1098 (4th Cir. 1993) (“A magnifying glass is no aid to appreciating a Seurat, and the pattern of a complex structure is often discernable only at some distance.”).

⁴⁷⁵ Documentary at 01:00:05-01:00:46.

⁴⁷⁶ *Id.* at 01:00:56-01:01:05.

⁴⁷⁷ *Id.* at 01:02:30-01:02:58 (emphasis added in transcript).

⁴⁷⁸ Book at 206-11.

Documentary *implied* it.⁴⁷⁹ Defamation by implication cannot be maintained by a public official.⁴⁸⁰ Even if Blackwell pleaded defamation by implication (she did not), she cannot even prove that her alleged implication was untrue. They also represent “supportable interpretations.”⁴⁸¹

(3) Statements #6 and #7 are true.

Even accepting Blackwell’s engineered descriptions, Statement #6, i.e., Lieutenant Voss’s statement that Blackwell “turned her back on the City of Minneapolis,”⁴⁸² and Statement #7, that the Documentary “implies” that Blackwell’s testimony “was responsible in part for a whole host of public safety concerns, including police officer attrition, rising crime, and general deterioration of the city,”⁴⁸³ are both true. Blackwell scapegoated lower-level officers to protect herself. Blackwell *is* part of the machinery that has led to today’s decimated MPD.

b. The alleged defamatory statements represent protected opinion

“The First Amendment protects opinion from defamation liability.”⁴⁸⁴ This is because “under the First Amendment, there is no such thing as a false idea. However pernicious an opinion may seem, we depend for its correction not on the conscience of judges and juries but on the

⁴⁷⁹ See Complaint at ¶ 31 (“This statement conveys *the impression* that Blackwell herself testified to that effect, which is plainly untrue.”) (emphasis added); *id.* (“In the film’s *deceptive framing and editing*, Collin and Chaix lie about *the nature* of Blackwell’s testimony with *the hope that the viewer will believe that Blackwell perjured herself* by stating that the MRT was not part of police policy.”) (emphasis added).

⁴⁸⁰ See *MacDonald v. Brodkorb*, 939 N.W.2d 468, 480 (Minn. App. 2020) (“In precluding defamation-by-implication claims brought by public officials, the *Diesen* court agreed with a federal court’s explanation that ‘speech about government and its officers, about how well or badly they carry out their duties, lies at the very heart of the First Amendment.’”) (quoting *Diesen v. Hessburg*, 455 N.W.2d 446, 451-52 (Minn. 1990)).

⁴⁸¹ *Hunter*, 545 N.W.2d at 707.

⁴⁸² Complaint at ¶ 31.

⁴⁸³ *Id.*

⁴⁸⁴ *Larson v. Gannett Co.*, 940 N.W.2d 120, 147 (Minn. 2020); *accord Bebo v. Delander*, 632 N.W.2d 732, 739 (Minn. App. 2001); *Hunt v. University of Minn.*, 465 N.W.2d 88, 94 (Minn. App. 1991).

competition of other ideas.”⁴⁸⁵ Whether a statement of opinion exists is a question of law.⁴⁸⁶ Minnesota courts consider four factors when determining whether a statement is one of fact or opinion: (1) the precision and specificity of the statement; (2) the statement’s verifiability; (3) the social and literary context of the statement; and (4) the public context in which the statement was made.⁴⁸⁷ Applying these factors to Statements #1, #2, and #3 shows they are protected opinion.

In *Hunt*, a University of Minnesota Vice President, Kegler, gave an unfavorable reference that the plaintiff had “trouble dealing with legislators because she lacked warmth, was insincere, and had no sense of integrity.”⁴⁸⁸ The Minnesota Court of Appeals held this was opinion because “the statement is not provable one way or the other.”⁴⁸⁹ Similarly, in *Coughlin*, the Minnesota Court of Appeals held that a statement that anyone who was “favorable” to the plaintiff “must have been paid off” was an opinion rather than a factual allegation that the plaintiff “had bribed witnesses.”⁴⁹⁰ And in *Capan v. Daugherty*,⁴⁹¹ after applying the four-factor test, the Minnesota Court of Appeals held that a statement that a community block-club organizer was “not dealing with a full deck,” based on public context, was a non-actionable statement of opinion.⁴⁹²

Drawing on cases such as *Hunt*, *Coughlin*, and *Capan*, Statements #1-#3 are matters of opinion. Decisions such as these generally hold that the “judgment of an individual’s credibility is

⁴⁸⁵ *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 339-40 (1974).

⁴⁸⁶ See *Jirak*, 2012 WL 2505748, 2012 Minn. App. Unpub. LEXIS 606, at *12 (“The determinations of whether statements are fact or opinion, and whether a statement is ‘substantially true’ are questions of law.”); *Lund v. Chi. & Nw. Transp. Co.*, 467 N.W.2d 366, 369 (Minn. App. 1991) (same).

⁴⁸⁷ *Bebo*, 632 N.W.2d at 740; *Huyen v. Driscoll*, 479 N.W.2d 76, 79 (Minn. App. 1991), *rev. denied* (Minn. Feb. 10, 1992); *Lund*, 467 N.W.2d at 368-69.

⁴⁸⁸ 465 N.W.2d at 90, 91.

⁴⁸⁹ *Id.* at 94-95 (quoting *Diesen*, 455 N.W.2d at 456 (Simonett, J., concurring)); see also *id.* (“Since Kegler’s statement cannot be proven true or false, it is absolutely protected.”).

⁴⁹⁰ 2021 WL 1962905, 2021 Minn. App. Unpub. LEXIS 488, at *15-16.

⁴⁹¹ 402 N.W.2d 561 (Minn. App. 1987).

⁴⁹² *Id.* at 564.

not an objective fact capable of being proven true or false.”⁴⁹³ Courts have held the use of opinion-related qualifiers support dismissals of defamation claims.⁴⁹⁴ More relevant here, courts have held that statements containing variations of “seems” are unactionable statements of opinion.⁴⁹⁵

⁴⁹³ See *McKee v. Cosby*, 236 F. Supp. 3d 427, 445 (D. Mass.) (“The judgment of an individual's credibility is not an objective fact capable of being proven true or false.”), *aff'd*, 874 F.3d 54 (1st Cir. 2017); see also *Turkish Coal. of Am., Inc. v. Bruininks*, 678 F.3d 617, 625 (8th Cir. 2012) (applying Minnesota law; “Such an evaluation of credibility is essentially an opinion, ‘not capable of being proven true or false,’ and thus not actionable in defamation...” (citing *Geraci v. Eckankar*, 526 N.W.2d 391, 397 (Minn. App. 1995)); *Phantom Touring, Inc. v. Affiliated Publ'ns*, 953 F.2d 724, 728 (1st Cir. 1992) (descriptions of performance as “a rip-off, a fraud, a scandal, a snake-oil job” or “blatantly misleading the public” are too subjective or imprecise to be proven true or false); *McCabe v. Rattiner*, 814 F.2d 839, 842 (1st Cir. 1987) (word “scam” is incapable of being proven true or false); *Ayyadurai v. Floor64, Inc.*, 270 F. Supp. 3d 343, 361-62 (D. Mass. 2017) (“charlatan” used in a loose figurative manner cannot be defamatory); *Paterson v. Little, Brown & Co.*, 502 F. Supp. 2d 1124, 1135 (W.D. Wash. 2007) (“rip-off” is opinion); *Metcalf v. KFOR-TV, Inc.*, 828 F. Supp. 1515, 1530 (W.D. Okla. 1992) (statement that organization was a “sham” perpetrated by “greedy doctors” is opinion); *NBC Subsidiary (KCNC-TV), Inc. v. Living Will Center*, 879 P.2d 6, 11 (Colo. 1994) (en banc) (statement that a product is a “scam” is opinion).

⁴⁹⁴ See, e.g., *Samost v. Voorhees*, 2013 N.J. Super. Unpub. LEXIS 554, at *14 (N.J. Sup. Ct. App. Div. Mar. 14, 2013) (affirming dismissal where challenged statements were “prefaced by the qualifier, ‘we believe,’ which a reasonable person would have recognized as [the speaker’s] opinion”) (other brackets omitted); *Phillips v. KIRO-TV, Inc.*, 817 F. Supp. 2d 1317, 1325 (W.D. Wash. 2011) (holding defamatory meaning may not be imputed to statements of opinion such as “it is a mystery”); *Quinn v. Thomas*, 2010 U.S. Dist. LEXIS 78035, at *5-6 (D. Nev. July 28, 2010) (“A reasonable person would not interpret, as a statement of fact, an expression that includes phrases such as ‘I believe,’ ‘it appears,’ or ‘this adds to my belief.’ These expressions are not actionable because the First Amendment protects Defendant from any defamation claims arising from his statements of opinion.”) (citations omitted); *Molnar v. Klammer*, 2005 Ohio App. LEXIS 6227, at *114 (Ohio App. Dec. 23, 2005) (holding words like “thought” and “believed” “automatically show that the speaker is stating his/her opinion and, as such, the statement does constitute a factual statement.”); *ComputerXpress, Inc. v. Jackson*, 93 Cal. App. 4th 993, 1013 (Cal. Ct. App. 2001) (disparaging statements found to be opinion where words “were replete with explicit statements of opinion, such as “‘IMO [in my opinion],’ ... ‘I firmly believe,’ ... and ‘my guess is’”); *Logan v. Fairfield*, 1989 Ohio App. LEXIS 5008, at *9 (Ohio Ct. App. Oct. 26, 1989) (“Words of caution or language of apparency, such as ‘in my opinion’ or ‘I think,’ place a reader on notice that what is being read is the author’s opinion.”).

⁴⁹⁵ See, e.g., *Rinsley v. Brandt*, 700 F.2d 1304, 1309 (10th Cir. 1983) (affirming dismissal of defamation claims where statement contained the qualifier “It seems like” as statement of opinion); *Jevremovic v. Courville*, 2023 U.S. Dist. LEXIS 139440, at *24 (D.N.J. Aug. 10, 2023) (dismissing defamation claims because “Defendant signals that these statements are her opinion by using words such as ‘I think’ and ‘it seems’” and ‘seems like’); *Metcalf*, 828 F. Supp. at 1531, 1540 (summary judgment granted on statement that “‘they just don’t seem like the medical thing to do’” because

With respect to Statements #1-#3, Collin and Chaix used the words “seem” and “maybe” to convey opinions.⁴⁹⁶ Statements #4 and #5, even using Blackwell’s contrived characterizations, convey the same notions as the Book’s Statements #1-#3, namely, that it appears Blackwell falsely testified that the officers were not using MRT and MPD did not train them to do what they did. In addition, Collin and Chaix provided more than enough information for readers/viewers to accept or reject their opinions,⁴⁹⁷ particularly where (1) the Book and the Documentary quoted Blackwell; (2) as Blackwell avers, the trials were “high-profile”;⁴⁹⁸ and (3) there is universal access to information regarding the trials, including from Defendants.⁴⁹⁹

Finally, Statement #6, i.e., Voss’s statement that Blackwell “turned her back on the City of Minneapolis”⁵⁰⁰ and Statement #7, i.e., Voss’s statement that Blackwell’s testimony “was responsible for a whole host of public safety concerns,”⁵⁰¹ represent clear, unactionable opinion.

c. The fair-reporting privilege immunizes Defendants

it was “expressed in the form of an opinion” and the speaker “couched her statement in terms of how she felt and how things seemed to her”); *Cottrell v. Smith*, 299 Ga. 517, 529 (Ga. 2016) (statement containing the limiting qualifier “seems like” was an “opinion”); *Daoust v. Reid*, 2023 Mich. App. LEXIS 430, at *21 (Mich. Ct. App. Jan. 19, 2023) (“Use of the words ‘seems to be’ is indicative that an author has the opinion that facts suggest a state of being, but the author does not, cannot, or will not definitively declare such as a matter of actual provable fact.”); *Pishgoo v. Langroudi*, 2018 Cal. App. Unpub. LEXIS 2165, at *6, *19 (Cal. App. Mar. 27, 2018) (affirming trial court dismissal of defamation claim because email with qualifier “seems like” was a statement of opinion and not actionable); *Uzamere v. Daily News, L.P.*, 946 N.Y.S.2d 69, at *6 (N.Y. Cnty. Sup. Ct. 2011) (granting motion to dismiss because statement containing qualifier “it seems like” was opinion).

⁴⁹⁶ Collin Decl. at ¶¶ 71-76, 79.

⁴⁹⁷ See, e.g., *Open Source Sec., Inc. v. Perens*, 803 F. App’x 73, 75 (9th Cir. 2020) (affirming motion to dismiss defamation lawsuit; “Perens’s posts provide sufficient information and context to allow readers to accept or reject his opinions.”).

⁴⁹⁸ Complaint at ¶ 14.

⁴⁹⁹ See, e.g., Book at *passim* (footnoting and describing sources); Peters Decl. at ¶¶ 6-15; Lund. Decl. at Ex. 42 (Documentary’s “RESEARCH” web page); Collin Decl. at ¶¶ 58-64.

⁵⁰⁰ Complaint at ¶ 31.

⁵⁰¹ *Id.*

In Minnesota law, the fair-reporting privilege is a common-law right.⁵⁰² It applies to the publication of an allegedly defamatory “matter concerning another in a report of an official action or proceeding or of a meeting open to the public that deals with a matter of public concern is privileged if the report is accurate and complete or a fair abridgement of the occurrence reported.”⁵⁰³ The privilege applies to judicial proceedings⁵⁰⁴ and it is “similar to an absolute privilege.”⁵⁰⁵ It cannot be overcome by a showing of common-law malice.⁵⁰⁶

Here, the fair-reporting privilege shields Defendants from liability. Each of Blackwell’s complained-of Statements relates to judicial proceedings.⁵⁰⁷ Statements #1-#5 are accurate, fair abridgements of Blackwell’s testimony. Blackwell’s only claim regarding non-fair reporting is that Defendants “lied about the *nature* of Blackwell’s testimony” through the Documentary’s “deceptive framing and editing.”⁵⁰⁸ This “claim,” however represents either defamation-by-implication, which is barred,⁵⁰⁹ or false-light publicity, which is also barred.⁵¹⁰

Moreover, the fair-reporting privilege protects Defendants because they relied on

⁵⁰² See *Larson*, 940 N.W.2d at 132-33; accord *Moreno*, 610 N.W.2d at 331; *Michaelis v. CBS, Inc.*, 119 F.3d 697, 701 (8th Cir. 1997).

⁵⁰³ *Larson*, 940 N.W.2d at 132 (quoting RESTATEMENT (SECOND) OF TORTS § 611 (1975)).

⁵⁰⁴ *Larson*, 940 N.W.2d at 132; *Moreno*, 610 N.W.2d at 329, 334.

⁵⁰⁵ See *Larson*, 940 N.W.2d at 131 (“The fair and accurate reporting privilege is similar to an absolute privilege.”).

⁵⁰⁶ See *id.* Note that common-law malice differs from constitutional actual malice. See, e.g., *Chandok v. Klessig*, 632 F.3d 803, 815 (2d Cir. 2011) (“The critical difference between common-law malice and constitutional malice . . . is that the former focuses on the defendant’s attitude toward the plaintiff, the latter on the defendant’s attitude toward the truth.”) (quoting *Konikoff v. Prudential Ins. Co. of America*, 234 F.3d 92, 99 (2d Cir. 2000) (ellipsis in original)).

⁵⁰⁷ See Complaint at ¶¶ 30-31; Book at 206-11; Documentary at 01:00:05-01:02:59, 01:05:03-01:05:17.

⁵⁰⁸ Complaint at ¶ 31.

⁵⁰⁹ See *MacDonald*, 939 N.W.2d at 480 (recognizing Minnesota precludes defamation-by-implication claims brought by public officials) (citing *Diesen*, 455 N.W.2d at 451-52).

⁵¹⁰ See *Lake v. Wal-Mart Stores, Inc.*, 582 N.W.2d 231, 236 (Minn. 1998) (rejecting tort of false-light-publicity because “the risk of chilling speech is too great to justify protection for this small category of false publication not protected under defamation.”).

documents and legal arguments submitted by the four officers,⁵¹¹ together with multiple sources, the MPD Policy Manual, and other documents, and compared them to the statements of senior MPD officers—including then-Chief Arradondo and Blackwell’s testimony in a judicial proceeding. Even assuming, *arguendo*, that something was erroneously reported (which it clearly was not), Blackwell would still lose.⁵¹² That is, while Blackwell may quarrel whether the four officers were employing the MRT, it simply does not matter because that is what the four officers (and numerous others) contend. Moreover, “[a] news report is not required either to provide every fact or to omit information that some may consider merely contextual in order to be protected by the privilege.”⁵¹³ The fair-reporting privilege encompasses the summary of Blackwell’s testimony.

Finally, Defendants did not communicate Statements #6 and #7.⁵¹⁴ The fair-reporting privilege “shields a speaker from liability under the common law rule of republication.”⁵¹⁵

d. Statements #6 and 7 fail for multiple other reasons

Lieutenant Voss communicated Statements #6 and #7. These Statements fail for three more reasons. *First*, Blackwell’s attempt to lift Voss’s one statement from the entire Documentary is without basis.⁵¹⁶ *Second*, Blackwell cannot show Voss’s statements pertained to Blackwell, thus

⁵¹¹ See *Gabbert v. Star Tribune Media Co.*, 2022 Minn. App. Unpub. LEXIS 469, at *6-7 (Minn. App. July 25, 2022) (holding that the fair and accurate reporting privilege applies to any document that has “been presented to the court”) (citing *Nixon v. Dispatch Printing Co.*, 112 N.W. 258, 259 (Minn. 1907)).

⁵¹² See *New York Times v. Sullivan*, 376 U.S. 254, 278-79 (1964) (holding the “defense for erroneous statements honestly made” is essential and holding against establishing a rule “compelling the critic of official conduct to guarantee the truth of all his factual assertions” because under “such a rule, would-be critics of official conduct may be deterred from voicing their criticism, even though it is believed to be true and even though it is in fact true”).

⁵¹³ *Gabbert*, 2022 Minn. App. Unpub. LEXIS 469, at *7.

⁵¹⁴ Documentary at 01:23:13—01:23:40.

⁵¹⁵ *Larson*, 940 N.W.2d at 131.

⁵¹⁶ See *Gernander v. Winona State Univ.*, 428 N.W.2d 473, 476 (Minn. Ct. App. 1988) (holding in reviewing the literary and social context of an alleged defamatory publication, the publication must be analyzed in its entirety); *West v. Media Gen. Operations, Inc.*, 250 F. Supp. 2d 923, 932 (E.D.

failing the fourth defamation element.⁵¹⁷ Voss stated, “[t]he governor, the mayor, our chief of police, City Council of Minneapolis, the assistant chief and the deputy chiefs. This is how you treat your people. You just turn your back on us.”⁵¹⁸ From this list, the only rank that Blackwell has held was “assistant chief.” But Blackwell was promoted to assistant chief in August 2023; Voss made the statement in June 2023.⁵¹⁹ In June 2023, Blackwell held the rank of MPD “Inspector,”⁵²⁰ and was specifically identified by that rank in the Documentary.⁵²¹ Indeed, the individuals shown on the screen as Voss is speaking do not include Blackwell.⁵²² Moreover, the only “assistant chief” referenced in the Documentary was a male.⁵²³ *And third*, a public official cannot maintain a cause of action based on defamation by implication.⁵²⁴

e. Blackwell cannot prove constitutional actual malice by clear and convincing evidence

Minnesota Rule of Civil Procedure 9.02 provides that malice “may be averred generally.” Blackwell generally alleged one part of actual malice.⁵²⁵ However, Minn. Stat. § 554.12 requires this Court to consider all admissible evidence on a Minn. Stat. § 554.09 motion.⁵²⁶ As stated *supra*,

Tenn. 2002) (“It is the entirety of the program, both audio and video, that must be considered in determining whether a television program is reasonably susceptible of a defamatory meaning.”).

⁵¹⁷ Documentary at 01:23:12-01:23:40; *see also McKee*, 825 N.W.2d at 729-30 (fourth element is “the recipient of the false statement reasonably understands it to refer to a specific individual”).

⁵¹⁸ Documentary at 01:23:25—01:23:40.

⁵¹⁹ Collin Decl. at ¶¶ 80-81.

⁵²⁰ *See* Complaint at ¶¶ 19-20 (Blackwell was MPD Inspector in January 2021; promoted to MPD Commander in August 2023).

⁵²¹ Documentary at 1:02:30-1:02:48.

⁵²² *Id.* at 01:23:24-01:23:36.

⁵²³ *Id.* at 00:27:30-00:27:42.

⁵²⁴ *MacDonald*, 939 N.W.2d at 480; *Diesen*, 455 N.W.2d at 451-52.

⁵²⁵ *Compare* Complaint at ¶¶ 1, 38-40, 44-46 (alleging Defendants made statements “knowing they were false *or without due regard for the accuracy of the statements*”) (emphasis added) *with Abrahamson v. St. Louis Cty. Sch. Dist.*, 819 N.W.2d 129, 137 (Minn. 2012) (defining “actual malice” as “either actual knowledge of the falsity of the publication *or reckless disregard of whether it is false or not*”) (emphasis added) (collecting cases).

⁵²⁶ *See* Minn. Stat. § 554.12.

because Minn. Stat. § 554.12 applies to *all* Minn. Stat. § 554.09 motions—regardless of whether the basis is for failure to state a claim⁵²⁷ or the familiar summary-judgment standard⁵²⁸—this Court must analyze whether constitutional actual malice exists using all submitted evidence.

Blackwell must prove constitutional actual-malice for four independent reasons. *First*, the U.S. Supreme Court requires proof of actual malice when a public official claims defamation regarding a matter of public concern.⁵²⁹ *Second*, a plaintiff must prove actual malice if he/she is a limited purpose public figure.⁵³⁰ *Third*, Minnesota requires proof of actual malice regarding matters of public concern.⁵³¹ *And fourth*, because Count 2 of Blackwell’s Complaint alleges defamation *per se*, Blackwell must establish actual malice for that claim.⁵³²

(1) Blackwell is a “public official”

A “public official” (1) performs governmental duties directly relating to the public interest; (2) holds a position to significantly influence public issues; and (3) is a government employee

⁵²⁷ Minn. Stat. § 554.13(a)(3)(i)(A).

⁵²⁸ Minn. Stat. § 554.13(a)(3)(i)(B).

⁵²⁹ *New York Times*, 376 U.S. at 273-75, 279-80. Minnesota follows this rule. *See Weinberger v. Maplewood Review*, 668 N.W.2d 667, 673 (Minn. 2003) (“When the plaintiff is a public official and the statement relates to the individual’s official conduct, the plaintiff must prove not only that the statement was false, but also that the statement was made with actual malice.”); *Britton v. Koep*, 470 N.W.2d 518, 521 (Minn. 1991) (“Where plaintiffs in a defamation action perform governmental duties, directly related to the public interest, they are public officials and, as such, fall squarely within the ‘actual malice’ requirement set forth in *New York Times v. Sullivan*.”); *Culliton v. Mize*, 403 N.W.2d 853, 856 (Minn. App. 1987) (“If the alleged defamation relates to public officials on an issue of public concern, the *New York Times* protections attach no matter what the defendant’s status.”); *accord Trivedi, LLC v. Lang*, 2017 Minn. App. Unpub. LEXIS 389, at *5 (Minn. App. May 1, 2017); *see also Maethner*, 929 N.W.2d at 875 (“[C]ourts cannot offer recourse for injury to reputation at the cost of chilling speech on matters of public concern, which ‘occupies the highest rung of the hierarchy of First Amendment values, and is entitled to special protection.’”) (quoting *Snyder*, 562 U.S. at 452).

⁵³⁰ *See, e.g., Chafoulias v. Peterson*, 668 N.W.2d 642, 649-50 (Minn. 2003) (holding defamation plaintiffs must prove actual malice against both public officials and limited purpose public figures).

⁵³¹ *See* § IV.B.2.e.(3), *infra*.

⁵³² *See* § IV.B.2.e.(4), *infra*.

having substantial responsibility for, or control over, the conduct of government affairs.⁵³³ In Minnesota, “public officials” include probation officers⁵³⁴ and public-school teachers.⁵³⁵ And in *Moreno*, the Minnesota Supreme Court noted all parties stipulated “that for the purposes of this case Officer Moreno, as a police officer, is a public official for the purposes of defamation law.”⁵³⁶ Other courts agree.⁵³⁷ A plaintiff’s status as a “public official” is a question of law.⁵³⁸

Blackwell acknowledges that she performs governmental duties directly relating to the public interest, holds a position to significantly influence public issues, and is a government employee having substantial responsibility for or control over the conduct of government affairs.⁵³⁹ She is a public official.

(2) Blackwell is a “limited purpose public figure”

A plaintiff is a limited-purpose public figure if they “played a meaningful role” in a “public

⁵³³ *Britton*, 470 N.W.2d at 522; *see also Elstrom v. Indep. Sch. Dist. No. 270*, 533 N.W.2d 51, 56 (Minn. App. 1995) (“At a minimum, ‘public official’ includes government employees who have, or appear to have, significant government responsibility or control.”).

⁵³⁴ *See Britton*, 470 N.W.2d at 522-23 (“This jurisdiction and others have consistently determined that law enforcement officers are public officials.”).

⁵³⁵ *Elstrom*, 533 N.W.2d at 56.

⁵³⁶ 610 N.W.2d at 328 n.5.

⁵³⁷ *See, e.g., Time, Inc. v. Pane*, 401 U.S. 279, 284 (1971) (police detective was public official); *Ethridge v. North Mississippi Communications, Inc.*, 460 F. Supp. 347, 351 (N.D. Miss. 1978) (undercover police officer was public official); *Stephens v. Geoghegan*, 702 So. 2d 517 (Fl. App. 1997) (assistant police chief and other defendant police officers were public officials); *Newson v. Henry*, 443 So. 2d 817 (Miss. 1983) (retired sheriff was public official); *Orr v. Lynch*, 60 A.D.2d 949, 950 *aff’d*, 45 N.Y.2d 903 (N.Y. 1978) (police officer was public official); *Dunlap v. Philadelphia Newspapers, Inc.*, 448 A.2d 6 (Pa. Super. 1982) (police officer was public official); *Miller v. City of West Columbia*, 471 S.E.2d 683 (S.C. 1996) (treating assistant chief of police as public official); *Times Herald Printing Co. v. Bessent*, 601 S.W.2d 487 (Tex. Ct. App. 1980) (narcotics officer was public official)).

⁵³⁸ *Britton*, 470 N.W.2d at 520; *see also O’Donnell v. City of Buffalo*, 2008 Minn. App. Unpub. LEXIS 124, at *7-8 (Minn. App. Feb. 5, 2008) (“[W]hether a person is a public official is a question of law, which we review de novo.”).

⁵³⁹ Complaint at ¶¶ 14-21; *see also* Kroll Decl. at ¶¶ 10-12.

controversy” and the allegedly defamatory statement relates to that public controversy.⁵⁴⁰ An individual plays a meaningful role in a public controversy when they must have realistically “expected, because of [their] position in the controversy, to have an impact on its resolution.”⁵⁴¹ A plaintiff’s status as a “limited purpose public figure” is a question of law.⁵⁴²

Here, Blackwell herself says “[h]er testimony was instrumental in establishing the standards against which Chauvin’s actions were judged.”⁵⁴³ She avers that her “unique” qualifications were “prominently demonstrated” during the “high-profile” trials.⁵⁴⁴ She has described her role in the trials as “pivotal”⁵⁴⁵ and “crucial.”⁵⁴⁶ Indeed, she stated that “[h]er testimony was instrumental in establishing the standards against which [Derek] Chauvin’s actions were judged.”⁵⁴⁷ Blackwell thus admits that she is a limited-purpose public figure.

(3) Minnesota requires proof of actual malice for matters of public concern

A defamation plaintiff must prove actual malice if the challenged speech involves a matter of public concern.⁵⁴⁸ Defendants have proven that Blackwell’s claims involve a matter of public

⁵⁴⁰ *Chafoulias*, 668 N.W.2d at 648-51; *Gertz*, 418 U.S. at 351 (the U.S. Supreme Court defining a limited-purpose public figure as an individual who “voluntarily injects [themselves] or is drawn into a particular public controversy and thereby becomes a public figure for a limited range of issues”).

⁵⁴¹ *Chafoulias*, 668 N.W.2d at 653 (internal citations omitted).

⁵⁴² *Britton*, 470 N.W.2d at 520; *Jadwin v. Minneapolis Star & Tribune Co.*, 367 N.W.2d 476, 483 (Minn. 1985) (“*Jadwin I*”); *Lewis v. Univ. Chronicle*, 2008 Minn. App. Unpub. LEXIS 210, at *8 (Minn. App. Jan. 25, 2008).

⁵⁴³ Complaint at ¶ 14.

⁵⁴⁴ *Id.*

⁵⁴⁵ *Id.* at ¶ 19.

⁵⁴⁶ *Id.* at ¶ 14.

⁵⁴⁷ *Id.*

⁵⁴⁸ *See, Johnson*, 995 N.W.2d at 393 (“[T]he parties agree that, if we conclude that the challenged speech here involved a matter of public concern, we should remand the case to the district court for a trial on the veracity of Freborg’s speech and actual malice.”); *State v. Turner*, 864 N.W.2d 204, 209 (Minn. App. 2015) (“In addition, amicus curiae contend that ‘actual malice’ is required to punish false statements regarding matters of public concern because it is not ‘permissible to jail people under a lesser showing than that required to collect punitive damages from them.’ We

concern to show UPEPA applies.⁵⁴⁹ Blackwell must therefore prove constitutional actual malice.

(4) Blackwell's Count 2 requires proof of actual malice

Because Count 2 of Blackwell's Complaint alleges defamation *per se*,⁵⁵⁰ and such claims presume damages,⁵⁵¹ Blackwell must establish actual malice for that claim as well.⁵⁵²

(5) No constitutional actual malice exists

Constitutional actual malice “does not mean that the defendant acted with ill will or spite.”⁵⁵³ Instead, it requires the defendant made statements either knowing that they were false or with reckless disregard for whether they were true.⁵⁵⁴ This must be shown by clear and convincing evidence.⁵⁵⁵ “Actual malice is a subjective standard.”⁵⁵⁶ “A genuine issue of fact as to actual malice

agree.”); *Smartmatic USA Corp. v. Michael J. Lindell & My Pillow, Inc.*, 2022 U.S. Dist. LEXIS 168165, at *8 (D. Minn. Sep. 19, 2022) (“Here, Smartmatic challenges statements that Lindell made pertaining to purported hacking of the 2020 election results. The invalidity of a presidential election as a result of hacking is a matter of public concern. Smartmatic must, therefore, allege both malice and actual reputational harm to state a defamation claim.”); *see also Engquist v. Or. Dep't of Agric.*, 553 U.S. 591, 600 (2008) (stating that speech involving a public concern “falls within the core of First Amendment protection.”); *Maethner*, 929 N.W.2d at 878 (“Minnesota affords to nonmedia defendants the same first amendment protection for criticism of public officials that it grants to the mass media.”) (quoting *Britton*, 470 N.W.2d at 521).

⁵⁴⁹ *See* section IV.A.2 *supra*.

⁵⁵⁰ Complaint at ¶¶ 42-47.

⁵⁵¹ *Maethner*, 929 N.W.2d at 875; *Coughlin*, 2021 Minn. App. Unpub. LEXIS 488, at *5, *18; *Longbehn v. Schoenrock*, 727 N.W.2d 153, 162 (Minn. App. 2007).

⁵⁵² *Maethner*, 929 N.W.2d at 876-79.

⁵⁵³ *Chafoulias*, 668 N.W.2d at 654 (citing *Harte-Hanks Communications, Inc. v. Connaughton*, 491 U.S. 657, 665-67, 666 n.7 (1989)); *see also Moreno*, 610 N.W.2d at 329 (noting that actual malice has “nothing to do with motive or ill will in the publishing of otherwise defamatory statements”).

⁵⁵⁴ *O'Donnell*, 2008 Minn. App. Unpub. LEXIS 124, at *13; *see also Jadwin I*, 367 N.W.2d at 482 (“Actual malice is shown only by proof of defendant's actual knowledge of falsity or reckless disregard of the truth or falsity of his publication”).

⁵⁵⁵ *Chafoulias*, 668 N.W.2d at 654; *Smith v. City of Crosby*, 2022 Minn. App. Unpub. LEXIS 33, at *18 (Minn. App. Jan. 18, 2022).

⁵⁵⁶ *Ducklow v. KSTP-TV, LLC*, 2014 Minn. App. Unpub. LEXIS 169, at *15 (Minn. App. Mar. 3, 2014); *see also In re Charges of Unprofessional Conduct*, 720 N.W.2d 807, 813 (Minn. 2006) (“Unlike the subjective actual malice standard for defamation, we have held that an objective standard applies under Rule 8.2(a.”); *Lewis*, 2008 Minn. App. Unpub. LEXIS 210, at *17 (“Reckless disregard is a subjective standard.”) (citing *Harte*, 491 U.S. at 688).

exists only if the facts permit the conclusion that the defendant[] in fact entertained serious doubts as to the truth of the publication.”⁵⁵⁷ Whether actual malice exists is a question of law.⁵⁵⁸

In *Chafoulias*, after establishing that the plaintiff was a limited public figure, the Minnesota Supreme Court concluded that the defendant media company did not act with actual malice.⁵⁵⁹ The court held that “to meet the actual malice standard, ‘there must be sufficient evidence to permit the conclusion that the defendant in fact entertained serious doubts as to the truth of his publication.’”⁵⁶⁰ Even though the defendant media company “edited” footage to “give the impression” the plaintiff knew about something—namely that five “former employees were raped”—while omitting other footage suggesting the plaintiff did not know about the allegations, the media company believed the allegations were “true and corroborated.”⁵⁶¹ The record indicated that the media company “attempted to verify” the allegations, including by interviewing several of the involved parties and multiple other people, and the “independent investigation” to substantiate the claims.⁵⁶² The court further held a “highly slanted perspective” and “failure to investigate” do not establish actual malice.⁵⁶³

Likewise, in *MacDonald*, the Minnesota Court of Appeals held the individual defendant lacked “actual malice” in making the statements when “police informed” the individual defendant that the plaintiff was a “person of interest” in investigations into missing children.⁵⁶⁴ The defendant’s reliance on police, who confirmed to him “on multiple occasions” about the veracity

⁵⁵⁷ *Jadwin I*, 367 N.W.2d at 488 (quotation omitted); *see also St. Amant v. Thompson*, 390 U.S. 727, 731 (1968) (“There must be sufficient evidence to permit the conclusion that the defendant in fact entertained serious doubts as to the truth of his publication.”).

⁵⁵⁸ *Chafoulias*, 668 N.W.2d at 655; *Britton*, 470 N.W.2d at 524; *Diesen*, 455 N.W.2d at 458, 464.

⁵⁵⁹ *Chafoulias*, 668 N.W.2d at 655.

⁵⁶⁰ *Id.* (citing *St. Amant*, 390 U.S. at 731).

⁵⁶¹ *Id.*

⁵⁶² *Id.*

⁵⁶³ *Id.*

⁵⁶⁴ *MacDonald*, 939 N.W.2d at 481.

of the alleged statement, established that the defendant lacked “actual malice” in making the claim.⁵⁶⁵ The Minnesota Court of Appeals also affirmed dismissal of the defamation claims over the other alleged statements when the plaintiff could not establish actual malice.⁵⁶⁶

Here, the Defendants did not act with actual malice. Like the media defendant in *Chafoulias* who was alleged to have edited footage but believed the allegations were “true and corroborated,”⁵⁶⁷ the Defendants believe Statements #1-#5 are 100% true.⁵⁶⁸ Indeed, as shown above, they are true. As in *Chafoulias*, Defendants corroborated the allegations from several sources. Even assuming, *arguendo*, Defendants presented a “highly slanted perspective” in the Book or the Documentary, this still cannot support a claim for defamation, especially because Defendants have never “entertained serious doubts as to the truth” of their publications.⁵⁶⁹

Further, like *MacDonald*, numerous police officers informed Defendants that Blackwell lied about her testimony regarding MPD training and tactics and Defendants confirmed the sources’ veracity “on multiple occasions.”⁵⁷⁰ The Executive Director of the State’s largest law-enforcement organization heard identical complaints about Blackwell’s perjury from law-enforcement officers and others in the year *before* the Book or Documentary were even published.⁵⁷¹ Moreover, Collin and Chaix were told that not only that MPD trained the knee-to-neck restraint, but it was common knowledge.⁵⁷² The USDOJ and MDHR confirmed MPD’s ubiquitous use of neck restraints. The

⁵⁶⁵ *Id.* at 481-82.

⁵⁶⁶ *Id.* at 482.

⁵⁶⁷ *Chafoulias*, 668 N.W.2d at 655.

⁵⁶⁸ Statements #6 and #7 represent Lieutenant Voss’s opinions. *See* § IV.B.2.b., *supra*.

⁵⁶⁹ *Chafoulias*, 668 N.W.2d at 655.

⁵⁷⁰ *MacDonald*, 939 N.W.2d at 481-82; Collin Decl. at ¶¶ 58-85; Chaix Decl. at ¶¶ 58-66, 76-85; *see also Bressler v. Fortune Magazine, Div. of Time, Inc.*, 971 F.2d 1226, 1232-33 (6th Cir. 1992) (holding malice not proven as matter of law where reporters performed extensive research and gleaned consistent statements from multiple sources).

⁵⁷¹ Peters Decl. at ¶ 14.

⁵⁷² Collin Decl. at ¶ 64; Chaix Decl. at ¶¶ 76-81.

FBI trained neck restraints. A renowned use-of-force expert swore the restraint has been trained nationwide. Blackwell herself is shown in a picture employing the technique. In addition, Blackwell cannot show constitutional actual malice with respect to Statements #6 and #7, i.e., an MPD lieutenant's opinions regarding other leaders' misconduct.

Defendants stand by every word of the Book and Documentary.⁵⁷³ Because Blackwell cannot present any evidence, let alone clear and convincing evidence, that any Defendant made any Statement either knowing that it was false or with reckless disregard for whether it was true, her claims fail for lack of constitutional actual malice.

f. Because she was *promoted* after the Book's publication, Blackwell cannot prove the challenged speech resulted in reputational harm

Defamation imposes a "reputational harm prerequisite."⁵⁷⁴ "Emotional damages are not compensable" in a defamation action "absent harm to reputation."⁵⁷⁵

On April 5, 2021, Blackwell testified at Chauvin's trial. After she testified, the Executive Director of the largest law-enforcement association in Minnesota swore that he heard "numerous people, both within law enforcement and without" relay their beliefs that Chief Arradondo and other senior MPD officers, including Blackwell, (a) distanced themselves from Chauvin to protect themselves and MPD's reputation; and (b) selectively interpreted MPD policies in order to support the prosecution of Chauvin.⁵⁷⁶ A year and a half later, on October 17, 2022, the Book was published. Almost a year later, in August 2023, Blackwell was *promoted* to the Assistant Chief of Operations, MPD's second-in-command responsible for its day-to-day operations. The

⁵⁷³ Collin Decl. at ¶¶ 69-70; Chaix Decl. at ¶ 160. While Alpha News had nothing to do with the Book, it believes it to be accurate.

⁵⁷⁴ *Maethner*, 929 N.W.2d at 875; *Richie v. Paramount Pictures Corp.*, 544 N.W.2d 21, 28-30 (Minn. 1996).

⁵⁷⁵ *Maethner*, 929 N.W.2d at 874 (citing *Richie*, 544 N.W.2d at 28).

⁵⁷⁶ Peters Decl. at ¶ 14.

Documentary was released three months later.

Blackwell cannot prove the third prong of a defamation claim: reputational harm.⁵⁷⁷ She was promoted after the challenged speech was published. Moreover, her general allegation that the speech “clouded” her career history and hurt her reputation because she is now questioned about the veracity of her testimony is insufficient to show “actual harm.”⁵⁷⁸

g. Blackwell missed the statute of limitations with respect to Collin and Chaix

In Minnesota, a civil action commences on service, not filing.⁵⁷⁹ Minnesota’s two-year statute of limitations begins to run when an allegedly defamatory statement is first published.⁵⁸⁰ Here, Blackwell served her Complaint on Alpha News on October 10, 2024 and on White Birch Publishing, LLC on October 11, 2024.⁵⁸¹ The next day, Defendants’ counsel’s offered to accept service for the remaining defendants.⁵⁸² Blackwell’s counsel ignored this offer and filed this lawsuit

⁵⁷⁷ *McKee*, 825 N.W.2d at 731-32.

⁵⁷⁸ *See Richie*, 544 N.W.2d at 26-27, 28-30 (reversing and reinstating trial-court judgment; holding that plaintiffs were unable show “actual harm to their reputations” when they received “inquiries” from family and friends regarding involvement with an “abuse and criminal trial” and were treated differently by colleagues and members of the public after they were included in a show covering the trial; also holding that allowing the plaintiffs to recover based on “mental anguish and humiliation” without showing actual harm to their reputations would violate First Amendment).

⁵⁷⁹ Minn. R. Civ. P. 3.01; *see also Meeker v. IDS Prop. Cas. Ins. Co.*, 862 N.W.2d 43, 47 (Minn. 2015) (“[A]n action is commenced when the summons and complaint are served.”); *Balwant Prasad v. Leary*, 2024 Minn. App. Unpub. LEXIS 451, at *6-7 (Minn. App. June 3, 2024) (affirming dismissal because “delivery is required for personal service on an individual” and, after considering the evidence, the court “could not find that delivery occurred”).

⁵⁸⁰ *See Sohn v. Arbisi*, 2023 Minn. App. Unpub. LEXIS 580, at *4 (Minn. App. July 17, 2023) (“Defamation’s two-year statute of limitations begins to run when an allegedly defamatory statement is first published.” (citing Minn. Stat. § 541.07, subd. 1 (2022)); *McGovern v. Cargill, Inc.*, 463 N.W.2d 556, 558 (Minn. App. 1990) (“In Minnesota, however, the statute of limitations for defamation begins to run on publication, not on discovery.”).

⁵⁸¹ Lund Decl. at Exs. 45 and 46.

⁵⁸² Madel Decl. at ¶ 2 and Ex. A.

on October 11, 2024.⁵⁸³ She then served Defendant Collin’s husband on October 28, 2024,⁵⁸⁴ and has never served Defendant Chaix.⁵⁸⁵ Inexplicably, Blackwell’s counsel has never asked Defendants’ counsel to waive service of the Complaint with respect to any Defendant.⁵⁸⁶

The Book was published on October 17, 2022. Even if this Court accepts Blackwell’s incorrect date (October 18, 2022),⁵⁸⁷ she served Collin and Chaix outside of the two-year statute of limitations applicable to the Book. Therefore, she cannot maintain defamation claims against Collin or Chaix with respect to the Book.⁵⁸⁸

h. Alpha News is not liable for the Book

Alpha News did not write, finance, distribute, etc. the Book.⁵⁸⁹ There is no evidence to the contrary. Claims against Alpha News relating to the Book, therefore, should be dismissed.

3. Pursuant to Minn. Stat. § 554.13(a)(3)(ii)(B), there is no genuine issue of material fact with respect to Blackwell’s claims and Defendants are entitled to judgment as a matter of law

As noted *supra*, Minn. Stat. § 554.12 requires this Court to consider all pleadings, the motion, briefs, *and* admissible evidence when considering a UPEPA motion, regardless if the Court is considering a motion to dismiss for failure to state a cause of action under Minn. Stat. § 554.13(a)(3)(ii)(A) or the summary-judgment standard under Minn. Stat. § 554.13(a)(3)(ii)(B).

⁵⁸³ Lund Decl. at Ex. 47.

⁵⁸⁴ As of December 31, 2024, Plaintiff has not filed an affidavit of service for service of the complaint and summons on Defendant Collin. (Lund Decl. at ¶ 52).

⁵⁸⁵ Chaix Decl. at ¶ 2.

⁵⁸⁶ Madel Decl. at ¶ 4.

⁵⁸⁷ Complaint at ¶ 3.

⁵⁸⁸ *See* Minn. Stat. § 554.13(a) (requiring this Court to “dismiss with prejudice a cause of action, or part of a cause of action,” if requirements of Minn. Stat. § 554.13(a)(1), (2), or (3) are met) (emphasis added); *see also Sohn*, 2023 Minn. App. Unpub. LEXIS 580, at *4-5 (“Arbisi’s report was issued on May 29, 2018, and Sohn did not initiate her lawsuit until April 22, 2022. Because the date of Sohn’s complaint falls outside the two-year period, Sohn’s defamation action is barred by the statute of limitations.”); *accord Latour v. Minneapolis Community & Tech. College*, 2001 Minn. App. LEXIS 210, at *4-5 (Minn. App. Feb. 27, 2001).

⁵⁸⁹ Collin Decl. at ¶ 47; Kharam Decl. at ¶¶ 4-5.

Consequently, all the above arguments pertaining to Defendants' Minn. Stat. § 554.13(a)(3)(ii)(A) arguments equally apply to Defendants' contention that this Court should dismiss Blackwell's claims under Minn. Stat. § 554.13(a)(3)(ii)(B). Rather than repeat those arguments here, Defendants respectfully incorporate the same by reference.

C. This Court Should Grant Defendants' Attorneys' Fees and Costs

If this Court grants Defendants' UPEPA motion, it must grant Defendants' motion for attorneys' fees and costs.⁵⁹⁰ Defendants also respectfully note that they warned Blackwell's counsel of this likelihood immediately after Blackwell served Defendant Alpha News.⁵⁹¹ Instead of heeding the warning, Blackwell filed this lawsuit.

D. Alternatively, This Court Should Grant Defendants' Alternative Motions

In the alternative, this Court should grant Defendants' Minn. R. Civ. P. 12.02(e) motion for the reasons stated above. This Court should also grant Defendants' Minn. R. Civ. P. 12.06 motions to strike (1) the allegations against Collin and Chaix due to the statute of limitations; and (2) Blackwell's request for attorneys' fees in her Complaint, as it is unsupported by law.⁵⁹²

V. CONCLUSION

For the foregoing reasons, Defendants respectfully request that this Court grant Defendants' special motion in accordance with their Proposed Order.

⁵⁹⁰ See Minn. Stat. § 554.16 ("shall"); see also *Jha*, 520 P.3d at 485-86 (reversing district court's denial of UPEPA motion and directing district court to award attorneys' fees and costs).

⁵⁹¹ Madel Decl. at ¶¶ 2-3 and Exs. A-B.

⁵⁹² See *Harvey v. Wackenhut Corp.*, 2006 Minn. App. Unpub. LEXIS 628, at *13 (Minn. App. June 13, 2006) (rejecting defamation plaintiff's request for attorneys' fees as "[g]enerally, attorney fees are not recoverable in litigation unless there is a specific contract permitting or a statute authorizing such recovery." (quoting *Northfield Care Ctr., Inc. v. Anderson*, 707 N.W.2d 731, 735 (Minn. App. 2006))).

DATED: January 5, 2025

MADEL PA

By:



Christopher W. Madel (#230207)
Jennifer M. Robbins (#387745)
Thomas J. Knecht (#402906)
800 Pence Building
800 Hennepin Avenue
Minneapolis, MN 55403
Telephone: 612-605-0630
cmadel@madellaw.com
jrobbins@madellaw.com
tknecht@madellaw.com

*Attorneys for Defendants Liz Collin, Dr. J.C.
Chaix, Alpha News, and White Birch Publishing
LLC, d/b/a/ Paper Birch Press*