

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE**

ESTATE OF DANIEL HAMBRICK,)	
ex rel VICKIE HAMBRICK,)	
)	Civil Action No:
<i>Plaintiff,</i>)	
)	
v.)	Judge
)	
METROPOLITAN GOVERNMENT)	
OF NASHVILLE-DAVIDSON)	Magistrate Judge
COUNTY, TENNESSEE,)	
)	
And)	JURY DEMAND
)	
ANDREW DELKE)	
)	
<i>Defendants.</i>)	

COMPLAINT

1. Plaintiff Estate of Daniel Hambrick (“Estate”) brings this federal civil rights and Tennessee tort claim for damages against Defendant Metropolitan Government of Nashville-Davidson County, Tennessee (“Metro”) and Defendant Andrew Delke (“Delke”) for murdering Mr. Daniel Hambrick on July 26, 2018.

PARTIES

2. Plaintiff Estate is the estate of Mr. Daniel Hambrick, a deceased adult resident of Davidson County, Tennessee.
3. Vickie Hambrick is the court-appointed administrator of the Estate.
4. Defendant Metro is a government entity organized under the laws of the State of Tennessee and located in Davidson County, Tennessee.
5. Defendant Delke is an adult resident of Sumner County, Tennessee.

JURISDICTION AND VENUE

6. This Court has federal question jurisdiction over the federal claims in this matter pursuant to 28 U.S.C. § 1331, and supplemental jurisdiction over the Tennessee state claims pursuant to 28 U.S.C. § 1367. Venue lies in this district pursuant to 28 U.S.C. § 1391(b)(2) because all claims related to this case occurred in this district.

FACTUAL BACKGROUND

A. Defendant Metro Exercises its Law Enforcement Function through the Metropolitan Nashville Police Department

7. Defendant Metro is a merged city-county municipal entity, with one unified government exercising governance authority over the city of Nashville and Davidson County.
8. Metro's governing charter allocates primary municipal governing authority to an elected Mayor and an elected 40-member City Council.
9. From September 25, 2015 until March 6, 2018, Metro's Mayor was Mayor Megan Barry.
10. Since March 6, 2018, Metro's Mayor has been Mayor David Briley.
11. Metro's governing charter establishes the Metropolitan Nashville Police Department ("MNPDP") as the exclusive law enforcement agency in Nashville – Davidson County.
12. Metro's charter establishes a Chief of Police ("Chief") to lead MNPDP, and empowers the Chief with unilateral authority, subject only to the Mayor's consent and any legal restrictions, to direct MNPDP's operations, policies, training, strategy, and internal disciplinary systems and determinations.
13. Since July 2010, MNPDP's Chief has been Chief Michael Steven ("Steve") Anderson.

B. MNPDP's Culture of Fear, Violence, and Racism

1. MNPDP Training: "The Tactical Edge"

14. Since at least 2010, if not longer, MNPDP has provided each new MNPDP academy recruit-trainee a 1986 book entitled The Tactical Edge.
15. The Tactical Edge opens with the dedication that it is for "Officers who want to win."
16. The Tactical Edge continues with a picture of a white male police officer comforting another white male police officer who has just shot and killed a black man.
17. The Tactical Edge next turns to a picture of four slain white police officers, accompanied by text indicating that the officers were "wasted" because they were "careless."
18. The Tactical Edge's introduction goes on to paint a dystopian picture of America, in which kids raised in daycare and "violent" minorities kill police officers in the streets unless officers adopt the book's prescribed mental attitude and tactical approach.
19. The Tactical Edge asserts, "there is a greater capacity for violence on the street today than ever before," and that the only thing keeping officers from getting killed by citizens is that officers are now "aware of the adversary's ways and will ... and more dedicated to the mental attitudes and tactical maneuvers that can defeat his violent intent."
20. The Tactical Edge continues, "THE GAP BETWEEN THE TRAINING YOU GET SPOON-FED AND WHAT YOU NEED TO SURVIVE ON THE STREET IS LEFT UP TO YOU TO FILL. That gap does not have to be very wide to make you vulnerable. Just wide enough for an offender to fire a bullet through." (Caps in original).
21. The Tactical Edge claims that "serious violent offenders" are being released from prison too quickly, and that "most convicts will be back on the streets, better schooled legally, better conditioned physically, and better equipped tactically." Accompanying this

assertion are photographs of black men lifting weights in prison, plotting a prison break, and being released from prison early due to overcrowding.

22. The Tactical Edge continues, “More than half the population growth in this country in the next 20 years will come from ethnic minority groups, which have the highest ratio of law enforcement contact and are disproportionately associated with criminal violence.”
23. The Tactical Edge continues, “Pre-schoolers left in day-care centers are 15 times more aggressive than other youngsters... their behavior is not just more assertive but involves physical violence, verbal abuse, and resistance to authority. The public schools, meantime, report growing numbers of a ‘new kind of child’ with ‘different values’ and profound problems that our schools are ill-equipped to handle.”
24. The Tactical Edge dismisses officers who express skepticism about the book’s dystopian, hyper violent worldview as so-called “veteran hairbags.”
25. The Tactical Edge’s introduction closes with the statement, “On the street, you will meet the human beings, the weapons, the mentalities behind the dismal facts above. They are waiting for you. Either you or they will have the edge.”
26. The Tactical Edge goes on to prescribe mental attitudes and tactics for defeating the identified “adversaries” – i.e., people of color and kids raised in daycare – and then closes with a presentation of several “model” officers.
27. One of The Tactical Edge’s model officers states, “Everybody I approach, everybody I stop, every situation, I always expect the worst. That way, in case it goes down I’m ready. If it doesn’t, no big deal... at least I was covered. I maintain the attitude that the next guy might be the guy that wants to take me out, no matter what he looks like.”

28. Another of The Tactical Edge's model officers states, "Every shift I set a goal: I plan to make at least one in-custody arrest. If I don't make an arrest that night, I try to have two the next.... It affects my mental attitude. When I'm approaching somebody on a T-stop and looking at him as a potential arrest, it does a couple of things. One, it puts him immediately in the suspect mode. And two, it sharpens my visual awareness... I'm looking for something to arrest this guy on.... That really keeps me motivated. It makes me do more traffic stops, because if I haven't made my arrest, I have to keep contacting people until I do. I've made up to 50 and 60 stops a night. When I get an early arrest, I say, 'Okay, let's see if I can get three tonight.'"

29. Another of The Tactical Edge's model officers states, "I probably am a little paranoid, but I think if you're a cop and you're not a little paranoid, you better not be a cop.... Before I go to work every day, I draw my gun out of the holster and dry-fire it 25 times in front of a mirror, so I can see what it looks like. ... Some people say, '[I am] really crazy.' But let me tell you what, if I ever come to a situation where I have to do that, I'm going to know what I'm going to do." The officer continues, "When it comes down to surviving, you shouldn't be worrying about lawsuits. That's why you take preparation. You put stuff in your wife's name. You buy some additional liability insurance. You join the union so you've got a good attorney on retainer. You prepare yourself to survive a legal assault just as you do a street assault. And you fight back the same, too.... Out on that street, I'm my number one priority. My partner out there is number two. My family's number three. The department's number four. The bad guy's last."

30. The Tactical Edge closes with a picture and caption criticizing prisoners for using their recreational reading time in prison to study the law.

31. In addition to The Tactical Edge, MNPDP's other training programs, such as the use of force and traffic stops, reinforce the message that officers should live in fear of citizens and that violence is an officer's only way to avoid being killed by citizens.
32. MNPDP's traffic stop training materials highlight the one-in-several-million occurrence of an officer being shot during a traffic stop, while ignoring the more statistically commonplace scenario of officers being hit by oncoming traffic while focusing on the subject of the traffic stop.
33. MNPDP's traffic stop training materials also emphasize that officers should treat every citizen they pull over as a potential dangerous "felon," and instill the mantra that "there is no such thing as a routine traffic stop."
34. MNPDP's traffic stop training program also emphasizes that is crucial for officers to always look "beyond the stop," meaning that they should always be on the lookout for opportunities to search and arrest citizens pulled over for minor traffic violations.
35. MNPDP's training program teaches officers that in order to stay safe during encounters with citizens, the officer must be in verbal or physical control of the citizen at all times.
36. MNPDP's deadly force training teaches officers the concept of a "targeting glance," which is defined as "a glance by a citizen who has a gun."
37. MNPDP's deadly force training teaches officers that a citizen's "targeting glance" should be interpreted as an imminent threat of deadly force.
38. MNPDP's training teaches that officers who use their firearms against citizens deemed to be lethal threats should always shoot "center mass," i.e. aim for the heart and lungs, and that officers should continue firing until the citizen is "neutralized."

39. MNPDP's deadly force training includes a "Shoot – Don't Shoot" simulator, in which the rules state that an officer who fails to kill a citizen when the officer "should" results in the officer being virtually killed.
40. The training described in ¶¶ 35 – 39 essentially teaches that if a citizen with a gun "glances" at an officer, the citizen should be treated as an imminent lethal threat and should be repeatedly shot in the heart and lungs until they are "neutralized."

2. MNPDP Culture: "The Thin Blue Line"

41. On information and belief, many current MNPDP officers, and retired MNPDP officers who remain part of MNPDP's cultural community, believe that without constant police vigilance and the threat of police violence Nashville's black community would degenerate into violence and anarchy.
42. On information and belief, some current MNPDP officers, and retired MNPDP officers who remain part of MNPDP's cultural community, refer to black Nashvillians as "thugs."
43. On information and belief, many MNPDP officers refer to people who are arrested as "bodies." For instance, MNPDP's "Operation Safer Streets" program explicitly sets a goal for each officer to arrest two people per night, which is communicated to officers as a goal of getting "two bodies" per night.
44. On information and belief, some MNPDP supervisory staff refer to midtown Nashville as "Baghdad."
45. MNPDP command and supervisory staff zealously believe that conducting "proactive" traffic stops in high crime neighborhoods will cause reductions in serious criminal violence, regardless of whether most people who are subjected to the stops are innocent of any criminal wrongdoing.

46. Many MNPDP officers, and retired MNPDP officers who remain part of MNPDP's cultural community, believe in the moral validity of the assertion that citizens should "Just COMPLY and everyone lives."¹
47. MNPDP prohibits MNPDP officers from publicly criticizing the department, its policies, or its leadership, and enforces this policy with punitive discipline. The punishment for publicly criticizing the department ranges from suspension to termination.

3. MNPDP Traffic Stop Policy and Practice

48. Under the direction of Chief Anderson's predecessor, former MNPDP Chief Ronal Serpas, MNPDP's traffic stops steadily increased over the course of the aughts, from a total of 126,083 stops in 2003 to a total of 282,518 stops in 2009.
49. Immediately after becoming Chief in 2010, Chief Anderson focused on continuing to rapidly increase traffic stops as MNPDP's "Mission One."
50. To ensure that traffic stop counts increased, Anderson's command and supervisory staff kept statistics on officers' stop counts, and punished officers who failed to make "enough" traffic stops by giving them less desirable assignments and depriving them of benefits like "take home" cars.
51. In a 2013 media interview, MNPDP Chief Anderson described the thinking behind focusing on traffic stops as, "Obviously, anytime you have an opportunity to talk to someone in the car you get to find out what is going on inside the car.... Are there drugs in the car do the people have outstanding warrants that kind of thing?"
52. MNPDP's traffic stop count exploded during the first few years of Anderson's tenure, jumping to 312,187 in 2010, 389,788 in 2011, and 445,143 in 2012.

¹ This is a quote from a social media post.

53. Meanwhile, over 80% of MNPDP's traffic stops consistently led to just verbal warnings with no further action, and even where arrests were made the vast majority were for non-violent misdemeanors – primarily driving without a license and personal use marijuana.

4. Racial Profiling in MNPDP's Traffic Stops and Roadside Searches

54. MNPDP's policy on racial profiling does not prohibit officers from using race as a factor in determining which drivers to stop, search, and/or arrest, so long as race is not the sole basis for the officer's decision.

55. Many MNPDP officers understand the racial profiling rule to be that officers cannot profile people, but they *can* profile cars.

56. Over the course of Anderson's tenure, MNPDP officers have consistently stopped a disproportionate share of black drivers relative to white drivers.

57. Over the course of Anderson's tenure, MNPDP officers have consistently subjected a higher proportion of stopped black drivers to roadside searches than the proportion of stopped white drivers who are searched.

58. Over the course of 2011 – 2015, under Anderson's leadership, MNPDP's ratio of stopped black drivers who were subjected to "probable cause searches" versus stopped white drivers subjected to probable cause searches increased from about 2:1 to almost 3.5:1.

59. Over the course of 2011 – 2015, under Anderson's leadership, MNPDP's ratio of stopped black drivers who were subjected to "consent searches" versus stopped white drivers subjected to consent searches increased from just under 2:1 to almost 2.5:1.

60. Over the course of 2011 – 2015, under Anderson's leadership, MNPDP's roadside search "hit rate" – meaning the percent of roadside searches that yielded incriminating evidence – was consistently lower in searches of black drivers than white drivers.

61. Over the course of 2011 – 2015, MNPDP’s “hit rate” in probable cause searches of black drivers ranged from 48 – 54%, whereas MNPDP’s “hit rate” for probable cause searches of white drivers steadily increased from 54 – 66%.
62. Over the course of 2011 – 2015, MNPDP’s “hit rate” in consent searches of black drivers ranged from 9 – 11%, whereas MNPDP’s “hit rate” in consent searches of white drivers ranged from 12 – 16%.
63. The consistent “hit rate” disparities in MNPDP’s roadside searches of black and white drivers reflects systemic implicit and/or explicit racial bias on the part of MNPDP officers.

5. MNPDP Permits Male White Officers Greater Leeway than Black Officers

64. MNPDP has an extensive policy manual, with over 1500 pages of rules and procedures.
65. MNPDP has the discretion to impose or not impose punitive disciplinary proceedings on officers as command and supervisory staff see fit, with no meaningful requirement that such discipline be imposed fairly or uniformly.
66. On information and belief, MNPDP command and supervisory staff give white male officers greater leeway under this system than other officers, tending to permit white male officers to violate rules without consequence whereas officers of other demographic backgrounds are held to a tougher standard.
67. On information and belief, high-ranking African-American MNPDP command staff understand that African-American officers must “toe the line” more than their white counterparts in order to succeed at MNPDP.
68. At least one high-ranking African-American MNPDP command officer has specifically advised subordinate African-American officers that they should simply accept that black

officers cannot do what white officers can do, and that in order to succeed professionally they should simply accept this as fact and make the best of it.

C. MNPD's Internal Disciplinary System Tacitly Permits Officers to Mistreat Citizens

1. MNPD Employs a Two-Track Internal Investigation System

69. In 2001, MNPD created the "Office of Professional Accountability" ("OPA") in response to community concerns that MNPD's internal disciplinary system for protecting citizens from officer misconduct was ineffective, failing to hold officers accountable for violations of citizens' civil rights.

70. After creating OPA, MNPD developed a hybrid, two-track system in which 80% of misconduct complaints are resolved by the complained-of officer's precinct supervisor and chain of command, while OPA resolves about 20% of complaints.

71. The initial determination regarding whether OPA or the precinct should handle the investigation is made by OPA, with policy guidance suggesting that complaints considered minor should be referred to line supervisors, whereas serious complaints should be resolved by OPA.

72. However, in practice MNPD resolves most serious citizen-initiated civil rights complaints through the precinct chain of command, with the officer's direct supervisor handling the investigation.

2. MNPD's Internal Disciplinary System Only Functions Fairly if Audiovisual Recordings are Available to Corroborate Citizen Accounts

73. Both OPA and the precinct chains of command resolve the vast majority of serious citizen-initiated civil rights complaints without any discipline or other sanction for the officer, even where the citizen's allegation is corroborated by other witnesses.

74. MNPDP has significant administrative, management, and financial incentives to rule in the officer's favor on citizen complaints.
75. MNPDP policy nominally defines the evidentiary standard MNPDP uses to assess the credibility of citizen complaints as a "preponderance" standard.
76. However, MNPDP's *de facto* evidentiary burden for citizen complaints is more akin to "absolute certainty," in that citizen complaints are generally only sustained if either (a) the officer confesses to the alleged misconduct, or (b) hard evidence, such as a video recording, corroborates the citizen's allegation.
77. Statistically speaking, MNPDP sustains only about 1.5% of citizen complaints against MNPDP officers for serious misconduct, such as false arrest or excessive force.
78. On information and belief, MNPDP officers generally understand and agree with MNPDP's practice of not disciplining officers based solely on a citizen's word.

3. MNPDP Refuses to Implement Department-Wide Audiovisual Recorders

79. For years, law enforcement agencies throughout the United States and Tennessee have been equipping law enforcement officers with audio and video recording devices in order to obtain more objective evidence about police-citizen encounters.
80. Law enforcement agencies across the country utilize a wide variety of tools for this purpose, such as patrol car "dash" cams, body wire audio recorders, and body cameras.
81. On information and belief, as of the filing of this complaint most law enforcement agencies in Tennessee have adopted at least vehicle dash cameras and audio recorders, if not body cameras.
82. However, MNPDP has delayed the implementation of all such technologies for as long as possible, utilizing dash cams only on its county-wide "DUI" and "Aggressive Traffic"

units while leaving the other 97.5% of its patrol cars and officers totally unequipped with recording devices.

83. In October 2016, then-Mayor Megan Barry publicly committed to implementing department-wide body cameras on all MNPDP officers.

84. In June 2017, the City Council passed a budget allocating funds for the purchase of department-wide body and dash cameras.

85. MNPDP has intentionally stalled the process of purchasing and implementing body and dash cameras as long as possible, with no department-wide implementation yet to occur as of the filing of this complaint.

D. Defendant Metro Disregards Clear Evidence of Systemic Race Discrimination

1. MNPDP's Internal Traffic Stop Reports

86. Since at least 2008, MNPDP has generated annual reports analyzing MNPDP's traffic stops.

87. Every year, MNPDP's annual traffic stop report has shown that MNPDP's traffic stops are disproportionately focused on black drivers.

88. Every year, MNPDP's annual traffic stop report justifies the disproportionate stops of black drivers by arguing that more black drivers are stopped because there is higher crime in black neighborhoods.

89. Every year, MNPDP's annual traffic stop reports laud MNPDP's traffic stop strategy on the basis that traffic stops generate thousands of arrests, notwithstanding the fact that most of those arrests are for non-violent misdemeanors such as driving without a license or personal use marijuana.

90. Every year, MNPDP's annual traffic stop reports failed to analyze MNPDP's roadside search data, which MNPDP maintains in the same exact databases as the traffic stop data.

2. MNPB Dismisses the *Driving While Black* Report

91. In October 2016, a non-profit called “Gideon’s Army” released the “Driving While Black” report, an analysis of MNPB’s traffic stop data concluding that MNPB’s traffic stops and roadside searches disproportionately target black drivers.²
92. MNPB responded to *Driving While Black* by publicly articulating the same justifications that its internal reports had contained for years, namely that black drivers are stopped more because more officers are deployed to high crime black neighborhoods.
93. After the release of *Driving While Black*, City Council members filed legislation to require MNPB to officially respond to *Driving While Black* and begin providing detailed annual reports of its traffic stops and roadside searches.
94. On November 29, 2016, Nashville’s Metro Human Relations Commission (“Commission”) issued a letter to then-Mayor Barry and MNPB Chief Anderson indicating that the Commission had independently analyzed the MNPB traffic stop data utilized in the *Driving While Black* report, that the Commission had concerns that MNPB could potentially be in violation of Title VI of the Civil Rights Act of 1964, and that the Commission recommended creation of an independent task force to analyze the data and recommend changes if necessary.
95. Metro and MNPB completely disregarded the Commission’s recommendations.

3. MNPB Digs In Against Nashville’s Police Reform Movement

96. In February 2017, an MNPB traffic stop led to the shooting and killing of a young black man, Mr. Jockues Clemmons, who attempted to flee on foot and was shot in the back.

² Available at: <https://drivingwhileblacknashville.wordpress.com/>.

97. In the wake of the Clemmons shooting, activists formed a movement to increase MNPD accountability through the establishment of a “Community Oversight Board” (“COB”), which would be a new Metro agency.
98. MNPD and then-Nashville Mayor Megan Barry publicly and unequivocally opposed the creation of an oversight board.
99. On March 7, 2017, MNPD Chief Anderson issued a public statement categorically denying the *Driving While Black* allegations, and claiming that the *Driving While Black* authors were “morally disingenuous.”
100. In April 2017, the City Council passed the legislation requiring MNPD to begin providing detailed annual traffic stop and roadside search reports.
101. MNPD provided the Council with a traffic stop and roadside search report for 2016, as required by the new ordinance. The report reflected roadside search and “hit rate” racial disparities that were in line with the *Driving While Black* findings.
102. On April 7, 2017, Metro and MNPD reached a “Memorandum of Understanding” (“MOU”) with the Tennessee Bureau of Investigation (“TBI”) and District Attorney’s (“D.A.”) Office, agreeing that in all future officer-involved shooting deaths the TBI would have exclusive jurisdiction over the criminal investigation.
103. However, the MOU specifically permitted MNPD to conduct an internal administrative investigation for employment and disciplinary purposes prior to the conclusion of the TBI investigation, and authorized MNPD to obtain a copy of the TBI’s investigation file for administrative investigation purposes with the D.A.’s consent.
104. In May 2017, the D.A.’s Office held a press conference announcing that the MNPD officer who killed Mr. Jocques Clemmons would not be prosecuted, but that the

investigation of the matter had led to the identification of numerous problematic MNPDP policies and practices that should be reformed.

105. One of the issues raised by the D.A. was that MNPDP's internal investigation and disciplinary system appeared to be biased in favor of exonerating the officer.

106. The D.A. also called for MNPDP to take the *Driving While Black* critiques seriously, and to find ways to reduce race disparities in traffic stops and roadside searches.

107. The D.A. also called for a review of MNPDP's foot pursuit policy.

108. MNPDP Chief Anderson responded to the D.A.'s policy critiques by rebuking both the elected D.A. and the Deputy District Attorney who articulated the concerns about bias in MNPDP's disciplinary system. The Chief's statement also implied a threat to file a bar complaint against the deputy in retaliation for the D.A.'s press conference.

109. Meanwhile, Metro Human Relations invited the U.S. Department of Justice ("DOJ") Community Relations Service to engage MNPDP and Nashville's black community in an effort to resolve the escalating tensions.

110. In July 2017, the DOJ's Community Relations Service issued its report, recommending that MNPDP make several reforms.

111. The DOJ recommended that MNPDP implement additional training to reduce implicit racial bias in officers, establish a work group to study the *Driving While Black* findings, and establish a work group to establish a "Citizen's Advisory Board" for the police.

112. MNPDP ignored and disregarded the DOJ's reform recommendations.

113. Later that same month, the Davidson County Grand Jury issued a report warning that the Grand Jury was institutionally coopted by MNPB, such that the grand jurors could not remain objective because MNPB was their primary source of perspective and information about criminal justice issues.
114. The July 2017 Grand Jury report also recommended that citizens be involved in investigating future officer-involved shootings.
115. MNPB ignored and disregarded the Grand Jury's reform recommendations.
116. On August 25, 2017, a civil rights plaintiff filed a brief and supporting evidence in the United States Middle District of Tennessee case *David Shearon v. Coleman Womack, et al.* demonstrating that MNPB's internal disciplinary system holds citizen complaints of officer misconduct to a *de facto* "absolute certainty" evidentiary burden, such that the system could only operate fairly if audiovisual recordings were available.
117. However, the brief was rendered moot by a jury finding that the plaintiff's rights in the particular complained-of arrest were not violated, and the systemic issues raised by the brief were never ruled on by a court.
118. Metro and MNPB dismissed the systemic issues demonstrated by the *Shearon* brief, continued stalling the implementation of body and dash cameras, and made no voluntary reforms of MNPB's disciplinary system.

4. MNPB Punishes Officers Who Corroborate Community Critiques of MNPB

119. MNPB's policies severely restrict officer speech, particularly in the online sphere, essentially prohibiting them from offering any criticism whatsoever of MNPB's leadership, policies, or practices.

120. MNPD enforces these speech-restriction policies with punitive discipline against officers who speak out against the administration, or who corroborate community concerns like those raised in *Driving While Black*. Such punitive discipline can range from suspension to termination.

121. MNPD has in fact imposed punitive discipline on officers who spoke out in favor of additional community oversight or who publicly corroborated the concerns raised in *Driving While Black*.

5. The Policing Project

122. In October 2017, Metro engaged the New York University-based “Policing Project” to conduct a “Cost Benefit Analysis” of MNPD’s traffic stop regime.

123. One of Metro and MNPD’s motives for engaging the Policing Project was to “get ahead” of the activists pushing for establishment of a police oversight board.

124. The idea of the Policing Project’s “cost benefit analysis,” as described by Policing Project Director Barry Friedman in numerous publications, was to quantify the economic, social, and other collateral costs of given policing strategies and then weigh those costs against the strategies’ demonstrable crime-reduction benefits.

125. In working with Metro and MNPD, the Policing Project strongly encouraged Metro to establish a steering committee that included community leadership to help guide the Policing Project’s work.

126. However, Metro declined to create a steering committee or otherwise meaningfully include the community in the Policing Project’s work.

127. Instead, the Policing Project’s work with MNPD was conducted largely in secret, over the course of the next year.

128. By early July 2018, the Policing Project had determined that MNPDP's traffic stop strategy had no crime reduction benefit whatsoever, that the race disparities in MNPDP's traffic stops could not be completely explained away by the increased deployment of police to higher crime areas, and that there were individual MNPDP officers whose stops showed significantly higher racial disparities than the average.
129. The Policing Project communicated these findings to the Mayor's Office and MNPDP by or before July 2018.
130. However, the Mayor's Office and MNPDP kept these findings secret until the Policing Project's final report was published on November 19, 2018.
131. On information and belief, after learning that the traffic stops had no crime reduction benefit Metro made a political decision to instruct the Policing Project to not complete the "cost" side of its "Cost Benefit Analysis."
132. On information and belief, the Mayor's Office's purpose in instructing the Policing Project to skip the "cost" component of the "Cost Benefit Analysis" was to protect Chief Anderson and MNPDP from political and moral accountability for the enormous social, financial, and civic costs imposed on Nashville by MNPDP's failed, multi-year traffic stop strategy.
133. On information and belief, the Mayor's Office instructed the Policing Project to not address the issue of race discrimination in roadside searches as part of its work.
134. On information and belief, the Mayor's Office's purpose for directing the Policing Project to ignore roadside searches was to avoid the publication of clear, irrefutable evidence that MNPDP was engaging in systemic race discrimination against black drivers.

135. On November 19, 2018, the Policing Project’s report was made public, and representatives from the Policing Project presented its findings to the Metro City Council in a public hearing.
136. The Policing Project’s report and Council presentation contained sophisticated data analysis demonstrating that MNPDP’s disproportionately high traffic stops of black drivers could not be completely accounted for based on differences in neighborhood crime rates.
137. Multiple City Council members responded to the Policing Project report by publicly stating that the report contained nothing that they did not already know from *Driving While Black*.
138. In response to the release of the Policing Project report, MNPDP made a public statement inaccurately claiming that it proved that the differences in neighborhood crime rates were the only reason MNPDP disproportionately stops black drivers.
139. In response to the release of the Policing Project report, the Fraternal Order of Police (“FOP”) issued a public statement inaccurately claiming that the Policing Project report exonerated MNPDP officers of any improper race discrimination.

E. Officer Andrew Delke

140. In the summer of 2016, then 22-year-old Defendant Delke applied for a job with MNPDP, seeking to become a police officer.
141. In July 2016, MNPDP hired Delke and sent him to its police academy.
142. On his first day at the academy, Delke received his copy of “The Tactical Edge,” as did all his classmates and as had all other MNPDP recruits in recent history.

143. On information and belief, Delke read his copy of “The Tactical Edge” and internalized the beliefs articulated therein.
144. MNPDP’s academy trained Delke to fear his fellow citizens, and to believe that using violence against them would be the only way for him to avoid being killed.
145. MNPDP’s academy trained Delke to believe that if a fleeing person with a gun glances at him, Delke should consider it a “targeting glance” signifying that the suspect is preparing to shoot and kill him.
146. MNPDP’s academy trained Delke to believe that if a person poses a potential lethal threat to him, Delke should shoot the person in the heart and lungs over and over again until the person is “neutralized.”
147. MNPDP’s academy trained Delke to believe that if he failed to “neutralize” people as prescribed in the training, he would be killed.
148. On information and belief, at the academy and as an MNPDP officer Delke internalized MNPDP’s culture of fear, violence, “proactive” policing, and racism.
149. Between March 4, 2017 and July 26, 2018, Officer Delke conducted 510 traffic stops (not including his stop of Daniel Hambrick). Of these, 364 (71.4%) were of black drivers and 118 (23.1%) were of white drivers. He conducted 45 searches (8.8% of all stops) and found evidence in a total of 15 searches (12 searches with drugs, 0 with weapons, and 6 with other evidence) for a hit-rate of 33.3%. When comparing searches by race, he conducted 39 searches of black drivers (86.7% of total searches; 10.7% of all black drivers stopped) and 3 searches of white drivers (6.7% of total searches; 2.5% of all white drivers stopped). He found evidence in 13 searches of black drivers (33.3%) and one search of a white driver.

150. Over this same period, the ratio of black to white drivers that Officer Delke subjected to traffic stops was consistently above the average of other MNPDP officers patrolling in the same geographic zones.
151. Over that same period, Officer Delke subjected stopped black drivers to roadside searches at a rate 2.8 times higher than the median search rate for other MNPDP officers working patrol in the same geographic zones.
152. On information and belief, over that same period Delke was involved in numerous violent incidents with citizens in which he failed to keep himself under control.
153. On July 16, 2018, when Delke was about 1 ½ years into his career, MNPDP assigned him to MNPDP’s Juvenile Crime Task Force, an aggressive, “proactive” unit tasked with identifying and seizing youthful offenders, stolen cars, and guns.
154. By MNPDP policy, only officers with 3 years of experience are eligible for specialized units such as the Juvenile Crime Task Force.

F. Officer Delke Murders Mr. Hambrick

155. On the evening of July 26, 2018, Defendant Delke was on patrol in North Nashville’s 37208 zip code, a majority black neighborhood with the highest incarceration rate in America, in the area of 10th Avenue North.
156. At about 7:00 P.M., Officer Delke pulled into a parking lot looking for a white Chevrolet Impala whose driver had failed to stop when Delke activated his “blue lights.”
157. In the parking lot, Delke focused on a different white car, not the Impala, and some pedestrians that were standing nearby to it.
158. One of the pedestrians in the parking lot was Mr. Daniel Hambrick, a twenty-five year-old African-American man.

159. When Delke pulled into the parking lot, Mr. Hambrick ran away.
160. When Mr. Hambrick ran, Delke had no idea who Mr. Hambrick was, had no idea whether Hambrick had any connection to the white Impala Delke was looking for, and had not seen Hambrick do anything illegal.
161. However, Delke chased after Mr. Hambrick regardless.
162. Mr. Hambrick sprinted at top speed through the parking lot, turned left onto Jo Johnston Blvd, and ran through the yards parallel to Jo Johnston.
163. Delke followed Mr. Hambrick through the turn, into the yards along Jo Johnston.
164. Hambrick was running faster than Delke, and was rapidly getting away from him.
165. Hambrick was facing forward while sprinting, facing away from Delke.
166. After making the turn onto Jo Johnston, Delke planted his feet, aimed at Mr. Hambrick “center mass,” and gunned Mr. Hambrick down from behind.
167. A total of approximately thirty seconds had passed between Delke’s arrival in the parking lot and Delke gunning Mr. Hambrick down.
168. Per his MNPD training, Delke shot at Mr. Hambrick four times, aiming to “neutralize” him by repeatedly shooting him in his heart and lungs.
169. One of Delke’s bullets hit Mr. Hambrick in the back, and lodged in his spine.
170. One of Delke’s bullets hit the left side of Mr. Hambrick’s torso, and passed through his body.
171. One of Delke’s bullets hit Mr. Hambrick in the back of his head, and lodged in his brain.
172. Delke’s other bullet missed Mr. Hambrick altogether, and hit a nearby residence.
173. After Delke shot him Mr. Hambrick collapsed to the ground, face first.

174. Officer Delke circled Mr. Hambrick and backed away, continually pointing his gun at Mr. Hambrick until backup arrived.
175. While waiting for backup, Delke left Mr. Hambrick bleeding face down in the grass, without providing any first aid to him.
176. When MNPB backup arrived, they handcuffed Mr. Hambrick and left him face down in the grass, without providing any first aid to him.
177. Finally, an ambulance arrived and EMT's took Mr. Hambrick to Vanderbilt University Medical Center ("Vanderbilt").
178. Vanderbilt medical staff pronounced Mr. Hambrick dead at 7:28 P.M., approximately half an hour after Delke gunned him down.

G. MNPB Justifies the Murder

179. Within hours of the murder, MNPB put out a press release and used its official social media accounts to post the news that an MNPB officer had shot a "gunman."
180. Pursuant to the April 7, 2017 Memorandum of Understanding, TBI agents immediately assumed legal responsibility for the investigation.
181. However, notwithstanding the MOU MNPB SWAT teams immediately canvassed the neighborhood in an effort to identify witnesses and seize any video or other evidence that might be available.
182. That same night, surveillance footage from neighborhood Metro Davidson Housing Authority ("MDHA") cameras was provided to both the TBI and MNPB.
183. The MDHA surveillance footage captured most of the incident, depicting Mr. Hambrick fleeing from Delke, Delke pursuing Mr. Hambrick, Mr. Hambrick making the

turn onto Jo Johnston,³ Mr. Hambrick coming out of the turn onto Jo Johnston, Delke following Mr. Hambrick onto Jo Johnston, Mr. Hambrick sprinting away from Delke, and Delke gunning Mr. Hambrick down. (Ex. A, Surveillance Video).

184. Immediately after the shooting, the Fraternal Order of Police dispatched an attorney to represent Delke at the scene of the homicide.
185. Officer Delke spoke with the FOP attorney, and then declined the TBI agents' request to provide a statement to the TBI on the night of the shooting.
186. Delke delayed his TBI interview a couple of days, and used the delay to consult with his FOP attorneys.
187. After preparing with his FOP attorneys, Delke agreed to speak to the TBI.
188. When Delke spoke with the TBI agents, Delke claimed that Mr. Hambrick had turned back and pointed a gun at Delke while Mr. Hambrick was running away, and claimed that Mr. Hambrick had made "targeting glances" at Delke.
189. The MDHA surveillance footage did not depict Mr. Hambrick turning back to face Delke while running away, and did not depict Hambrick pointing a gun at Delke.
190. Under MNPDP policy, both murder and dishonesty are termination offenses.
191. In August 2018, the MDHA surveillance footage was made public.
192. After the surveillance footage was made public, MNPDP Chief Anderson acknowledged in a media interview that the shooting was "troubling," and indicated an intention to review MNPDP's "foot pursuit" policy.

³ There is a gap in the footage of approximately two seconds between the two camera angles.

193. Under the April 7, 2017 MOU, MNPB specifically reserved the right to initiate internal administrative proceedings against an officer without waiting for the conclusion of the TBI's criminal investigation or any resulting criminal proceedings.
194. Notwithstanding MNPB's right to initiate administrative proceedings to terminate Delke without waiting on the TBI's investigation, MNPB did not initiate disciplinary proceedings against Delke in the immediate aftermath of Mr. Hambrick's murder.
195. In the fall of 2018, MNPB took advantage of its influence over the Grand Jury to attempt to prevent the Grand Jury from indicting Officer Delke.
196. To accomplish this, MNPB had the Grand Jurors go through MNPB's "Shoot / Don't Shoot" trainer, in order to convince the grand jurors that officers must "kill or be killed," and that citizen jurors lack the moral authority to second-guess an officer's decision to use deadly force.

H. The District Attorney's Office Prosecutes Officer Delke for Murder

197. On September 10, 2018, the D.A. announced that the TBI's investigation of the shooting was complete, and that the D.A. would be reviewing the matter to determine whether to initiate criminal charges against Delke.
198. On September 27, 2018, the D.A.'s Office sought a warrant for "Criminal Homicide" against Delke at the Davidson County General Sessions Court.
199. On information and belief, the D.A. was forced to pursue charges through the General Sessions court because MNPB had already "poisoned the well" at the Grand Jury by having the grand jurors complete the "Shoot / Don't Shoot" trainer.

200. On September 27, 2018, Davidson County General Sessions Judge Michael Mondelli found probable cause to believe that Delke had committed Criminal Homicide, and then issued an arrest warrant charging Delke with the same.
201. Delke's bond on the Criminal Homicide charge was set at \$25,000.
202. By Davidson County standards, the \$25,000 bond set in Delke's case was extraordinarily low for a homicide charge, and was lower than the bonds set in some non-violent misdemeanor cases.
203. Delke's attorney was notified of the charge and bond, and Delke was permitted to turn himself in and then bond out that same day.
204. MNPDP made no public statement on the initiation of the homicide charges, and still declined to exercise its right to initiate administrative termination proceedings against Delke.
205. On January 4th and 5th, 2019, Davidson County General Sessions Court Judge Melissa Blackburn conducted a preliminary hearing to determine whether or not there was probable cause to believe that Delke had committed Criminal Homicide.
206. At Delke's preliminary hearing, he presented the testimony of a "police use of force" expert, a retired MNPDP trainer named Robert Allen.
207. Mr. Allen testified that he had worked as an MNPDP "use of force" trainer for years, that he had been with MNPDP until he retired in 2015, and that by gunning down Mr. Hambrick Delke "did what he was trained to do" by MNPDP.
208. On January 7, 2019, Davidson County General Sessions Court Judge Melissa Blackburn issued an order finding probable cause that Delke had committed Criminal Homicide and binding the case over to the Davidson County Grand Jury.

209. Judge Blackburn's order specifically found that Delke's claim that Hambrick had pointed a gun at him during the foot chase was "improbable."

210. Judge Blackburn's order also noted that MNPB had deprived the court of critical evidence by failing to equip its officers with body cameras.

211. On January 18, 2019, the Davidson County Grand Jury indicted Officer Delke for the First Degree Murder of Daniel Hambrick.

I. Delke's Murder of Mr. Hambrick was Consistent with MNPB Policy and Practice

212. As of the filing of this Complaint, MNPB has still failed to institute termination proceedings against Officer Delke, notwithstanding:

- a. The video and other evidence demonstrating that Delke murdered Mr. Hambrick;
- b. The video and other evidence discrediting Delke's false claim that Mr. Hambrick turned and pointed a gun at him while running away;
- c. The District Attorney's Office's prosecution of Delke for murder;
- d. The Davidson County General Sessions Court's two findings of probable cause to believe that Delke committed Criminal Homicide against Mr. Hambrick;
- e. The Davidson County Grand Jury's finding of probable cause and indictment of Officer Delke for First Degree Murder.

213. As of the filing of this complaint, MNPB has failed to modify its "use of force" training to ensure that other MNPB officers do not murder citizens as Delke did.

214. While MNPB stopped distributing "The Tactical Edge" to new recruits after a March 2017 media expose, MNPB has made no remedial efforts whatsoever to take accountability for and counteract the dangerous and immoral messages that MNPB had already distributed to an entire generation of officers.

215. While MNPDP has reduced its overall traffic stop counts in the wake of the Policing Project report, MNPDP continues to deny that there are improper racial disparities in stops and has done nothing to reduce such disparities.
216. As of the filing of this complaint, Metro continues to provide Officer Delke with full salary and benefits at the taxpayers' expense.
217. On information and belief, as of the filing of this complaint most MNPDP command staff, supervisory staff, and officers are actively sympathetic to Delke, with the FOP leadership and many other officers claiming that the prosecution of Delke is a politically-motivated "War on Police."
218. As retired MNPDP "Use of Force" trainer Robert Allen testified at the General Sessions court preliminary hearing, by gunning down Mr. Hambrick Delke "followed his [MNPDP] training and did what he was trained to do."

CLAIMS FOR RELIEF

**COUNT I: EXCESSIVE FORCE IN
VIOLATION OF THE FOURTH AMENDMENT
(42 U.S.C § 1983)**

(ALL DEFENDANTS)

219. Plaintiff hereby reincorporates paragraphs 1 – 218 by reference.
220. On July 26, 2018, Defendant Delke used unreasonable force against Mr. Hambrick by illegally shooting and murdering him.
221. Mr. Hambrick did not pose an objective threat of imminent harm to Delke or a third party when Delke murdered him.
222. Delke was acting under color of state law when he murdered Mr. Hambrick.
223. Defendant Metro caused Delke to murder Mr. Hambrick by:

- a. Engendering an MNPDP officer culture of fear, violence, racism, and impunity;
 - b. Dismissing the *Driving While Black* findings reflecting implicit racial bias in MNPDP's roadside search data, and race disparities in its traffic stop data;
 - c. Dismissing the calls by the Metro Human Relations Commission, the D.A.'s Office, the DOJ's Community Relations Service, the Grand Jury, the Policing Project, and community advocates to address racism, impunity, MNPDP's foot pursuit policy, and the excessive officer use of force;
 - d. Disregarding the statistical, analytical, and anecdotal concerns raised about the ineffectiveness of MNPDP's disciplinary system for protecting citizens from officer misconduct;
 - e. Intentionally delaying the implementation of body and dash cameras as long as possible, in order to prevent the existence of objective evidence regarding police-citizen encounters;
 - f. Training officers to believe that an armed suspect's glance is a "targeting glance," that a "targeting glance" constitutes an imminent lethal threat, and that an officer should gun a citizen who gives a "targeting glance" down.
224. Defendant Delke acted intentionally and with reckless and disregard for Mr. Hambrick's rights by gunning him down for running away.
225. Mr. Hambrick suffered physical, legal, emotional, Constitutional, and financial harm by being gunned down, left to die in the grass, and killed.

**COUNT II: WRONGFUL DEATH
(TENNESSEE TORT LAW)**

(DEFENDANT DELKE)

226. Plaintiff hereby reincorporates paragraphs 1 – 218 by reference.
227. On July 26, 2018, Defendant Delke intentionally murdered Mr. Hambrick for running away from him.
228. Mr. Hambrick did not pose an objective threat of imminent harm to Delke or a third party when Delke murdered him.
229. Delke did not have a legal justification for gunning Mr. Hambrick down.
230. Mr. Hambrick suffered physical, legal, emotional, and financial harm by being gunned down, left to die in the grass, and killed.
231. Mr. Hambrick’s beneficiaries at law suffered a loss of consortium due to Mr. Hambrick’s death.

**COUNT III: RACE DISCRIMINATION IN
VIOLATION OF THE FOURTEENTH AMENDMENT
(42 U.S.C § 1983)**

(ALL DEFENDANTS)

232. Plaintiff hereby reincorporates paragraphs 1 – 218 by reference.
233. On July 26, 2018, Defendant Delke used unreasonable force against Mr. Hambrick by illegally shooting and murdering him.
234. Delke was acting under color of state law when he murdered Mr. Hambrick.
235. Mr. Hambrick did not pose an objective threat of imminent harm to Delke or a third party when Delke murdered him.
236. Delke viewed Mr. Hambrick as a greater threat to Delke’s safety because Mr. Hambrick was black.

237. Delke viewed Mr. Hambrick's life as less valuable because Mr. Hambrick was black.
238. Delke's shooting of Mr. Hambrick was motivated at least in part on account of Mr. Hambrick's race.
239. Defendant Metro caused Delke to murder Mr. Hambrick by:
- a. Engendering an MNPd officer culture of fear, violence, racism, and impunity;
 - b. Dismissing the *Driving While Black* findings reflecting implicit racial bias in MNPd's roadside search data, and race disparities in its traffic stop data;
 - c. Dismissing the calls by the Metro Human Relations Commission, the D.A.'s Office, the DOJ's Community Relations Service, the Grand Jury, the Policing Project, and community advocates to address racism, impunity, MNPd's foot pursuit policy, and the excessive officer use of force;
 - d. Training officers to consider an armed suspect's glance a "targeting glance" should be responded to by gunning the person down.
 - e. Disregarding Delke's history of policing black drivers more aggressively than white drivers, relative to other MNPd officers patrolling the same areas.
240. Defendant Delke acted intentionally and with reckless and disregard for Mr. Hambrick's rights by gunning him down for running away.
241. Mr. Hambrick suffered physical, emotional, legal, Constitutional, and financial harms by being gunned down, left to die in the grass, and killed.

REQUEST FOR RELIEF

WHEREFORE, these premises considered, Plaintiff prays:

1. That the Defendants Answer this Complaint within the time provided by law.
2. That this cause be tried by a jury.
3. That judgment for Plaintiff enter against the Defendants on each count.
4. That Plaintiff be awarded nominal damages on all counts.
5. That Plaintiff be awarded compensatory damages in an amount determined by the jury.
6. That Plaintiff be awarded thirty million dollars (\$30 million) in punitive damages.
7. That Plaintiff be awarded his attorney's fees and reasonable litigation expenses, including expert witness fees, pursuant to 42 U.S.C. § 1988 and F.R. Civ. Pro. 54(d).
8. That the court costs in this matter be taxed to Defendants.
9. That Plaintiff be awarded pre- and post-judgment interest against Defendants.
10. That Plaintiff be awarded all other relief to which it may appear he is entitled in the interests of justice.

Respectfully submitted,

s/ Joy S. Kimbrough

Joy S. Kimbrough, BPR 025009

5570 Knob Road,

Nashville, TN 37209

T: (615) 512-0933 / F: (615) 953-7715

E: joykimbrough@gmail.com

s/ Kyle Mothershead

Kyle Mothershead, BPR 22953

414 Union Street, Suite 900

Nashville, TN 37219

T: (615) 982-8002 / F: (615) 229-6387

E: kyle@mothersheadlaw.com