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May 28, 2021

Via Electronic Mail

Honorable Frank M. Gaziano
Associate Justice
Massachusetts Supreme Judicial Court
John Adams Courthouse
1 Pemberton Square
Boston, MA 02108

Re: Letter of *Amici Curiae* in Support of Petitioners in *Graham v. District Attorney for Hampden County* (SJ-2021-0129)

Dear Justice Gaziano,

The Springfield Branch of the NAACP, the Pioneer Valley Project, and the Charles Hamilton Houston Institute for Race and Justice at Harvard Law School submit this letter to urge this Court to allow the pending Petition in *Graham v. District Attorney for Hampden County*. Statements of interest of *amici* are enclosed in an addendum. For decades, people of color have documented, protested, and organized to uproot a rampant culture of violence within the Springfield Police Department (“SPD”).¹ When local officials are left to their own oversight, brutality targeting Springfield’s Black and Latinx residents continues unabated—waxing until the next chorus of outrage and community action forces it to wane, cycling anew once met by official obstruction. Without this Court’s intervention, this pattern will be allowed to endlessly reproduce. Accordingly, *amici* urge this Court to allow the Petition and initiate a systematic review of systemic racism, brutality, and coverups in policing and prosecution in Springfield.

I. The findings in the July 2020 Department of Justice Report only begin to capture a long history of excessive force against people of color by officers throughout the Springfield Police Department—the tip of the iceberg.

In July 2020, the U.S. Department of Justice released a report “detailing six years of egregious, excessive force and false reporting by the Springfield Police Department. The report shows that no entity fulfilled its obligation to properly investigate officers accused of misconduct, or to inform defendants about misconduct by officers who could testify against them.”² However, the pattern of violence and coverups within the Springfield Police Department can be traced back

¹ See, e.g., *Policing Our Community: Demonstrations in Springfield against police actions, 1965 to 2015*, Mass Live News (May 12, 2015), https://www.masslive.com/news/2015/05/policing_our_community_followi.html; Patrick Johnson, *Policing Our Community: Do lingering issues make Springfield ripe for unrest?*, Mass Live News (May 12, 2015), https://www.masslive.com/news/2015/05/policing_our_community_followi.html.

² *ACLU, lawyers call for SJC to probe Springfield police misconduct, Hampden DA complicity*, Daily Hampshire Gazette (Apr. 6, 2021), <https://www.gazettenet.com/suit-over-springfield-police-39861536>. U.S. Dep’t of Justice, Civ. Rights Div. & U.S. Attorney’s Office for the District of Massachusetts, Investigation of the Springfield, Massachusetts Police Department’s Narcotics Bureau (2020), <https://www.justice.gov/opa/press-release/file/1292901/download> [hereinafter “DOJ Report”].

much farther than six years, and beyond the limited ambit of the Narcotics Bureau. The patterns of violence and coverups within the Springfield Police Department have often been implicitly sanctioned by intransigence and lack of investigation by the Hampden County District Attorney's Office—and as the Petition details, this has hampered the ability of accused people to mount a constitutionally-protected defense in criminal cases. Indeed, as this letter will describe, the Hampden County District Attorney's Office has often more vigorously pursued charges against the victims of police violence than its perpetrators.

Fifty-five years before the DOJ Report's release in July 1965, Black residents of Springfield outside the Octagon Lounge were met with excessive force and brutality while awaiting entry to the nightclub; eighteen people were arrested, and Black witnesses testified that “. . . police lashed out with night sticks, fists, and feet; that they beat prisoners at the scene, on the way to the station, and inside police headquarters.’ . . . Later, the police would admit to ‘using clubs on two occasions against defendants struggling and fighting with them.’”³ However, the police did not otherwise admit to many eyewitness accounts. Community members and historians point to the July 1965 Octagon Lounge incident as one of the most significant flashpoints in which Springfield's Black residents called power to account for the police department's brutality of Black residents.⁴ After months of investigations, charges, and witness testimony, “In the end, the six patrolmen and Sergeant Williams were all cleared of the charges against them.”⁵ By contrast, twelve individuals who had been arrested at the Octagon Lounge on July 16, 1965 were found guilty of disturbing the peace; most were sentenced to a criminal fine.⁶

In August 1975, a Springfield police officer shot and killed a 21-year-old Puerto Rican burglary suspect named Jose Reyes who was trying to flee, sparking days of rioting in response to the police killing.⁷ The Springfield Police killed another man, a robbery suspect, five days later—this time saying he had pointed a gun at the officer.⁸

In September 1981, Clinton Thurston was killed by Springfield police officer Perry who shot a bullet through Mr. Thurston's brain during his attempt to evade arrest in a low-speed chase after 911 callers reported Mr. Thurston had abducted a woman who had a restraining order against him. See *Kibbe v. City of Springfield*, 777 F.2d 801, 802–03 (1st Cir. 1985). During the chase, after Thurston avoided ineffectual police roadblocks, Officer Perry on a motorcycle fired two shots—

³ Christopher Tucker, “*What Happened in Springfield*”: *Housing, Police, and the 1965 Octagon Lounge Incident*, 75 *New Eng. J. Hist.* 121 (Fall 2018), https://3d899383-0554-4820-97ca-9fb3486ffc0c.filesusr.com/ugd/725a03_87f310c3ecb0497eb78f7836704d0b6b.pdf (citing Douglas Crocket, *What Happened in Springfield, What Caused It, What Next?*, *Bos. Globe*, 21 August 1965, p. 2; George V. Higgins, *The Five-Month Summer: A Report on Procedures of the Board of Police Commissioners of the City of Springfield, Massachusetts, for the Hearing and Decision of Allegations of Police Brutality by Persons Arrested July 16th–17th, 1965, at the Octagon Lounge, Hampden County Chapter of the Civil Liberties Union of Massachusetts and the Boston College Law School*, 6 June 1966, at 4–5).

⁴ *Id.* at 125, 131.

⁵ *Id.* at 145.

⁶ *Id.*

⁷ *Night of Violence After Officer Kills Puerto Rican*, *Lowell Sun*, Aug. 28, 1975, p. 3; *North End Erupts After Shooting*, *Springfield Union*, Aug. 28, 1975, p. 1; see also Johnson, *supra* note 1.

⁸ *Robbery Suspect Is Killed By Policeman in Springfield*, *N.Y. Times* (Sept. 2, 1975), <https://www.nytimes.com/1975/09/02/archives/robbery-suspect-is-killed-by-policeman-in-springfield.html>.

one striking a nearby house, and the other striking Thurston in his brain. The car slowed to a stop, and in response:

An officer ordered Thurston out of the car; he was unresponsive. Nevertheless, an officer struck Thurston on the head with a flashlight, dragged him out of the car, and handcuffed him face down. Perry failed to report that he shot Thurston and the officers involved in Thurston's transport to the hospital were not told that Thurston was shot.⁹

This was not the only time a Springfield police officer would strike an unresponsive or restrained man with a flashlight and fail to disclose a violent assault.¹⁰ Mr. Thurston's sister brought a wrongful death lawsuit against multiple officers and the City of Springfield. At the district court level, only Officer Perry and the City of Springfield were found liable. The city appealed. The Court of Appeals held that the jury could reasonably have found it was the police department's gross negligence in training that caused premature use of deadly force against Mr. Thurston, and thus the City of Springfield could be held liable. The U.S. Supreme Court granted certiorari and heard oral argument, but later dismissed the writ as improvidently granted. *See generally City of Springfield v. Kibbe*, 480 U.S. 257 (1987). The jury had awarded one dollar in compensatory damages and five hundred dollars in punitive damages against the officer and compensatory damages in the amount of fifty thousand dollars against the City. *Kibbe*, 777 F.2d at 802.

In 1994, a Springfield police officer shot and killed Benjamin Schoolfield, a 20-year-old unarmed Black man, after a false report that the van he was driving was stolen. "A grand jury cleared Officer Brown of wrongdoing, and a police commission decided not to hold disciplinary hearings, so his friends and colleagues decided to give him a party at the Ale House, a downtown tavern."¹¹ "The party was publicized on bulletin boards at police headquarters by a poster that congratulated Brown for 'a job well done' and encouraged him 'to keep up the good work.'"¹² Schoolfield's family filed a wrongful death civil suit and the City of Springfield ultimately settled the suit for \$700,000.¹³

⁹ Harris Freeman, *Forward—Police Misconduct and Kibbe v. City of Springfield*, 40 W. New Eng. L. Rev. 393, 397 (2018).

¹⁰ Patrick Johnson, *Springfield Police Department launches criminal investigation of four officers who beat black suspect*, Mass Live News (Jan. 8, 2010), https://www.masslive.com/news/2010/01/springfield_police_department_5.html ("The Police Department is conducting a criminal investigation into the actions of four officers during a traffic stop in which 28-year-old black city man was beaten by a white officer with a flashlight, The Republican has learned. The incident was caught on video by an anonymous bystander, and the officer shown swinging the flashlight is identified in the arrest report as patrolman Jeffrey M. Asher."); Adam Gorlick, *Principal files police brutality lawsuit*, Associated Press (Jan. 11, 2005), <https://www.southcoasttoday.com/article/20050111/news/301119962> ("Greer says the police hit him with what he believed to be nightsticks and a flashlight then handcuffed him behind his back and shackled his legs.")

¹¹ *A Party for a Cleared Police Officer Stirs Up Racial Tension*, N.Y. Times (July 24, 1994), <https://www.nytimes.com/1994/07/24/us/a-party-for-a-cleared-police-officer-stirs-up-racial-tension.html>.

¹² Jeff Donn, *Fallout Spreads After Party For Officer Who Shot Black Motorist*, Associated Press (July 6, 1994), <https://apnews.com/article/015675021e4c8945b237a62f46fa8e>.

¹³ Maureen Turner, *Investigating the Springfield Police Department*, Valley Advocate (Jan. 19, 2012), <https://valleyadvocate.com/2012/01/19/investigating-the-springfield-police-department>.

In March 1997, a bystander filmed Patrolman Jeffrey Asher kicking a 47-year-old Black man named Roy Parker in the head while other officers held him down. The police were attempting to arrest Parker on a default warrant for a missed court appearance on a pending assault charge.¹⁴ It took the police two weeks before they probed charges—officials “blamed the delay on the failure of witnesses to come forward.”¹⁵ The video triggered “public outcry and prompted state and federal investigations, but Asher was cleared of any criminal wrongdoing, suspended for one year without pay and ordered to undergo sensitivity training.”¹⁶ The other officers were also not disciplined for failure to intervene.

In November 2004, a Black school principal named Douglas Greer was beaten by multiple officers when police responded to a call from a store clerk about an unresponsive motorist at a gas station; he was feeling disoriented and suffering a diabetic attack at the time. “When the police arrived they broke the car windows and pulled Greer out through the shattered passenger’s side window even though his car doors were unlocked”¹⁷ The officers accused him of being high on drugs.¹⁸ The officers involved in kicking, choking, and beating Greer—including with a flashlight—were Jeffrey Asher, James Kervick, James Shewchuck, and James Moriarty. Greer required 18 stitches to close lacerations in his head.¹⁹ All of the officers were cleared of wrongdoing in February 2005 by the Police Commission in a 3-2 vote, but Greer later won a \$180,000 settlement in response to a civil suit.²⁰

In July 2009, a 15-year-old Black kid named Delano M. Walker Jr. was on his phone talking to his girlfriend and walking with a couple of friends on bicycles when two Springfield police officers stopped them, investigating recent vehicle break-ins. Officer Sean Sullivan ordered Walker to get off the phone, and when he refused, Sullivan “lunged for his throat.”²¹ At that point, Delano Walker backed away and into the path of an oncoming car, which struck and killed him. Police cleared Sullivan of wrongdoing and the Hampden County District Attorney’s Office did not pursue charges. In a subsequent civil suit, a federal jury found Sullivan violated Walker’s civil rights and awarded his family \$1.26 million;²² the City settled for \$1 million to the boy’s family.

¹⁴ Jeff Donn, *Officer caught kicking suspect on videotape suspended indefinitely*, Associated Press (Apr. 14, 1997), <https://apnews.com/article/e8339042760f73bd7c97b87b283d50c0>.

¹⁵ Jack Flynn, *Man who filmed incident disputes police*, Mass Live News (Apr. 18, 1997), reprinted in *From the archives: Stories involving Springfield Police Officer Jeffrey M. Asher*, Republican (Jan. 8, 2010), https://www.masslive.com/news/2010/01/from_the_archives_cases_involv.html.

¹⁶ Wayne Phaneuf, *One People, One House: Injustices of police brutality in Springfield haunt us all*, Mass Live News (June 21, 2020), <https://www.masslive.com/opinion/2020/06/one-people-one-house-injustices-of-police-brutality-in-springfield-haunt-us-all.html>.

¹⁷ Gorlick, *supra* note 10.

¹⁸ *Id.*

¹⁹ *Police probing brutality charges made by Springfield principal*, Associated Press (Nov. 9, 2004), <https://www.seacoastonline.com/article/20041109/News/311099969> (“Greer is wearing a bandage on his head that covers 18 stitches.”).

²⁰ Johnson, *supra* note 10.

²¹ Laura Crimaldi & Shelley Murphy, *‘I could crush your [expletive] skull and [expletive] get away with it.’ A deep look at the Springfield police*, Bos. Globe (Sept. 1, 2018), <https://www.bostonglobe.com/metro/2018/09/01/springfield-police-facing-civil-rights-probe/m7xG6NUxwFZ2o0gQwPqHVN/story.html>.

²² Stephanie Barry, *Mother of Delano Walker, Springfield teen struck and killed by car during confrontation with police, awarded \$1.3 million*, Republican (Sept. 22, 2014), https://www.masslive.com/news/2014/09/mother_of_delano_walker_spring.html.

The officer was later promoted to Sergeant. As Delano Walker's mother, Kissa Owens, has repeatedly conveyed, she lost her son and the officer got promoted.

In September 2009, Patrolman Danilo Feliciano assaulted his niece's boyfriend, 19-year-old Rolando Rivera, beating him and throwing bleach in his face.²³ Patrolman Pedro Mendez then falsified a police report, portraying Rivera as the aggressor in response to police coming to his apartment to investigate an alleged domestic incident between him and his girlfriend, Feliciano's niece. Both Feliciano and Mendez were fired and found to have violated departmental standards.²⁴ However, in a subsequent criminal prosecution Officer Feliciano was found not guilty and acquitted at trial in 2011.²⁵ Mr. Rivera was also criminally prosecuted for the incident—charged with assault and battery, assault on a police officer, and resisting arrest. He was acquitted at a 2012 jury trial—three years later—and all charges were then dismissed, but not before being incarcerated pretrial in connection with the case. *See* Springfield District Court, docket 0923CR008754.

In November 2009, 28-year-old Black man Melvin Jones III was beaten with a flashlight by officer Jeffrey Asher during a drug arrest after a traffic stop.²⁶ The incident was filmed by an anonymous bystander. Jones was hit at least 15 times by one officer swinging a metal flashlight while two others wrestled with him on the hood of a police car.²⁷ The Police Department began a criminal investigation into the actions of four officers during the stop in January 2010. Ultimately, Asher was fired and criminally prosecuted; he was found guilty, ordered to serve 18 months in jail followed by two years probation, and ordered to undergo therapy for anger management.²⁸ His conviction was upheld on appeal.²⁹ In response to a civil suit, the City of Springfield paid Mr. Jones a \$575,000 settlement.³⁰ Although he was fired eight months after the assault, Asher was granted retirement with a disability pension the day before his official termination.³¹ However, the City's retirement board later stripped him of his pension.³²

²³ Stephanie Barry, *Springfield cops Danilo Feliciano, Pedro Mendez fired following charges of assault on Rolando Rivera of Springfield*, Republican (Mar. 30, 2010),

https://www.masslive.com/news/2010/03/2_springfield_cops_fired_follo.html.

²⁴ *Id.*

²⁵ *Ex-officer acquitted of assault*, Eagle Tribune (May 19, 2011), https://www.eagletribune.com/news/ex-officer-acquitted-of-assault/article_66e75ece-200e-52ae-ae72-e27bea864cab.html; Brian Steele, *Danilo Feliciano, ex-Springfield cop, acquitted in assault trial*, Mass Live News (May 18, 2011),

https://www.masslive.com/news/2011/05/developing_danila_feliciano_ex.html.

²⁶ Johnson, *supra* note 10.

²⁷ *Id.*

²⁸ Paul Tuthill, *Ex-cop Sent To Jail For Flashlight Assault*, WAMC (Mar. 29, 2012), <https://www.wamc.org/post/ex-cop-sent-jail-flashlight-assault>.

²⁹ Paul Tuthill, *Ex-Cop's Appeal Of Assault Conviction Denied*, WAMC (June 9, 2015), <https://www.wamc.org/post/ex-cops-appeal-assault-conviction-denied>.

³⁰ *Springfield, Mass. to Pay 575,000 to Victim of Police Brutality*, NECN (Feb. 26, 2014), https://www.necn.com/news/local/necn_springfield_mass_to_pay_575_000_to_victim_of_police_brutality_necn/59310.

³¹ Stephanie Barry, *Fired Springfield cop Jeffrey Asher secured Massachusetts disability pension 1 day before termination*, Republican (Oct. 23, 2010),

https://www.masslive.com/news/2010/10/fired_springfield_cop_jeffrey.html.

³² Peter Goonan, *Ex-Springfield police officer Jeffrey Asher stripped of annual pension*, Republican (Apr. 11, 2012), https://www.masslive.com/news/2012/04/ex-springfield_police_officer_jeffrey_asher_stripped_of_pension.html.

In 2011, the Springfield Police shot and killed 18-year-old Black teenager Tahiem Goffe after a traffic stop.³³ Goffe was driving a vehicle that had been reported stolen from the parking lot of a gas station the previous afternoon; a towing company discovered the vehicle parked at about 1:30 AM. Officers surveilled the vehicle for about an hour before Goffe drove away and then the officers effectuated a traffic stop, sandwiching the car between two patrol cars. The police said Goffe, in an attempt to flee, drove at Police Officer Matthew Benoit, who was on foot, striking him and sending him airborne over the vehicle and onto the pavement. Two officers fired shots—Benoit as well as Officer Ivan Rosas. Officer Benoit was put on paid administrative leave and ultimately cleared of wrongdoing. The Hampden District Attorney's Office announced that no officers would face criminal charges for the shooting.³⁴

In January 2013, police officer Thomas Hervieux hit Lee Hutchins Sr. with a baton during a domestic disturbance. The police had come to his home early in the morning looking for his toddler grandson.³⁵ Mr. Hutchins was 47 and disabled and is a person of color. The incident escalated and two officers ended up in a struggle outside on the ground with Mr. Hutchins's son, Keith. Hutchins tried to intervene but then the officers maced him and then hit him twice from behind with the baton. Mr. Hutchins was charged with disorderly conduct, assault and battery, and resisting arrest—charges of which he was acquitted about a year later. Officer Hervieux was never charged, even though he had been the subject of at least eight excessive force complaints prior to that night—though none of the eight cases led to discipline and none were presented to Springfield's Community Police Hearing Board. A federal jury trial on Mr. Hutchins's civil suit ended in a \$250,000 jury award.³⁶

All of these incidents predate the period of review in the DOJ report, which examined incidents exclusively involving the Narcotics Bureau and only during the period of 2013-2018. They predate the 2018 federal prosecution of two officers for using excessive force against two Latino juveniles in a brutal arrest and interrogation in February 2016. They predate the 2019 indictment by the Attorney General's Office of 14 officers for their role in a violent brawl and subsequent coverup outside the Nathan Bill's restaurant targeting a Black man in April 2015 for allegedly whistling at one of the officers' girlfriends—a misunderstanding hauntingly reminiscent of the fabricated justification for the murder of Emmett Till. Both of those sets of incidents are detailed in the Petition as well as in the introduction to the DOJ Report.

The chronology here also provides context for other recent incidents, for example the 2019 investigation and criminal charges brought by the Hampden County District Attorney's Office for the violent assault and arrest of Jeffrey Bellamy, a 48-year-old Black man who was grabbed by

³³ George Graham, *18-year-old Tahiem Goffe, shot by Springfield police as he allegedly ran officer down, dies at Baystate Medical Center*, Republican (Nov. 8, 2011), <https://www.masslive.com/news/2011/11/18-year-old-tahiem-goffe-shot.html>.

³⁴ Greg Saulmon, *Officers cleared in fatal shooting of teenage suspect Tahiem Goffe; Police Commissioner William Fitchet calls case "tragic,"* Republican (May 25, 2012), <https://www.masslive.com/news/2012/05/officers-cleared-in-fatal-shoo.html>.

³⁵ Nancy Eve Cohen, *How Cities' Use-Of-Force Policies Vary, And A Police Culture Persists*, New Eng. Public Media (July 14, 2020), <https://www.nepm.org/post/how-cities-use-force-policies-vary-and-police-culture-persists>.

³⁶ George Graham & Peter Goonan, *City of Springfield was 'deliberately indifferent to civil rights of citizens,' federal jury says in police brutality case*, Republican (Feb. 3, 2019), <https://www.masslive.com/news/2019/02/city-of-springfield-was-deliberately-indifferent-to-civil-rights-of-citizens-federal-jury-says-in-police-brutality-case.html>.

the throat by Officer Jefferson Petrie while attempting to file a complaint about a parking ticket in 2017, and then wrestled and pushed to the ground by three additional officers (Colin Cochrane, Ruben Borrero, and Thomas Sheehan); Officer Petrie then wrote a false police report to cover up the incident, omitting the assault and charging Mr. Bellamy with resisting arrest and assault and battery on a police officer.³⁷ It took the District Attorney's Office two years to review the surveillance video of that incident from *within the police station*—and only after news media had obtained and released the video.³⁸ Mr. Bellamy had been criminally prosecuted (although charges were dismissed in 2017) and the officer allegedly had already been cleared of wrongdoing by the District Attorney's Office in 2017, as well as by the civilian review board and the police department itself, until the video surfaced. The Hampden County District Attorney's Office then brought charges against Petrie—only after Mr. Bellamy *himself* applied for a criminal complaint and underwent a show cause hearing,³⁹ and in March 2020 Officer Petrie pled to a Continuance Without a Finding on one charge of assaulting a civilian; if he takes anger management classes and stays 100 yards from Mr. Bellamy, his charges will be dismissed after one year.⁴⁰

The cumulative weight of these incidents—and the intervention by the Massachusetts Attorney General's Office and the U.S. Department of Justice when the District Attorney's Office failed to act—point to cultural, institutional, and systemic problems with *both* the Springfield Police Department and the Hampden County District Attorney's Office. They are not isolated incidents; some of them involve repeat-offender officers who only faced consequences after multiple high-profile cases, others involve repeat tactics by different officers, and nearly all involve a pattern of dilatory investigation and a lack of curiosity on the part of city officials and county prosecutors to forestall police violence before it happens, impose consequences for misconduct—including for officers who observed violence and failed to intervene, and to alter systems after the fact. These incidents span decades but share glaring commonalities.

³⁷ Dan Glaun, *Jerry Bellamy went to Springfield Police HQ to dispute parking ticket; was grabbed by throat, tackled by officers in confrontation*, Mass Live News (Feb. 19, 2019), <https://www.masslive.com/news/2019/02/jerry-bellamy-went-to-springfield-police-hq-to-dispute-parking-ticket-was-grabbed-by-throat-tackled-by-officers-in-confrontation.html>.

³⁸ Scott J. Croteau, *Hampden District Attorney to review Springfield Police Department's handling of Jerry Bellamy arrest; Probe to review possible criminal behavior by police*, Mass Live News (Feb. 21, 2019), <https://www.masslive.com/news/2019/02/hampden-district-attorney-to-review-springfield-police-departments-handling-of-jerry-bellamy-arrest-probe-to-review-possible-criminal-behavior-by-police.html>.

³⁹ Dan Glaun, *Springfield police officer Jefferson Petrie, cleared by Community Police Hearing Board after altercation, now charged with assault*, Mass Live News (June 4, 2019), <https://www.masslive.com/news/2019/06/springfield-police-officer-jefferson-petrie-cleared-by-community-police-hearing-board-after-altercation-now-charged-with-assault.html> (“The veteran officer was arraigned on May 24 on a count of assault and battery, after a Springfield District Court clerk-magistrate found probable cause to approve Bellamy's criminal complaint against him. . . . The Hampden District Attorney's Office also sought a count of filing a false report against Petrie, but the clerk did not approve that charge, a source familiar with the case told MassLive.”).

⁴⁰ Stephanie Barry, *Springfield police officer admits to assault charge; federal lawsuit filed by man he grabbed by the throat during parking ticket dispute*, Mass Live News (July 21, 2020), <https://www.masslive.com/news/2020/07/springfield-police-officer-who-forced-man-out-of-station-by-the-throat-pleads-guilty-to-assault-incident-prompts-federal-lawsuit.html>; Kristin Palpini, *Springfield Police Officer Sentenced To Anger Management Classes Following Clash in Lobby*, Hampden Daily Voice (July 22, 2020), <https://dailyvoice.com/massachusetts/hampden/police-fire/springfield-police-officer-sentenced-to-anger-management-classes-following-clash-in-lobby/791228>.

Publicly reported incidents just scratch the surface of what Black and Latinx residents of Springfield know to be longstanding patterns of violence, disrespect, and dehumanization evinced by the Springfield Police Department. In the words of Pioneer Valley Project member Michael Anderson, now 48 years old:

The broken relationship between our community and the Springfield Police Department is nothing new. The violence and brutality that the Black and Latin people have experienced at the hands of this system has been a staple in our community for many, many decades. As a child I would hear the stories of police misconduct and I was always told that it could be me.

Being a young teenager it was scary because I knew I had to be home before the street lights came on...not because of my mother's curfew, but I didn't want to be caught by the cops.

I found myself in this situation more times than I wanted. On one occasion I was walking with a few friends and the police pulled up and asked, "Where are you guys headed?!" That led to me being punched in the stomach and chest a few times, thrown into a police cruiser, and eventually left in the middle of Blunt Park. Just imagine the feeling, the fear, and the trauma that experience gives you. It becomes engrained in your soul. All I could think of was my mom saying, "Just get home safe!" My friends and I made it into a game...Beat the police home before they beat you!! This is what the reality is for us in our community. This is what this system has created in our community. A level of distrust and unsavory memories that continue to haunt us. I will not say it's all police officers, but this system protects the ones that brutalize and victimize the citizens of this community.⁴¹

Members of the *amici* organizations have repeatedly called for independent investigations,⁴² organized to change city procedures and personnel,⁴³ and fought to claim power for residents to level complaints and have their grievances redressed. Yet these efforts have not

⁴¹ Statement by Michael Anderson submitted for inclusion in this letter.

⁴² See, e.g., Greg Saulmon, *Springfield NAACP branch issues position paper calling for mandatory independent investigations of all city police shootings*, Republican (Dec. 17, 2011), <https://www.masslive.com/news/2011/12/springfield-naacp-branch-issue.html>; Patrick Johnson, *NAACP, Pioneer Valley Project criticize pace of Springfield police reform, call on DOJ to issue 'consent decree'*, Republican (Jan. 28, 2021), <https://www.masslive.com/police-fire/2021/01/naacp-pioneer-valley-project-criticize-pace-of-springfield-police-reform-call-on-doj-to-issue-consent-decree.html>.

⁴³ *Petition created to remove Springfield Police Commissioner Cheryl Clapprood, mayor releases statement*, WWLP (July 8, 2020), <https://www.wwlp.com/news/local-news/hampden-county/petition-created-to-remove-springfield-police-commissioner-cheryl-clapprood-mayor-releases-statement>. The petition described in this article has generated nearly 2,500 signatures. See *No Confidence Petition to Remove Springfield Police Commissioner Cheryl Clapprood*, <https://www.change.org/p/mayor-domenic-sarno-no-confidence-petition-to-remove-springfield-police-commissioner-cheryl-clapprood-5ead96c0-5ada-4a90-9b8e-2c4d779d37b0>.

interrupted longstanding patterns: “The city has paid millions to settle claims, while civil suits filed against the police department allege many officers accused of serious misconduct have faced little to no discipline . . . Some of them have been promoted, records show.”⁴⁴ The *Boston Globe* reported that between 2006 and 2019, Springfield spent more than \$5.25 million in police misconduct settlements, according to the DOJ.⁴⁵

People of color continue to be aggressively policed by officers and subject to wanton police violence—for example the officer who repeatedly used a stun gun on a pregnant woman this past January;⁴⁶ officers continue to file false reports expecting no consequences, and others knowingly, silently stand by while bearing witness to official misconduct. The idiom “one bad apple spoils the bunch” is all too true in Springfield. Research supports that idiomatic view—police violence spreads like a disease from individual officers throughout units and departments.⁴⁷ It’s time to compost the spoiled bunch of the Springfield Police Department and grow a system that will ensure transparency, accountability, and community safety for all of Springfield’s residents.

II. Local officials have failed to investigate misconduct and implement changes sought by community members, requiring systematic state intervention.

As the Petition details, *see* Pet. at 8–15, in the last few years, both the Massachusetts Attorney’s General Office and the U.S. Department of Justice have initiated civil and criminal probes into the SPD. The DOJ Report also specifies some of the steps that the SPD, the City of Springfield, and the District Attorney’s Office have taken in response to community outrage. Two years ago, prior to the release of the DOJ report, the City of Springfield paid a consultant \$129,000 to review the police department’s approach to officer misconduct; the Police Executive Research Forum (PERF) recommended that “the Springfield Police Department move more swiftly and decisively to conduct internal investigations into serious misconduct allegations and that there be a restructuring of the civilian board that reviews complaints about police officers.”⁴⁸

And yet officers involved in instances of violence and cover-ups have been repeatedly promoted⁴⁹ or reinstated while criminal indictments remain pending.⁵⁰ This approach reaches all

⁴⁴ Crimaldi & Murphy, *supra* note 21.

⁴⁵ Dugan Arnett & Laura Crimaldi, ‘One of the worst police departments in the country’: Reign of brutality brings a reckoning in Springfield, *Bos. Globe* (July 25, 2020), <https://www.bostonglobe.com/2020/07/25/metro/one-worst-police-departments-country>.

⁴⁶ Nancy Asiamah, *Video: Springfield Police officer uses stun gun on pregnant woman multiple times during arrest*, *WWLP* (Jan. 13, 2021), <https://www.wvlp.com/news/local-news/hampden-county/video-springfield-police-officer-tases-pregnant-woman-multiple-times-during-arrest-at-hotel>; Deborah Becker, *Springfield Police Officer Criminally Charged After Taserung Pregnant Woman*, *WBUR* (Jan. 14, 2021), <https://www.wbur.org/news/2021/01/14/springfield-police-taser-pregnant-woman>.

⁴⁷ Rob Arthur, *Bad Chicago Cops Spread Their Misconduct Like A Disease*, *Intercept* (Aug. 16, 2018), <https://theintercept.com/2018/08/16/chicago-police-misconduct-social-network>.

⁴⁸ Paul Tuthill, *Springfield Police Advised To Be More Urgent With Internal Investigations*, *WAMC* (Apr. 5, 2019), <https://www.wamc.org/post/springfield-police-advised-be-more-urgent-internal-investigations>.

⁴⁹ *See* Stephanie Barry, *Springfield police officers with dubious disciplinary records make list of prospective sergeants*, *Republican* (Feb. 13, 2018), <https://www.masslive.com/news/2018/02/new-list-of-police-sergeant-pr.html>.

⁵⁰ Paul Tuthill, *Mayor Sarno Apologizes For Reinstating Springfield Cops Accused In Racially Charged Case*, *WAMC* (June 16, 2020), <https://www.wamc.org/post/mayor-sarno-apologizes-reinstating-springfield-cops-accused-racially-charged-case>.

the way to the top of the department: current Police Commissioner Cheryl Clapprood herself has a checkered past involving alleged misconduct including filing a false police report and being criminally prosecuted for official wrongdoing thirty years ago (charges which were later dropped after appeal),⁵¹ yet even before becoming Commissioner she had advanced to an oversight role within the SPD, clearing other officers of wrongdoing.

As the Springfield NAACP detailed in a 2011 position paper to the Hampden County District Attorney's Office calling for independent investigations for every police shooting, the Springfield Police Department and the Hampden County District Attorney's Office have a symbiotic relationship;⁵² prosecutors rely on and bolster police credibility every day in order to bring cases and sustain convictions. "Because prosecutors often rely on police cooperation in the courtroom, . . . a potential conflict arises when a district attorney's office is called upon to review or prosecute police misconduct. That conflict is compounded when the only witnesses to potential police misconduct are themselves charged in the same incident."⁵³ In the past, the District Attorney's Office has conceded that this apparent conflict of interest impedes community trust.⁵⁴ The District Attorney's Office and the Police Department have been a united front in failing to root out the culture of secrecy and brutality that have characterized these institutions.

The Hampden County District Attorney's Office has perverse incentives here—if they go searching for additional instances of misconduct, they risk undermining additional criminal prosecutions and losing police witnesses that reliably help the Office secure convictions. Already, in its July 2020 report the Department of Justice noted "As a result of this controversy, local prosecutors have had trouble successfully prosecuting drug crimes in Springfield, in large part due to the fact that they have not been able to rely on testimony from discredited Narcotics Bureau officers."⁵⁵ The alarming scope of potential misconduct within the Springfield Police Department thus disincentivizes the District Attorney's Office from conducting *any* investigation, for fear of what they might unearth—until long simmering community grievances reach a boiling point and force the Office's hand.

The problems in Springfield cannot be ameliorated or addressed without systemic interventions from an independent body. And although the July 2020 DOJ report confirmed what community members already know and journalists had already documented, efforts to establish

⁵¹ Dan Glaun, *Springfield's acting police commissioner Cheryl Clapprood filed a false report 30 years ago; Now she is pledging to restore trust in the department*, Mass Live News (Mar. 20, 2019), <https://www.masslive.com/news/2019/03/springfields-acting-police-commissioner-cheryl-clapprood-filed-a-false-report-30-years-ago-now-she-is-pledging-to-restore-trust-in-the-department.html>.

⁵² Turner, *supra* note 13 ("The symbiotic relationship that the district attorney's office shares with the police department has demonstrated over the years both the reluctance of the office to vigorously pursue investigations into the police or to prosecute misconduct," Swan wrote. "It has also historically demonstrated a perceived willingness to almost rubberstamp the findings of internal investigations conducted by the Springfield Police Department.").

⁵³ Saulmon, *supra* note 42.

⁵⁴ Turner, *supra* note 13 ("Mastroianni, who has spoken about the matter to Swan, said he understands the NAACP's concerns about conflict of interest, particularly given cases of police abuse in recent years. But, he said, it wouldn't be practical, or necessary, to bring in an outside agency to handle every similar case. . . . That might not satisfy the NAACP, Mastroianni acknowledged. 'There's never going to be a right answer for police investigating police,' he said. Even bringing in the state police or the Attorney General could be problematic, given that those agencies sometimes work closely with prosecutors or municipal police.").

⁵⁵ DOJ Report, *supra* note 2, at 5, 5 n.5.

community oversight remain stalled. Springfield had a commission overseeing the police until 2005; at that time, a state-imposed control board decided a single commissioner should be in charge.⁵⁶ In 2016, the City Council first voted to re-implement the commission. Mayor Sarno vetoed that ordinance, but the Council overrode the veto.⁵⁷ The Council again passed such a measure in 2018, which faced the same fate.⁵⁸ At that point, the City Council sued the Mayor to enforce the 2018 ordinance to appoint a five-member police commission to oversee the police department. In April 2021, Hampden Superior Court Judge Francis E. Flannery ordered Mayor Sarno to implement the law without delay.⁵⁹ Mayor Sarno, whose legal bills have cost taxpayers nearly \$60,000, intends to appeal that order, continuing to forestall a five-person commission.⁶⁰

In Springfield, there is no independent oversight of the police and the Hampden County District Attorney's Office is either unwilling or unable to serve such a role. *Amici* thus join the Petitioners in urging the Commonwealth to investigate and remedy the systemic violations of rights core to equal citizenship, trust in government institutions, and equal justice in Springfield.

Sincerely,

**Springfield Branch of the NAACP,
Pioneer Valley Project, and
Charles Hamilton Houston Institute for
Race and Justice**

By their attorney

/s/ Katharine Naples-Mitchell

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⁵⁶ Adam Frenier, *Headed To Court: Who Controls The Police In Springfield?*, New England Public Media (Jan. 19, 2021), <https://www.nepm.org/post/headed-court-who-controls-police-springfield-massachusetts>.

⁵⁷ Joel Martinez, *Springfield City Council votes to override civilian police commission veto*, WWLP (Dec. 19, 2016), <https://www.wwlp.com/news/springfield-city-council-votes-to-override-civilian-police-commission-veto>.

⁵⁸ Taylor Knight & Mike Masciadrelli, *Springfield City Council votes to override mayor's veto of board of police commissioners*, WWLP (Dec. 17, 2018), <https://www.wwlp.com/news/local-news/hampden-county/springfield-city-council-votes-to-override-mayors-veto-of-board-of-police-commissioners>.

⁵⁹ Peter Goonan, *Hampden Superior Court Judge Orders Springfield Mayor Domenic J. Sarno to appoint civilian police commission*, Mass Live News (Apr. 16, 2021), <https://www.masslive.com/news/2021/04/hampden-superior-court-judge-orders-mayor-domenic-j-sarno-to-appoint-civilian-police-commission.html>.

⁶⁰ Peter Goonan, *Springfield Police Oversight Lawsuit Triggers Nearly \$60,000 in Taxpayer Expenses and Rising*, Mass Live News (May 14, 2021), <https://www.masslive.com/news/2021/05/springfield-police-oversight-lawsuit-triggers-nearly-60000-in-taxpayer-expenses-and-rising.html>.

ADDENDUM

The **National Association for the Advancement of Colored People** (NAACP) was incorporated in 1911. The Springfield Branch was chartered in 1918 and has been at the forefront of the struggle for civil rights throughout the Western Massachusetts Region for over nine decades. For 104 years, the NAACP through political pressure, marches, demonstrations and effective lobbying has served as the voice, as well as the shield, of minority Americans. As the nation's largest advocacy organization, our prolonged agitation for peaceful change has been felt in every corner of American life. The NAACP has fought to end the racial stereotypes that create misunderstanding and prejudice. The NAACP works to change attitudes, laws, and institutions for the good of all Americans.

Pioneer Valley Project (PVP) has been building grassroots power for racial and economic justice in Springfield since 1996. PVP believes that people should have a say in the policy decisions that shape their lives and therefore should not avoid the exercise of power to promote justice and advance the common good. PVP is committed to transforming institutions which dehumanize and cause harm to communities of color and other historically marginalized groups. PVP organizes for and wins systemic changes that improve people's lives in Springfield and in the region.

The **Charles Hamilton Houston Institute for Race and Justice** (CHHIRJ) at Harvard Law School was launched in 2005 by Charles J. Ogletree, Jr., Jesse Climenko Professor of Law. The Institute honors and continues the work of Charles Hamilton Houston, who engineered the multi-year legal strategy that led to the unanimous 1954 Supreme Court decision, *Brown v. Board of Education*. CHHIRJ's long-term goal is to ensure that every member of our society enjoys equal access to the opportunities, responsibilities, and privileges of membership in the United States. To further that goal and to advance racial justice, CHHIRJ seeks to eliminate practices or policies which compound the excessive policing and punishment that created mass incarceration while simultaneously promoting investments in the communities, like Springfield, that have been most harmed.

CERTIFICATE OF SERVICE

On May 28, 2021, I served a copy of this letter on all parties by electronic mail.

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