



JIM STRICKLAND

MAYOR

June 29, 2019

Dear Leaders of our Nonprofit Organizations:

Thank you for your recent letter. I appreciate the sentiment written within, the time it took to write it and to gather the collective support behind it. There were many demands outside the scope of addressing systematic racism and police reform. And, as I have stated publicly regarding our current meetings with protesters, we are focusing on those matters first before moving into other areas.

Before I address where we are on that front, I do believe it is important to note a statement in your letter that is incorrect "Four years ago, Memphians marched on the Hernando DeSoto Bridge and there were calls for change. Four years later, little has changed." With the exception of hiring the police director, all four demands of the bridge protest were already in the process of being changed prior to the protest and have since been completed. While I will be the first to admit that we still have much more work to do, we have made significant progress in many areas throughout our city and within city government.

For the first time ever, Memphis will have universal, needs-based pre-kindergarten through a partnership with our administration, City Council, Shelby County Government, and Shelby County Schools. In Fiscal Year 2020 Memphians, and Memphians alone, paid \$260M for K-12 education services (\$260M is the share of the \$427M Shelby County government pays to Shelby County Schools from Memphis taxpayers property tax and wheel tax payments). In addition, Memphians paid \$60M for services directly supporting our young people (\$20M for libraries, \$30M for parks, 5.5M for youth services and summer jobs and \$4.5M for universal needs based pre-K). So, Memphians have paid \$320M total in direct support to the educational, recreational and job skills that our young people need.

Additionally, and through that funding, we have increased participation in our library programs by 400%. We have improved programming and attendance at our community through free summer camps and increased summer jobs by more than 90% for our youth. We were recently recognized as one of the best run Cities in America by What Works Cities earning a silver certification. This was an independent and objective assessment of our ability to deliver as a data driven government....one of only 13 cities in America with this distinction. In partnership with Living Cities and the Citi Foundation—10 cities from around the country came to here to Memphis to study our inclusive procurement processes and how they can replicate our efforts in their communities; in Memphis City Government, we increased our M.W.B.E. spend from 12 percent to 21 percent. We created innovative programming to assist with capacity building and technical assistance with our 800 Initiative and have increased exposure for minority and women-owned businesses in the public sector through our Buy901 Program at buy901.net. Again, we still have a long way to go, but we have made progress.

In your letter, you called on Memphis leaders to honor a set of eight demands. Below are the demands and my responses to them:

1. Release all of the peaceful protesters that were arrested in any and all marches and drop all charges; Investigate law enforcement brutality and misconduct during recent protests with public reporting of findings and a commitment to hold officers accountable for any wrongdoing. **All protesters that were arrested have been released; We are doing this.**
2. Reallocate funding from the police department to fund alternatives rooted in community health and crisis response. **We are not going to defund the Memphis Police Department.**
3. Ban chokeholds and strangleholds by Memphis Police Officers and Sheriff's Deputies. **We have already agreed to do this.**
4. Require de-escalation as a first response by Memphis Police Officers and Sheriff's Deputies. **The Memphis Police Department already has this policy.**
5. Develop a Duty to Intervene policy that requires officers to intervene when witnessing another officer using excessive force for the Memphis Police Department and the Sheriff's Office. **The Memphis Police Department already has this policy.**
6. Require reporting by officers and deputies any time they point a firearm at a citizen. **The Memphis Police Department already has this policy.**

7. Give the Civilian Law Enforcement Review Board (CLERB) the power it needs to investigate and ensure accountability for police conduct and provide clear avenues for CLERB's input on MPD training, policies, and procedures. **We have agreed to add CLERB receiving subpoena power as part of the state legislative agenda.**
8. Include grassroots black and brown leaders and activists on the search and selection committee for the next MPD Chief. **As we did in 2016, the community will be involved in this process.**

Recently, City Council voted overwhelming to recommend the adoption of the "8 can't wait" rules to limit police use of force. The great news is our police department is already practicing them. The rules and where we stand on them are as follows:

1. Ban Chokeholds and Strangleholds—**BANNED—POLICY IN PLACE**

Choke holds of any kind are strictly prohibited during the course of effecting an arrest or after a subject has been handcuffed. This would include the use of hands, arms, knees, feet or one's body weight to restrict a subject's ability to breathe. This prohibition is outlined in MPD Policy and Procedure and is supported by the following state law:

TCA § 38-3-121. Choke holds; restrictions on use (2019)

No law enforcement officer shall use a choke hold or other similar respiratory restraining maneuver, with or without the use of a police baton, on any suspect, defendant or other person unless other methods of restraint are ineffective. Nothing in this section shall be construed to prohibit the use of the lateral vascular maneuver.

While the above statute does not prohibit the use of the lateral vascular maneuver, MPD officers are prohibited from using this self-defense technique. The only exception for the use of any choke hold would be if an officer was otherwise justified to do so in self-defense where the officer has been attacked with deadly force, is being threatened with the use of deadly force, or where the officer has probable cause and reasonably perceives an immediate threat of deadly force.

2. Require de-escalation—**REQUIRED— POLICY IN PLACE**

Officers are required and trained to de-escalate situations, where possible, by communicating with subjects, maintaining distance, and otherwise eliminating the need to use force. De-escalation enables an officer when practicable to initiate specific actions to defuse an event where the use of force would be legally justified at that time. This may be accomplished through both verbal and tactical

actions which may include: containment, securing backup, using cover or requesting CIT.

3. Require warning before shooting—REQUIRED WHEN FEASIBLE— **POLICY IN PLACE**

Where feasible, the officer has identified himself/herself as a police officer and given warning such as, “STOP--POLICE--I'LL SHOOT,” that deadly force is about to be used unless flight ceases; AND If all other means of apprehension available to the officer under the attendant circumstances have been exhausted.

4. Exhaust all alternatives before shooting—REQUIRED— **POLICY IN PLACE**

Officers shall use only the **NECESSARY** amount of force that is consistent with the accomplishment of their duties, and must exhaust every other reasonable means of prevention, apprehension, or defense before resorting to the use of deadly force.

5. Duty to intervene—REQUIRED— **POLICY IN PLACE**

Any member who directly observes another member engaged in dangerous or criminal conduct or abuse of a subject shall take reasonable action to intervene. A member shall immediately report to the Department any violation of policies and regulations or any other improper conduct which is contrary to the policy, order or directives of the Department. For sworn employees this reporting requirement also applies to allegations of uses of force not yet reported.

6. Ban shooting at moving vehicles—ONLY WHEN DEADLY FORCE IS AUTHORIZED— **POLICY IN PLACE**

The use of DEADLY FORCE is prohibited: From or at any moving vehicle, except in a case where an officer has probable cause to believe that the suspect committed a violent felony and the poses a direct threat of serious bodily injury or death to other persons if not immediately apprehended. If the officer is in the path of the vehicle, the officer's first responsibility, if possible, is to move from the path of the oncoming vehicle, as shooting the driver of a moving vehicle raises the danger from an uncontrolled vehicle. Officers should not intentionally place themselves in the path of a moving vehicle or reach inside of a moving vehicle; or in any case, where the officer does not have a clear field of fire and cannot be reasonably certain that only the suspect will be hit and that the potential for harm to innocent persons is minimum.

7. Require use of force continuum—REQUIRED— **POLICY IN PLACE**

RESPONSE TO RESISTANCE CONTINUUM

1. Physical Presence
2. Verbal Warnings
3. Verbal Commands
4. Chemical Agents
5. Empty Hands Control (Soft and Hard)
6. Impact Weapons/Less Lethal Weapons/MPD Canine
7. Deadly Force

Officers must be aware that this is a dynamic continuum where an officer can be justified in instantly escalating from the lowest level of force to Deadly Force without having to stop and utilize each and every step in between. The Officer can also de-escalate from a higher level of force to one of the lower levels without stopping at each lower level. The Officer's experience and training are his guides as to which level of force to use in each situation.

8. **Require comprehensive reporting—REQUIRED— POLICY IN PLACE**

It is the responsibility of all officers utilizing both deadly and less than lethal force to complete a Response to Resistance Form. The Response to Resistance incident will be submitted to the supervisor for approval prior to the end of the officer's shift. The Supervisor will ensure that the report has been completed, and will review the incident for any departmental concerns regarding policy and procedures, training, equipment and/or officer conduct.

In addition to implementing the "8 Can't Wait" rules, we recently agreed to five other reforms.

1. MPD Ban on no-knock search warrants

MPD agrees to ban no-knock search warrants.

2. Civilian Law Enforcement Review Board (CLERB) Improvements

Our administration will locate additional funding within the budget to increase funding for CLERB marketing and communications, training for staff and board members, and also hire an additional part-time resource for CLERB. Additionally, we agree to review adding CLERB receiving subpoena power as part of the state legislative agenda.

3. Posting of CLERB and Civil Service Board Openings

Our administration will post CLERB and Civil Service Board Openings on www.memphistn.gov.

4. Receive recommendations for expanding MPD Implicit Bias Training

MPD has provided current implicit bias training to meeting the attendees and have requested recommendations on how to improve our training.

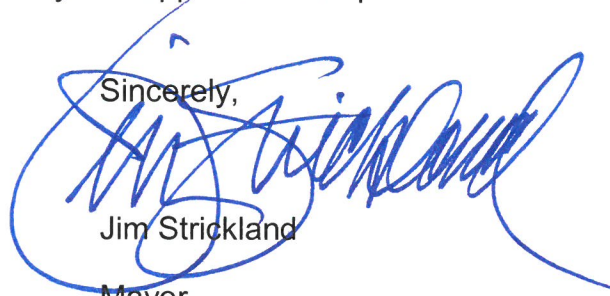
5. Officer Accountability

Administration agreed to enter discussions with the Memphis Police Association on how to enhance officer accountability with respect to excessive use of force. We also agreed to create an electronic system to store records for violations of the excessive force policies to improve transparency and accountability.

Our conversations with City Council, protest leaders, clergy, and community leaders like yourselves will continue and will result in better policies and training.

As always, I appreciate your support for Memphis.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jim Strickland", is written over the typed name. The signature is stylized and cursive.

Jim Strickland

Mayor