



This white paper is a constitutional law analysis of the City of Dallas’ interactions with protestors from May 29 to June 1, 2020. The paper outlines potential areas of constitutional concern during the protests. The legal analysis considers media coverage and sworn statements offered by protestors and agency reports. Recommended policy changes include eliminating aggressive kettling tactics and divestment from “less-than-lethal” weaponry to ensure the safety of Dallas citizens engaged in protected speech.

Following the murder of George Floyd, protests against police violence emerged around the world. Several local protests occurred in Dallas, Texas. The city of Dallas deployed police to local protests, where the city used force against hundreds of protestors. On-the-scene accounts describe trapped protestors, use of rubber bullets, tear-gassed attendees, and other militarized responses to protestors.



**The timeline of events described in the paper include the following<sup>1</sup>:**

**May 29, Locations: DPD Headquarters and Surrounding Streets.**

Organizers scheduled rallies and march at Dallas Police Department Headquarters.

Government interventions included DPD deployment of pepper balls, sponge rounds, and tear gas.

**May 30, Location: City Hall**

Local organizations planned a rally at City Hall.

Government interventions included the deployment of projectiles and tear gas during protest.

**May 31, Location: Downtown Dallas**

The mayor released a “Proclamation Declaring a Local State of Disaster,” which established a curfew zone.<sup>2</sup>

Government interventions included the use of flashbangs during protest.

**June 1, Locations: DPD Headquarters, Frank Crowley Courthouse and Margaret Hunt Hill Bridge**

Government interventions included kettling protestors, flashbangs, pepper spray, tear gas, smoke bombs, mass arrest and detention, transport of detained protestors.

In a public statement on June 1, the police department denied the use of chemical weapons against protestors.

<sup>1</sup>DALLAS POLICE DEPARTMENT, “After Action Report,” (Aug. 14, 2020), <https://dfw.cbslocal.com/wp-content/uploads/sites/15909545/2020/08/Final-After-Action-Report-1.pdf> (last accessed July 30, 2021).

<sup>2</sup>Under Texas Government Code Chapter 418, mayors are designated as “emergency management directors” and may act in accordance with a city’s management plan.

After media and protestors' footage of the city deploying tear gas emerged, DPD retracted the statement.<sup>3</sup>

The U.S. Constitution places limitations on government interventions against individuals engaged in protest. The First and Fourth Amendments are integral to our analysis of the city's actions because they protect individuals' rights to free speech and assembly and the right to be free from unwarranted police interventions such as detention and searches.<sup>4</sup>

## Protestor Declarations

While the core of this paper centers on media and agency reports, it does incorporate first-hand experiences from protestors. These are included to provide on-the-ground impressions of those present to protest peacefully.

In June 2020, a coalition of organizations and volunteer

attorneys in Dallas established a legal hotline for protestors. Noting that official accounts of the protest and DPD use of force at the protests differed from many protestors' accounts, the coalition offered protestors an opportunity to provide a statement documenting their experiences. Pro bono attorneys recorded protestors' recollections of what occurred during the protests in legal documents called declarations. A declaration is a written statement in which a declarant, in this case, the protester, swears that the contents of the written document are in fact true. Volunteer attorneys worked on in-depth declarations for over a dozen protestors from July 22, 2020 to January 21, 2021. The statements are on file with the Office of Community Police Oversight.

The timeline, factual bases, legal analysis, and policy recommendations in this analysis draw from local and national news sources. Protestor declarations provide additional context for events described. *Declarant statements are italicized.*

## A. FIRST AMENDMENT ANALYSIS

**Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.**

### I. Overview

The First Amendment protects the fundamental rights of freedom of speech and assembly. The protection allows individuals to express their opinions without fear of censorship, retaliation, or legal repercussions. The right to free speech and assembly are presumed to be protected under the First Amendment. The government must specifically show why restrictions are valid. State and local governments must also comply with this protection.<sup>5</sup>

Reports detail force used against non-violent protestors while demonstrating in public spaces.<sup>i</sup> Government interventions included the use of rubber bullets, firing less-than-lethal weapons, and reported intimidation during the protests.<sup>6 ii</sup>

### II. Speech and Assembly as a Constitutionally Protected Activity:

The First Amendment prohibits the government from abridging the freedom of speech or the right of people to peacefully assemble. Peaceful demonstration in public falls within the sphere of conduct protected by the First Amendment.<sup>7</sup>

The constitutionality of the government's regulation of speech is analyzed carefully based on where the speech occurred and the nature of restrictions.

<sup>3</sup>Peter Simek, Internal Report Shows DPD Chief Hall Misled Council About Using Tear Gas on Protesters, DMAGAZINE (Jul. 22, 2020, 2:00 PM) <https://www.dmagazine.com/frontburner/2020/07/dpd-internal-report-tear-gas-margaret-hunt-hill-bridge/>

<sup>4</sup>This paper does not analyze the constitutionality of the curfew, but rather use of force by officers, prior to curfew and outside of the curfew zone.

<sup>5</sup>Gitlow v. New York, 268 U.S. 652 (1928).

<sup>6</sup><https://www.dmagazine.com/frontburner/2020/07/dpd-internal-report-tear-gas-margaret-hunt-hill-bridge/>.

<sup>7</sup>Gregory v. Chicago, 394 U.S. 111, 112 (1969); Brown v. Louisiana, 383 U.S. 131, 141-142 (1966); Henry v. City of Rock Hill, 376 U.S. 776 (1964); Fields v. South Carolina, 375 U.S. 44 (1963).

Public streets, sidewalks, parks, and other public places are the “archetype” for traditional public forums and the exercise of First Amendment Rights.<sup>8</sup> Protestors cannot be denied access broadly and absolutely.<sup>9</sup> The government may impose time, place, or manner restrictions, but only if they are justified without reference to the content of the regulated speech.<sup>10</sup>

Government regulations must be content-neutral, narrowly tailored to achieve an important government purpose, and leave open sufficient alternative channels of communication.<sup>11</sup> Content neutral regulations are those that serve purposes unrelated to the content of the speech, regardless of whether it incidentally affects certain messages or speakers and not others. In other words, the message or speaker cannot drive the form of regulation.

In protest cases, the Supreme Court has held that unless there is an immediate threat to public safety, the police may not interfere with protests.<sup>12</sup> Mere annoyance, slowing traffic, or inviting dispute is not enough to justify police interference.<sup>13</sup>

### III. First Amendment Concerns:

Reports describe the city’s restrictions on speech during the protests. Where infringements of First Amendment rights in a legal forum are alleged, the government must show that their regulation on speech and assembly did not violate the First Amendment.

#### *Regulation of Traffic*

Regulation of traffic, ensure safety and efficiency of vehicles and protesters is considered a permissible restriction on protest. The city’s regulation must be a reasonable fit, narrowly tailored to that state interest and allowing alternative avenues of communication for protesters. The Supreme Court has held that the slowing of traffic is not a reason to interfere with protesters.

June 1, DPD surrounded protesters, deployed weapons on

demonstrators and effected a mass arrest on Margaret Hunt Hill Bridge.<sup>14</sup> DPD reports state that the city told protestors not to cross the bridge.<sup>15</sup> According to a declarant, “*There were cops at the entrance of the bridge, but they did not block it off and did not stop us when we started walking on the bridge.*”<sup>iii</sup> News interviews and declarants state that officers did not warn them off the bridge.<sup>16</sup> One declarant recounts an officer waving them on, “keep it moving,” as they walked on to the bridge.<sup>iv</sup> One declarant that walked to the bridge recounted, “usually when the cops didn’t want us to go in a certain direction, they would stop us.”<sup>v</sup> DPD vehicles already blocked access to cars on both sides.<sup>vi</sup><sup>17</sup> One protester stated, “*the entire time that we were on the bridge, I did not see any traffic, except for one vehicle, which the protesters moved out of the way to let through safely.*”<sup>vii</sup>

After surrounding them, the DPD used chemical weapons on protesters and began the mass arrests.

“*Tear gas was thrown at us. I saw a girl take a rubber bullet to the face. I saw a guy get decked in the face with a tear gas can. I got a good whiff of tear gas. I got some of it in my eyes, and a good amount on my skin again. I was furious because we couldn’t go forward and we couldn’t go back.*”<sup>viii</sup>

At the time individuals were surrounded and weapons were deployed, reports from protestors and agencies indicate the bridge was closed to through traffic. This raises concerns that the extreme measures on the bridge may not be justified as regulation applied for a compelling interest in traffic management of a bridge closed to traffic.



<sup>8</sup>Snyder v. Phelps, 562 U.S. 443, 456 (2011); Frisby v. Schultz, 487 U.S. 474, 480, (1988). (Although the messages of the picketers in this case were hurtful and crude... the picketers were in a public place across from a public street and acted peacefully, therefore their protests and signs were protected under the First Amendment).

<sup>9</sup>Carey v. Brown, 447 U.S. 455, 460 (1980)

<sup>10</sup>Ward v. Rock Against Racism, 491 U.S. 781, 791 (1989).

<sup>11</sup>See Clark v. Community for Creative Non-Violence, 468 U.S. 288, 293 (1984); see Heffron v. International Society for Krishna Consciousness, Inc., 452 U.S. 640, 648 (1981) (quoting Virginia Pharmacy Bd. v. Virginia Citizens Consumer Council, Inc., 425 U.S. 748, 771 (1976)).

<sup>12</sup>Papineau v. Parmley, 465 F.3d 46, 57 (2d Cir. 2006). (protesters in this case posed no “clear and present danger” of immediate harm or violence because they made no threats to the police or anyone else, they did not incite violence or disorder, and they had no dangerous weapons).

<sup>13</sup>Shaw v. South Carolina, 372 U.S. 232, 237 (1963). (Supreme Court held that protesters were justified in singing religious songs, clapping and stomping, after police ordered them to disperse, because there was no violence or threat of violence on their part).

<sup>14</sup>See Section B (II) below for discussion on kettling.

<sup>15</sup>CENTRAL TRACK, <https://www.centraltrack.com/wp-content/uploads/2020/07/Preliminary-After-Action-Report-Dallas-Protests-May-29-through-June-1.pdf> (Last Visited Jul. 29, 2021)

<sup>16</sup>Simek, Internal Report Shows DPD Chief Hall Mised Council About Using Tear Gas on Protesters.

<sup>17</sup>“After Action Report,” 14.

## Preventing Violence on Officers or Others

The city is permitted to reasonably control crowds where there is a threat to public safety. Again, the state interest must be compelling and the regulation narrowly tailored to that interest. Absent imminent harm, officials typically have an obligation to inform protesters that they must disperse and time to comply with this order is required.<sup>18</sup>

Protestors interviewed by media as well as declarants reported that DPD caused immediate threats to public safety and peace, DPD's actions, according to declarants, caused chaos at the protests.<sup>ix</sup> A demonstrator stated, *"the event was peaceful prior to the intrusion of the police."*<sup>x</sup> The city reports that some protesters were banging on the vehicles with rocks, kicking back gas canisters thrown at them, throwing water bottles towards police.<sup>19</sup>

Reports indicate that many present viewed DPD's actions against the crowd as unnecessary, stating that there were no violent actions by protesters with the exception of a rare individual throwing water bottles and kicking away canisters the police shot near them.<sup>xi</sup> *As one declarant states, "although some individuals may have been verbally antagonistic, nothing that I saw should have given the police any reason to be fearful or feel as though they needed to respond with force"*<sup>xii</sup> These accounts do not align with reports that protests had transformed into 'riots.'<sup>20</sup>

Protestors on Margaret Hunt Hill Bridge report kneeling to show their compliance and peacefulness.<sup>xiii</sup> According to testimony, DPD officers firing rubber bullets indiscriminately into crowds of non-violent protesters.<sup>xiv</sup> A non-resisting protester was pepper-sprayed directly in the face and other zip-tied protesters laying on the ground were pepper-sprayed for yelling or lifting their heads up.<sup>xv</sup> In other cases, officers continued to use tear gas and flashbangs while protesters attempted to retreat.<sup>xvi</sup>

Reports indicate a problem with communication of warnings throughout the days under examination. DPD reports making dispersal announcements and that the public announcement system "incited the crowd."<sup>xvii</sup> Demonstrators state that tear gas, flashbangs, and rubber bullets deployed on them suddenly, with "no verbal or warning of any sort."<sup>xviii</sup> One declarant states: *"Although there were police officers on the streets monitoring the*

*protest activities, I did not hear any officers communicate instructions or warnings to the protesters prior to employing the use of force."*<sup>xix</sup>

## IV. First Amendment Retaliation

Infringement on speech leaves the city open to First Amendment retaliation claims.<sup>23</sup> In these civil suits, demonstrators must show that the police were retaliating against individuals solely because they were in public protesting.

The protesters were involved in a constitutionally protected activity. Police actions can have a chilling and deterring effect on protesters exercising their right to assemble and voice dissent. Declarants report physical injuries and emotional trauma. Reported actions by the city that potentially can be viewed as



substantially interfering with protesters' protected activity include:

- Use of indiscriminate weapons against all protesters;<sup>24</sup>
- Kettling protesters on the bridge and deploying non-lethal weapons;
- Arresting protesters for curfew violations while other bystanders (non-protesters) are not stopped by officers;<sup>xx</sup>
- Police comments to protesters that are not content-neutral;<sup>xxi</sup>
- Lack of probable cause for underlying charges or arresting individuals based on association with others who are committing crimes.<sup>25</sup>

<sup>18</sup>Parmley, 465 F.3d at 60.

<sup>19</sup>"After Action Report," 9-12.

<sup>20</sup>See "After Action Report," 9.

<sup>21</sup>See "After Action Report,"

<sup>22</sup>See "After Action Report," 9.

<sup>23</sup>To establish a First Amendment retaliation claim, plaintiffs must show that (1) they were engaged in a constitutionally protected activity, (2) the defendant's actions would chill a person of ordinary firmness from continuing to engage in the protected activity, and (3) the protected activity was a substantial or motivating factor in the defendant's conduct. Pinard v. Clatskanie Sch. Dist., 467 F.3d 755, 770 (9th Cir. 2006).

<sup>24</sup>Black Lives Matter Seattle-King City v. City of Seattle, 466 F. Supp. 3d 1206, 1214 (2020) (The Court explained that using weapons against all protesters- not just violent ones - supports an inference that the police actions were substantially motivated by Plaintiff's First Amendment activity).

<sup>25</sup>Nieves v. Bartlett, 139 S. Ct. 1715 (2019) (The Court held that demonstrating the lack of probable cause for an underlying criminal charge reinforces retaliation evidence); Noto v. United States, 367 U.S. 290, 299 (1961) (For liability to be imposed by reason of association alone, it is necessary to establish with clear proof that the group itself possessed unlawful goals and that the individual held a specific intent to further those illegal aims.); Collins v. Jordan, 110 F.3d 1363, 1372 (9th Cir. 1996) ("the proper response to potential and actual violence is for the government to ensure an adequate police presence, and to arrest those who actually engage in such conduct, rather than to suppress legitimate First Amendment conduct as a prophylactic measure.").

## B. FOURTH AMENDMENT ANALYSIS

**“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.**

### I. Overview

The Fourth Amendment protects against excessive force and unreasonable searches and seizures.

### II. Fourth Amendment Concerns: Excessive Force

Police are constitutionally permitted to use force, but only when that force is reasonable. Force is excessive and unconstitutional when it is not objectively reasonable in light of existing circumstances.<sup>26</sup> This analysis is not based on the subjective view of the police. Traditionally, this has meant that the force against an individual is objectively viewed as necessary by a court due to *“the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.”*<sup>27</sup> Under the Fourth Amendment, unreasonable actions may include excessively harmful tactics and weapons used to seize protestors.

#### *Confinement and Kettling*

Kettling is a police crowd control technique. The tactic is under increased scrutiny across the country. It involves the corralling of protestors to make arrests. Police officers block all exits and then use force, such as rubber bullets and tear gas, to subdue protestors to start making arrests. Protesters report instances of being kettled during protests

last summer.

On May 29, 2020, a declaration stated that a line of DPD filed in between protestors groups and then deployed tear gas and flashbangs.<sup>28</sup> One declarant stated: *“When we tried to turn back there was a line of cops behind us. . . we were now surrounded on all sides.”*<sup>29</sup>

On May 30, 2020, a protester reported the officers did *“come down different blocks, and once people were cornered, they would fire rubber bullets, tear gas, etc. into the crowd.”* Many demonstrators report they heard no warning.<sup>29</sup>

On June 1, 2020, at the Margaret Hunt Hill Bridge, one protester witnessed officers unblock barriers (police cars) that originally closed off the bridge, thus allowing access.<sup>30</sup> Another noted, *“usually, when the cops didn’t want us to go in a certain direction, they would stop us.”* Police cut off the entry and exit to the bridge by surrounding them on both sides. The protestors describe, at this moment, having nowhere to go, causing chaos within the crowd.

#### Flashbangs, Tear Gas, Pepper Spray, Smoke Bombs, and Rubber Bullets

DPD used various forms of non-lethal force during the protests, including flashbangs, tear gas, pepper spray, smoke bombs, and rubber bullets.<sup>31</sup> As described by affected protestors, this force was not responsive to an immediate threat by protestors to any person or property. One declarant recalls, *“Without warning or provocation, the police began to shoot smoke bombs into the crowd and used noisemakers that sounded like automatic gunfire. . . The Officers also released tear gas and rubber bullets into the crowd, and people began to gag and vomit.”*<sup>32</sup>

The use of gas also causes health-related concerns.<sup>33</sup> Irritants and gas affected one declarant with asthma.<sup>34</sup> The gas forced individuals to remove their masks due to skin irritation. Simultaneously, it causes coughing, a risk for people in close proximity during a pandemic.

<sup>26</sup>Graham v. Connor, 490 U.S. 386, 396 (1989).

<sup>27</sup>Id.

<sup>28</sup>CENTRAL TRACK, <https://www.centraltrack.com/wp-content/uploads/2020/07/Preliminary-After-Action-Report-Dallas-Protests-May-29-through-June-1.pdf> (Last Visited Jul. 29, 2021).

<sup>29</sup>Cassandra Jaramillo, Why Dallas Police Chief Reneé Hall made the call to use tear gas at George Floyd protests, THE DALLAS MORNING NEWS (May 30, 2020), <https://www.dallasnews.com/news/2020/05/30/why-dallas-police-chief-renee-hall-made-the-call-to-use-tear-gas-at-george-floyd-protests/>

<sup>30</sup>Tear gas and all other chemical weapons were banned by the Geneva Protocol of 1925. However, The United States reserved the right to use such weapons as riot control means. McKenzie Sadeghi, Fact check: It’s true tear gas is a chemical weapon banned in war, USA TODAY (Jun. 6, 2020).

<https://www.usatoday.com/story/news/factcheck/2020/06/06/fact-check-its-true-tear-gas-chemical-weapon-banned-war/3156448001/>.

## Unreasonable Manner of Restraint

Another potential concern of excessive force is the manner of detaining protesters on July 1, 2020. DPD detained peaceful protesters with zip ties restraining their arms for hours on the bridge. Many were arrested in mass, packed into vans, and transported in violation of COVID-19 protocols.<sup>xxx</sup> One protester states zip-tie handcuffs resulted in swollen and bruised wrists. Another stated, “My hands had been behind my back for so long that I was unable to raise my arms to put my backpack on.”<sup>xxxii</sup> A declarant witnessed a diabetic woman go into shock because of how long she was detained on the bridge.<sup>xxxiii</sup> “I heard people crying out in pain from the zip ties.”<sup>xxxiii</sup>

The form of prolonged detention raises Fourth Amendment concerns related to excessive force.

### III. Fourth Amendment Concerns: Suspicionless Detention

Police are permitted to stop and search individuals only if there is individualized suspicion. There must be probable

cause to believe a crime has been committed or is in progress to arrest an individual. A person is “detained” or “seized” if a reasonable person would have believed they were not free to leave. Police officers can detain a crowd of protesters if compelling circumstances are present, but only after protesters are warned and receive a dispersal order, followed by a reasonable opportunity to comply with the order.<sup>32</sup>

Reports indicate that most protesters were participating peacefully. Protesters state they did not observe or hear officers stopping anyone from going on the Margaret Hunt Hill Bridge.<sup>xxxiv</sup> Some believed officers directed them to continue marching on the bridge. Many reports did not hear a dispersal warning or saw no opportunity for peaceful protesters to leave prior to detention. The kettling and resulting mass arrest and zip-tie handcuffs constitute protestor detention.

Agency reports and individual declarations indicate that the DPD did not have individualized suspicion of wrongdoing for 674 protestor arrests.<sup>33</sup> One protestor also states, “[DPD was] arresting every protestor, regardless of their individual conduct or compliance with instruction”<sup>xxxv</sup> Any arrest or seizure without individualized suspicion raises Fourth

## C. RECOMMENDATIONS

During the summer protests of 2020, the citizens in Dallas engaged in many discussions on public safety and police violence. Protestor declarants describe DPD deployment of force while they were out on the streets protesting police violence.

This next section covers policy for the city to consider. It is worth noting that the policy recommendations are limited to those implicated by this paper’s Constitutional law analysis.

### 1. End Kettling Practices

Kettling can turn a peaceful protest into a violent event. As declarants reported, this tactic caused chaos at the demonstrations.<sup>xxxvi</sup> The practice of kettling protesters during a pandemic was in direct opposition to the public health recommendations.

The practice of kettling peaceful protesters poses safety concerns for attendees. Not only is it inherently violent to kettle a mass horde of people, but it makes the protesters upset and frightened and this increases tensions between protesters and police officers. As the Dallas Observer reported, “What had been a peaceful protest quickly fell into chaos as protesters began scrambling back toward the east end of the bridge, only to find a line of officers closing in on them from that side, as well.”<sup>34</sup>

Protesters, especially peaceful protesters, have the right to voice their opinions. DPD should ensure their safety while protesting. By allowing protesters to get off the highways, not blocking them in, DPD could have avoided potential constitutional violations. The implications of kettling can be unconstitutional and extremely traumatic to those engaging in speech.

<sup>31</sup>Dundon v. Kirchmeier, 2017 U.S. Dist., LEXIS 222696 at \*58 (2017); United States v. Mendenhall, 446 U.S. 544, 554 (1980).

<sup>32</sup>Barham v. Ramsey, 434 F.3d 565, 575 (D.C. Cir. 2006).

<sup>33</sup>CENTRAL TRACK, <https://www.centraltrack.com/wp-content/uploads/2020/07/Preliminary-After-Action-Report-Dallas-Protests-May-29-through-June-1.pdf> (Last Visited Jul. 29, 2021). (Unable to tell what alleged contraband belonged to which protestor).

<sup>34</sup>Silas Allen, Kettling Tactics Dallas Police Used Steeped in Controversy, Dallas Observer (June 8, 2020).

## 2. Divest City Funding from Less-than-Lethal Weaponry

“Less-than-lethal” force refers to instruments other than firearms that are meant to lessen the risk of serious injury or death. This includes the use of tear gas, projectiles, and flash bangs, the very instruments DPD used during protests against police violence during the summer of 2020. It is important to note that while these instruments may be used to avoid serious injury or death, they can still lead to those outcomes.<sup>35</sup>

Tear gas caused significant risk to attendees with respiratory concerns. It also resulted in very dangerous crowd exposure to COVID-19 as attendees struggled to breathe without masks. The use of these less-than-lethal projectiles was the subject of a lawsuit that ended with DPD agreeing to a 90-day-ban after a district judge accepted a consent decree.<sup>36</sup> The DPD later issued a general order banning the use of

less-than-lethal weapons, except for tear gas, which can only be used in the event of criminal acts or by order of the chief or a police officer designated to give out the order.<sup>37</sup> This is not a complete ban against its use during a peaceful protest. It is a step in the right direction, but the policy still leaves the door open for tactics harming protestors. July 22, 2020, general order banned projectiles, yet the Dallas city council approved an agreement in December of 2020 that allocated “nearly \$8 million over five years on police ammunition and less-than-lethal supplies, such as tear gas and rubber bullets used during demonstrations over the summer.”<sup>38</sup>

Further investment in less-than-lethal weapons implicates the health and safety of protestors. According to declarants, the use of these weapons sparked chaos and danger during protests, exacerbating safety concerns. The citizens of Dallas have rallied and marched in efforts to curb violent policing. Dallas can ban and end investment in violent tactics that curtail rights and harm protesters.

## CONCLUSION

The protests against police violence during the summer of 2020 was a call for the city of Dallas to reconsider its own policing interventions.

This white paper has analyzed the DPD interventions at the protests that occurred from May 29 to June 1, 2020. DPD and the City of Dallas deployed force and detained protestors in a manner that implicates constitutional protections. The

citizens of Dallas deserve a city that allows people to protest without the risk of excessive force or unconstitutional police interventions. The city of Dallas can maintain safety and respect the rights of protestors. We hope that this will contribute to efforts to build a city that reflects the values of all the citizens of Dallas.

<sup>35</sup>Dallas man loses eye to “non-lethal” police round during George Floyd protest, attorneys say, CBS NEWS (Jun. 4, 2020, 3:40 PM).

<https://www.cbsnews.com/news/dallas-man-loses-eye-to-police-sponge-round-during-george-floyd-protest-attorneys/>

<sup>37</sup>Williams v. City of Dallas, No. 3:20-cv-01526-G (N.D. Tex. Filed Jun. 11, 2020). <https://www.courthousenews.com/wp-content/uploads/2020/06/dallas-pd-tro.pdf>

<sup>38</sup>Dallas Police Dept., Dallas Chief Revamps Police Protocols for First Amendment Activity, DPDBEAT (Jul. 22, 2020). <https://dpdbeat.com/2020/07/22/dallas-chief-revamps-police-protocols-for-first-amendment-activity/>

<sup>39</sup>Everton Bailey Jr., Dallas City Council approves \$8M deal for police ammo, tear gas, other less-lethal supplies, THE DALLAS MORNING NEWS (Dec. 9, 2020). <https://www.dallasnews.com/news/politics/2020/12/09/dallas-city-council-approves-8m-deal-for-police-ammo-tear-gas-other-less-lethal-supplies/>

This white paper was written by the Texas A&M Criminal Defense Clinic, Winter 2021. Contributors include Sarah Ahmed, Erika Flores, Destin Germany, and Jessica Rabena, under the supervision of Amber Baylor. The clinic benefitted from consultation with Professor Emerita Lynne Rambo and with other subject matter experts.

In the Criminal Defense Clinic, students learn a model of criminal defense advocacy rooted in a whole-client (holistic) ethos. Students work with clients, client families, community organizations, and experts in various disciplines to defend clients facing misdemeanor charges in Tarrant and Dallas Counties. The Criminal Defense Clinic student teams also work collaboratively with local organizations on projects to enhance justice in our community.

## **ENDNOTES (STATEMENTS ON FILE):**

<sup>i</sup>A. Adelman Declaration, July 20, 2020.

<sup>ii</sup>B. Gill Declaration, Dec. 1, 2020 (referring to protest on May 31, 2020); R. Jordan Declaration | 8, Sep. 22, 2020.

<sup>iii</sup>J. Wasinger Decl. | 18

<sup>iv</sup>Anon. 1 Decl | 28.

<sup>v</sup>Anon. 1 Decl | 28.

<sup>vi</sup>R. Jordan Decl. | 32.

<sup>vii</sup>R. Mendenhall Decl. | 14 (referring to protest on June 1, 2020).

<sup>viii</sup>L. Daugherty Decl. | 45

<sup>ix</sup>R. Jordan Decl. | 32; B. Gil Decl.; Anon. B. Decl. | 87; J. Wasinger Declaration | 18, Aug. 11, 2020.

<sup>x</sup>J. Wasinger Declaration | 18, Aug. 11, 2020.

<sup>xi</sup>L. Daugherty Decl. | 21; R. Mendenhall Decl. | 43.

<sup>xii</sup>Id. | 8 (referring to protest on June 1, 2020).

<sup>xiii</sup>B. Gil Decl.; R. Mendenhall Decl. | 15 (both referring to the protest on June 1, 2020).

<sup>xiv</sup>Anonymous 1 Declaration | 30, July 21, 2020; Anonymous 2 Declaration | 86, Aug. 20, 2020; R. Jordan Decl. | 23; R. Mendenhall Decl. | 15.

<sup>xv</sup>R. Mendenhall Decl. | 26; L. Daugherty Decl. | 40.

<sup>xvi</sup>L. Daugherty Decl. | 26, June 14, 2020 (referring to protest on May 29, 2020).

<sup>xvii</sup>J. Miller Declaration | 10, July 17, 2020 (referring to protest on May 30, 2020).

<sup>xviii</sup>Anon. 1. Decl. | 29; Anon. B. Decl. | 87; R. Jordan Decl. | 8, 33; L. Daugherty Decl.; R. Mendenhall Decl. | 20; B. Gil Decl.

<sup>xix</sup>R. Jordan Decl. | 12.

B. Gil Decl.

J. Miller Decl. | 13.

R. Jordan Decl. | 32.

J. Miller Declaration | 5, July 17, 2020 (referring to protest on May 30, 2020).

L. Daugherty Decl. | 23.

Anon. 2 Decl. | 62.

Anon. 1 Decl | 28.

J. Wasinger Decl. | 12.

R. Jordan Decl. | 33, 34.

R. Mendenhall Decl. | 27 (referring to protest on June 1, 2020).

Anon. Decl. | 30

R. Mendenhall Decl. | 42.

Anon. 1 Decl. | 36.

L. Daugherty Decl. | 46

Anon. 1 Decl. | 29; R. Mendenhall Decl. | 12.

R. Mendenhall Decl. | 43. (regarding the zip tying and detaining of all protesters on the Margaret Hunt Hill Bridge on June 1, 2020).

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