

**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI  
AT KANSAS CITY**

STATE OF MISSOURI, ex rel.	)	
KANSAS CITY BOARD OF POLICE	)	
COMMISSIONERS, <i>et al.</i> ,	)	
	)	
Relators and Plaintiffs,	)	
v.	)	Case No. 2116-CV11556
	)	
MAYOR QUINTON LUCAS, <i>et al.</i> ,	)	Division 18
	)	
Respondents and Defendants.)	)	

**BRIEF OF THE ATTORNEY GENERAL<sup>1</sup> AS *AMICUS CURIAE*  
IN SUPPORT OF THE BOARD OF POLICE COMMISSIONERS**

On May 20, 2021, the Mayor of Kansas City introduced a legislative package to defund the Kansas City Metropolitan Police Department. One ordinance slashed the 2021-22 budget by \$42 million, and another ordinance placed the Police Department’s funds under the City Manager’s control to implement undefined community engagement services. Without consulting the Board or using ordinary council procedures, the City Council rammed those ordinances through the same day.

Not only is this illegal, it is also bad policy. Police officers are essential community engagement officers. When you need help, police show up. When

---

<sup>1</sup> Attorney General Schmitt files this amicus brief as of right. *See* Mo. Sup. Ct. R. 84.05(f)(4). Attorney General Schmitt reserves the right to intervene to defend the constitutionality of Missouri statutes as needed.

someone wants to hurt you, police show up. Every day they face danger and uncertainty with confidence and skill—the least we can do is show up for them. But that is not what the City Council did. These ordinances seek to punish police and will prevent law enforcement from keeping Kansas City safe.

This is the worst time to interfere with police operations. Kansas City just experienced the deadliest year in its history. Defund efforts also hurt low-income and minority communities, and these ordinances take \$22 million from patrol areas serving them. Depriving departments of resources to recruit, train, and put law enforcement on the streets only emboldens criminals.

Police officers face increasingly difficult and dangerous work conditions. They report more tense interactions with citizens and greater concern over their personal safety. Police departments have more vacancies, higher turnover, and officers retiring in greater numbers. Police officers should be supported by Kansas City, not defunded. The Board is right: the City Council violated Missouri law and must be stopped.

**I. Missouri statutes vest control over the police department and its budget in the Board of Police Commissioners and preempt the Kansas City ordinances.**

Missouri law prohibits the City Council from interfering, in any way, with the Department's operations and specifically protects the budget from transfers back to the general revenue fund that the Board does not authorize.

Missouri law is clear: the Kansas City Police Department is “under the exclusive management and control of the [ ] board.” § 84.460, RSMo. In case the Mayor or City Council thought that their charter granted them “the power to appoint, dismiss, or in any way or to any extent, employ or control any police force,” Missouri law states that “all ordinances of such city are hereby declared null and void, so far as they conflict with sections 84.350 to 84.860.” *Id.*

Missouri statutes direct how the Department shall be funded. First, the Board submits a “budget estimating the sum of money necessary for the next fiscal year.” § 84.730, RSMo. Then, “[t]he governing body of the cities is hereby required to appropriate the total amount so certified . . . except that in no event shall the governing body of the cities be required to appropriate for the use of the police board in any fiscal year an amount in excess of one-fifth of the general revenue fund of such year.” *Id.* The Board must, “on or before May first of each year, adopt a budget for the police department for the ensuing fiscal year” and “itemize purposes of expenditure by organization units, activities, functions, and character classes.” § 84.740, RSMo. Once adopted, “[n]o transfer from one character classification of expenditure in the board budget to another character classification shall be made without the approval of said board.” *Id.* “Any officer or servant of the mayor or common council or municipal assembly of the said cities, or other persons whatsoever, who shall

forcibly resist or obstruct the execution or enforcement of any of the provisions of sections 84.350 to 84.860 . . . or who shall disburse any money in violation thereof, . . . or who shall delay or hinder the due enforcement of said sections by failing or neglecting to perform the duties therein imposed upon him, shall be liable to a penalty of one thousand dollars for each and every offense, recoverable by the board by action at law in the name of the state . . . .”  
§ 84.860, RSMo.

Straightforward application of the law<sup>2</sup> shows that the ordinances cutting the Department’s certified and appropriated budget, or transferring funds from the Board’s control, are “null and void.” § 84.460, RSMo. Charter cities, like Kansas City, “have all powers which the general assembly of the state of Missouri has authority to confer upon any city,” so long as they “are not limited or denied . . . by statute.” MO. CONST. ART. VI, § 19(a). Ordinances cannot “invade the province of general legislation or attempt to change the policy of the state as declared for the people at large.” *State ex rel. Spink v. Kemp*, 365 Mo. 368, 380 (1955). And the “law establishing the police commissioners [of Kansas City] and the system of police under them is an evidence of the policy of the state with reference to the police of one of its

---

<sup>2</sup> Whether the writ is granted or a declaratory judgment issues, the City Council’s actions here violate the General Assembly’s statutory scheme.

principal cities and it cannot be subverted by a local charter.” *Id.* (brackets in original). Additionally, “when the local law permits what state law prohibits” that law is preempted. *Coop. Home Care, Inc. v. City of St. Louis*, 514 S.W.3d 571, 583 (Mo. banc 2017).

Ordinance No. 210466 directly conflicts with Missouri’s public policy and statutory scheme. After the budget process for FY2021-22 was completed, when the Board certified and approved an itemized budget, I281, Ordinance No. 210466 transfers \$42,282,444 from the Department’s budget to a Community Services and Prevention Fund under the City Manager. I253. This directly violates § 84.740, RSMo, because it transfers money from a specific classification without the Board’s approval. It also violates § 84.860, RSMo, because it obstructs the execution of FY2021-22 budget as certified and approved by the Board and disburses money in contradiction of the same. Section 2 of Ordinance 210466 admits as much when it “invites the Board to submit a revised budget should it desire to see reallocation or transfer of its remaining appropriation.” I253.

Although the City Council notes that it is not required to approve a police budget that exceeds 20% of its general revenue fund, that provision does not apply here. The time for the City Council to negotiate over the budget or appropriate funds has long since passed. Once the City Council appropriated

the money, and the Board certified and approved the budget, any city ordinances clawing back funds above the 20% threshold interfere with the prescribed statutory process. Section 84.780 contemplates that the Board's Secretary will requisition funds "within the limits of the annual appropriation"—not the annual appropriation as limited by other bills during the year.

The City Council's claim that the "ordinance simply affects the funding levels within the City's sub-accounts," City Council Opp. at 21, rings hollow. *First*, Ordinance No. 210466 states that "the intent of the Council in reducing the accounts listed in Section 1 of this Ordinance is to reduce the Annual Police Budget." I253. Although it claims that it merely reflects the City's accounting practices, the ordinance appropriates money from the Board's specific subaccounts to the Community Services and Prevention Fund under the City Manager. *Id.* It makes little sense for the City's financial officer to pay Board expenses that purport to draw on those subaccounts by drawing on other funded subaccounts. Generally, appropriations must be used for the purpose specified in an appropriation. *See State ex inf. Danforth v. Merrell*, 530 S.W.2d 209, 213 (Mo. banc 1975). As the Board's budget and the Ordinances are public, such a process gives the false impression that the Board is improperly spending money for unappropriated purposes.

*Second*, the statutory scheme does not recognize this distinction between the Board’s budget and the appropriations process. Section 84.730 requires the City Council “to *appropriate* the total amount” of the Board’s estimated budget that “itemize[s] purposes of expenditure by organization units, activities, functions, and character classes.” The Board then must adopt a budget, which “shall be the authorization of expenditures for the purposes set forth therein.” §84.740, RSMo. Any certified claim “shall be paid by the proper disbursing officer of the city within ten days after being certified out of any moneys in the city treasury *not appropriated to the specific purposes* enumerated in section 84.730.” § 84.780.4, RSMo. Of course those “specific purposes” are the Board’s “itemize[d] purposes of expenditure by organization units, activities, functions, and character classes.” § 84.730, RSMo. Thus, the statutory scheme does not recognize any daylight between the City’s appropriation and the Board’s budget.

Ordinance No. 210468 that authorizes the City Manager to contract with the Board for certain “community engagement” services also violates Missouri law. Notably, more than 90% of the funds committed to this endeavor are those cut from the Department’s budget. I255–56. In addition to violating the prohibitions against reclassification in § 84.740, RSMo, and interfering with the approved budget in § 84.860, RSMo, Ordinance No. 210468 attempts to

exert control over the Department's operations in violation of § 84.460, RSMo, granting the Board's exclusive control of the Department. Holding nearly 20% of the Department's budget hostage requires the Board to receive approval from the City Manager on how it can use the funds. This is especially true when Ordinance No. 210466 entirely defunds two patrol divisions and cuts another's budget by 42.5%. *Compare* I36 (appropriated 21-22 column), *with* I253. This is the desired effect, as Ordinance No. 210466 purports to require City Council approval for the Board to move funds to depleted accounts—even though the City Council now asserts that the Finance Director may move funds as needed.<sup>3</sup> City Council Opp. at 21.

The City Council has encroached on the Board's exclusive control over the Department and violated their duties under several statutes. The Court should rule in the Board's favor and end this foolish attempt to hold the safety and security of Kansas City hostage.

---

<sup>3</sup> Notably, Ordinance No. 210468 section 1's grant of an additional \$3 million in funds for an additional recruiting class of police officers for community services is not bound up or dependent on the unlawful provisions or Ordinance No. 210466. It is clear that the City Council wanted more community services, and section 1's efficacy does not depend on the money that was intended to go to different departments. *Legends Bank v. State*, 361 S.W.3d 383, 387 (Mo. banc 2012).



## II. Kansas City needs police officers now more than ever.

The City Council's illegal and misguided effort to defund the police follows the deadliest year in Kansas City's history. In 2020, 176 people were murdered in Kansas City. KCPD Daily Homicide Analysis (Dec. 31, 2020).<sup>4</sup> This shattered the previous record of 153 murders set almost 30 years earlier in 1993. KCTV5, *Comparing Kansas City's homicide rate to the rest of the country* (Dec. 30, 2020).<sup>5</sup> Kansas City's 2019 murder rate, when 148 people were killed, ranked Kansas City as the eighth-deadliest city in the United States. CBS News, *Murder map: Deadliest U.S. cities* (Apr. 19, 2021).<sup>6</sup> Rankings reflecting Kansas City's historically deadly year in 2020 are not yet available.

Despite these tragic numbers, the City Council's Ordinance No. 210466 completely defunds the Central and Metro Patrol Divisions and reduces the East Patrol Division's budget by 42.5%. Compare I36 (appropriated 21-22 column), with I253. More than 80% of Kansas City's murders in 2020 occurred

---

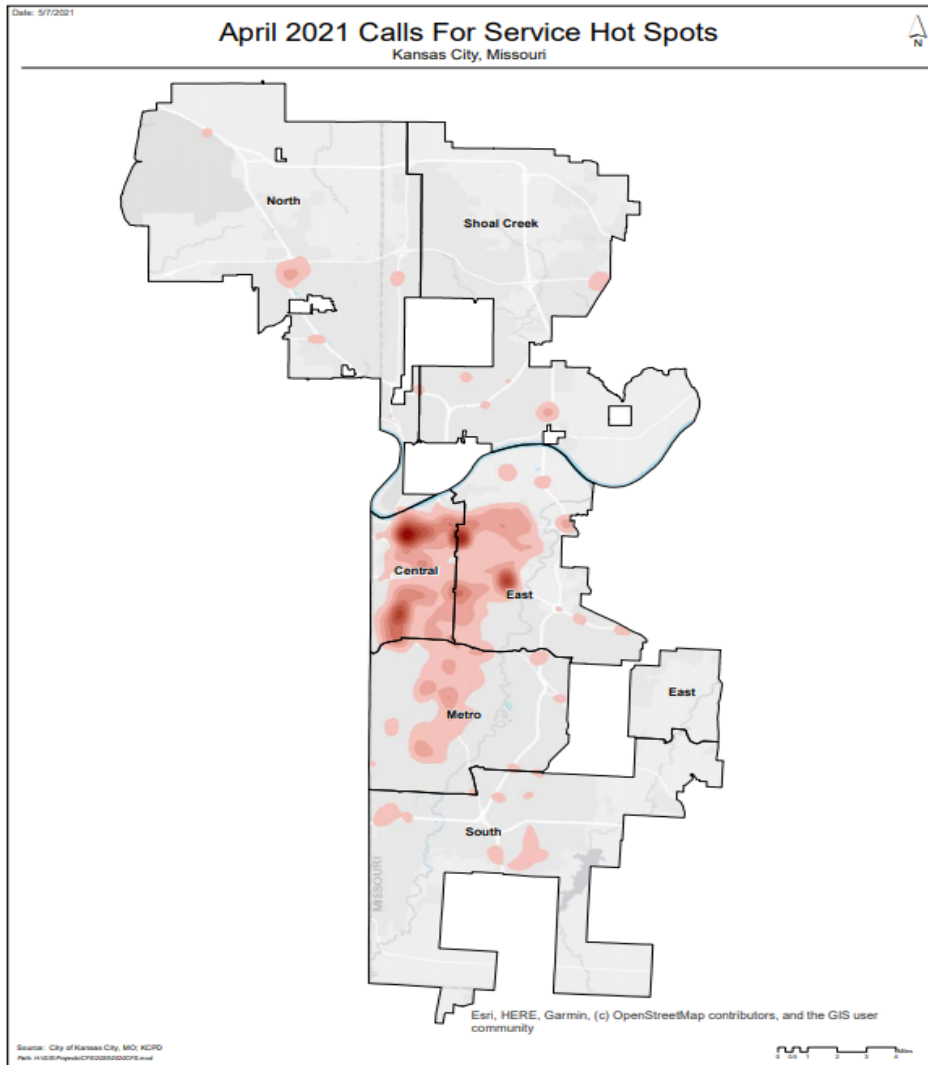
<sup>4</sup> Available at <https://www.kcpd.org/media/3204/daily-homicide-analysis-december-31-2020.pdf>.

<sup>5</sup> Available at <https://bit.ly/3hPAzzk>.

<sup>6</sup> Available at <https://cbsn.ws/3wnpA5o>.

in one of these three areas. KCPD Daily Homicide Analysis (Dec. 31, 2020).<sup>7</sup>

The April 2021 hotspot map shows that police are needed there the most:



Kansas City Police Department, April 2021 Calls for Service Hot Spots (May 7, 2021).<sup>8</sup>

---

<sup>7</sup> Available at <https://www.kcpd.org/media/3204/daily-homicide-analysis-december-31-2020.pdf>.

<sup>8</sup> <https://www.kcpd.org/media/3410/calls-for-service-hot-spot-map-april-21.pdf>.

Notably, these Patrol Divisions are more diverse than Kansas City's overall population, in which about 28% of residents are Black and 11% are Hispanic. Census Reporter, Kansas City, MO, *available at* <https://bit.ly/2TRNCHS>. By contrast, 43% of East Division's residents, 31% of Central Division's residents, and 39% of Metro Division's residents are Black.<sup>9</sup> East Division's residents are also 31% Hispanic, meaning that East Division serves a majority-minority community. *See id.* Police Chief Smith confirms that "[r]esidents in the Affected Patrol Divisions are 52.7% non-white, while just 30.5% of the residents of the suburban patrol divisions are non-white." Pls.' Ex. B, Smith Aff. ¶ 10. These divisions "have the largest number of non-white citizens, but are far and away the most impacted by crime in Kansas City, accounting in 2020 for 71.7% of the calls for service, 74.6% of the violent crime and 67.1% of the property crimes." *Id.* ¶ 9.

Defunding the police is wrong under the law, and it is especially wrong considering 2020's historic level of murders and the disproportionate impact that defunding would have on Black and Hispanic residents.

---

<sup>9</sup> *See* U.S. Census Bureau, 2019 American Community Survey 5-Year Estimates by Census Tract for Jackson County, *available at* <https://bit.ly/3xEClJO>; Kansas City Police Department Precinct Map, *available at* <https://bit.ly/3wLsG45>; Census Tracts Map for Jackson County, Mid-America Regional Council, *available at* <https://bit.ly/3vP6OmR>.

### **III. Efforts to “Defund the Police” are counterproductive and harm at-risk communities.**

The City Council need only look at other “Defunded” communities to see the harm these policies cause. Portland cut its police budget in July 2020 and has seen “a more-than-sevenfold increase [in homicides] compared with the first five months of last year.” Hal Bernton, *In Portland, shootings and homicides soar, and activists take to the streets to protest the violence*, SEATTLE TIMES (updated June 1, 2021).<sup>10</sup> Similarly, Minneapolis has seen a 49% increase in homicides and a 22% increase in violent crime. Stephanie Pagonis, *Police defunded: Major cities feeling the loss of police funding as murders, other crimes soar*, Fox News (Apr. 1, 2021).<sup>11</sup> Murders are up 28.3% in New York City and the number of shooting victims has doubled this year after New York City cut its police budget by \$1 billion. *Id.* And year-to-date, Los Angeles has seen a 21.6% increase in murder and an 8.8% increase in aggravated assault compared to 2020. LAPD, *COMPSTAT: Citywide Profile* (June 7, 2021).<sup>12</sup>

Scholars have observed that police withdrawal leads to more crime. After the 2001 riots in Cincinnati, community engagement declined and the

---

<sup>10</sup> Available at <https://www.seattletimes.com/seattle-news/in-portland-shootings-and-homicides-soar-as-black-activists-take-to-the-streets-in-protest-of-the-violence/>.

<sup>11</sup> Available at <https://fxn.ws/3hn0XB1>.

<sup>12</sup> Available at <http://lapd-assets.lapdonline.org/assets/pdf/cityprof.pdf>.

“de-policing resulted in a surge in crime, especially in violent ones.” Lan Shi, *The Limit of Oversight in Policing: Evidence from the 2001 Cincinnati Riot*, 93 J. PUB. ECON. 99 (2009) (noting similar results after 1992 Los Angeles riots). After the riots and protests in Baltimore, “[a]rrests in Baltimore dropped precipitously, even for serious crimes, and crime shot up.” Sheila Dewan, *Deconstructing the ‘Ferguson Effect,’* N.Y. TIMES (Mar. 29, 2017).<sup>13</sup>

This hits home for Missourians, as empirical analyses found similar de-policing in St. Louis following an outbreak of anti-police sentiment after Michael Brown’s death. One empirical study looked at the “mean numbers of low-level and felony arrests per month before and after Ferguson” and found that the “mean number of monthly arrests for all comparisons was significantly lower after Ferguson.” Lee Ann Slocum et al., *Changes in Enforcement of Low-Level and Felony Offenses Post-Ferguson: An Analysis of Arrests in St. Louis, Missouri*, 20 CRIMINOLOGY, CRIM. JUST., L. & SOC’Y 25, 31 (2019). These authors also concluded that “bivariate analyses comparing the number of arrests in periods before and after the shooting of Michael Brown indicate there were fewer enforcement actions after Ferguson.” *Id.* at 39. Another study noted that this effect also “revealed that robbery rates, declining before Ferguson, increased in the months after Ferguson.” David C. Pyrooz et al.,

---

<sup>13</sup> Available at <https://nyti.ms/3hn1143>.

*Was There a Ferguson Effect on Crime Rates in Large U.S. Cities?*, 46 J. CRIM JUST. 1 (2016).

When police withdraw from the front lines, either by defunding or political pressure, it harms at-risk communities. In Portland, “the [homicide] victims have disproportionately been people of color.” *Supra*, Bernton. In Seattle, homicides rose 61% the year its police was defunded, and 49% of homicide victims were Black, but “[o]nly about 7% of Seattle’s population is Black.” Sara Jean Green, *50 people died from homicidal violence in Seattle in 2020, the largest number in a quarter century, police chief says*; SEATTLE TIMES (updated Jan. 12, 2021)<sup>14</sup>; David Kroman, *Seattle cuts, but doesn’t ‘defund,’ police budget in 2021*, Crosscut (Updated Nov. 23, 2020) (City council “cut almost 20% of the Seattle Police Department’s budget”).<sup>15</sup> “[T]o the extent that underfunding of police departments contributes to fewer officers on the streets, communities that fail to provide adequate resources to their local police departments may inadvertently contribute to higher crime rates.” Stephen Rushin & Roger Michalski, *Police Funding*, 72 FLA. L. REV. 277 (2020).

---

<sup>14</sup> Available at <https://www.seattletimes.com/seattle-news/crime/50-people-died-from-homicidal-violence-in-seattle-in-2020-the-largest-number-in-a-quarter-century-police-chief-says/>.

<sup>15</sup> Available at <https://crosscut.com/news/2020/11/seattle-cuts-doesnt-defund-police-budget-2021>.

Cities that went through with aggressive cuts to their police budgets are now restoring them. “After attacks on Asian-Americans and a rise in homicides in Oakland, Calif., city lawmakers in April restored \$3.3 million of the \$29 million in police cuts, and the mayor is now proposing to increase the department’s budget by \$24 million.” Zusha Elinson et al., *Cities Reverse Defunding the Police Amid Rising Crime*, WALL ST. J. (May 26, 2021).<sup>16</sup> “Los Angeles’s mayor has proposed an increase of about \$50 million after the city cut \$150 million from its police department last year.” *Id.* In New York City, the mayor “is proposing to restore about half of last year’s monetary cuts.” *Id.*

The City Council’s efforts will likely result in fewer police officers to protect Kansas City. The ordinances cut \$42.2 million, a little less than 20%, from the police budget they approved on April 27, 2021. According to the Board’s Manager of the Budget Unit, “approximately 94% of the Departments’ general fund expenditures are personnel expenditures,” and such drastic cuts requires reducing the police force. Pls. Ex. A, Reiter Aff. ¶ 13. She estimates that these funding cuts will require eliminating 480 sworn officer positions. *Id.* She forecasts that, without force reductions, “by December 2021, the funds available to support sworn personnel will be exhausted.” *Id.*

---

<sup>16</sup> Available at <https://www.wsj.com/articles/cities-reverse-defunding-the-police-amid-rising-crime-11622066307>.

The City Council’s “Defund” efforts are extremely shortsighted and hurt the communities they represent. As a community leader in East Oakland, California, said, “When bullets are flying through your home, when your house is being broken into, you want somebody to show up and respond.” Elinson, *Cities Reverse Defunding*.

#### **IV. Police departments and officers face more challenges than ever.**

In the best of times police work is dangerous, so after the most violent year on record, law enforcement confronts greater challenges each day. More officers are falling in the line of duty, social unrest has kept tensions boiling, and it is no surprise that it is harder to find and retain police officers.

According to the FBI’s Law Enforcement Officers Killed and Assaulted Data Collection, 46 officers were feloniously killed in 2020. FBI, Press Release, *Uniform Crime Report, Law Enforcement Officers Killed and Assaulted, 2020* (May 3, 2021).<sup>17</sup> As of June 1, 2021, the officers feloniously killed thus far in 2021 (32) is nearly 40% higher than in June 2020. FBI Crime Data Explorer, LEOKA Current (June 1, 2021).<sup>18</sup> Even more disturbing is that thirteen died by unprovoked attacks, as opposed to two in 2020. *Id.* Although the FBI has not yet released the 2020 statistics, 56,034 LEOs were assaulted on the job and

---

<sup>17</sup> Available at <https://bit.ly/3zokng3>.

<sup>18</sup> Available at <https://crime-data-explorer.app.cloud.gov/pages/le/leoka>.



30.7% of them sustained injuries in 2019. FBI, Uniform Crime Report, Law Enforcement Officers Killed and Assaulted, 2019 (Fall 2020).<sup>19</sup>

It is unsurprising that law enforcement's attitude toward their jobs and its risks have changed. A 2017 national survey found that 93% of officers "have become more concerned about their safety." Pew Research Center, *Behind the Badge*, at 4 (Jan. 11, 2017).<sup>20</sup> Three quarters of officers reported that they are "more reluctant to use force when it is appropriate" and "less willing to stop and question people who seem suspicious." *Id.*

These challenges make it even more difficult to recruit and retain police officers. In fact, state and local governments report that "law enforcement positions are the most difficult public-sector jobs to fill." Police Executive Research Forum, *The Workforce Crisis, and What Police Agencies Are Doing About It*, at 20 (Sept. 2019).<sup>21</sup> Across the country, new applications have declined precipitously. *Id.* at 20 (showing 60% fewer applicants in Nashville, 40% fewer in Seattle, and 70% less in Jefferson County, Colorado); *see also* Weston J. Morrow et al., *Examining a Ferguson Effect on College Students' Motivation to Become Police Officers*, 30 J. CRIM. JUST. EDUC. 585 (2019) ("students' motivation to enter the police profession and willingness to apply

---

<sup>19</sup> Available at <https://ucr.fbi.gov/leoka/2019/topic-pages/officers-assaulted.pdf>.

<sup>20</sup> Available at <https://pewrsr.ch/2Ut7MIP>.

<sup>21</sup> Available at <https://www.policeforum.org/assets/WorkforceCrisis.pdf>.

for police positions has been curtailed by the negative public scrutiny related to Ferguson-like events.”). Officers are also quitting the force well before retirement: 47% of those surveyed indicated that the length of service is declining and the data indicates that 69% of voluntary resignations occur in the first five years. *The Workforce Crisis*, at 20–21. Adding to the diminished applications and retention problems, about 15.5% of full-time personnel are eligible for retirement in the next 5 years. *Id.* And there is anecdotal evidence that high-profile incidents have depressed applications, especially from diverse applicants. *E.g.*, Alex Tejada, *What makes a good officer? RPD faces recruiting challenges*, KTTC News (July 28, 2020).<sup>22</sup>

In these dangerous and uncertain times for law enforcement, there is no merit to “defunding” our brave police officers.

## CONCLUSION

The City Council has violated Missouri law and their mandatory duties to fund the Kansas City Police. The Court should rule in the Board’s favor.

---

<sup>22</sup> Available at <https://kttc.com/2020/07/28/245939/>.

Respectfully submitted,

**ERIC S. SCHMITT**  
ATTORNEY GENERAL

*/s/ Jeff P. Johnson* \_\_\_\_\_

Jeff P. Johnson, #73249  
*Deputy Solicitor General*  
D. John Sauer, #58721  
*Solicitor General*  
Justin D. Smith, #63253  
*Deputy Attorney General*  
*for Special Litigation*  
P.O. Box 899  
Jefferson City, MO 65102  
Ph.: (314) 340-7366  
Fax: (573) 751-0774  
jeff.johnson@ago.mo.gov

*Attorneys for Amicus*  
*Curiae*

### **CERTIFICATE OF SERVICE**

I hereby certify that, on July 8, 2021, the foregoing was filed electronically through the Court's electronic filing system to be served electronically on all counsel of record.

*/s/ Jeff P. Johnson* \_\_\_\_\_