

THE TRUTH AND ACTION PROJECT: ADDRESSING SYSTEMIC RACISM IN THE CRIMINAL JUSTICE SYSTEM IN MINNESOTA*

SHARON PRESS,[†] RICHARD FRASE,[‡] AND JUANITA FREEMAN[§]

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* This article was submitted for publication in February 2022. The project has progressed since then, but the authors have chosen to keep this article largely as submitted to reflect the beginnings of the project. A full project report is forthcoming.

[†] Sharon Press is a Professor of Law and Director of the Dispute Resolution Institute at Mitchell Hamline School of Law.

[‡] Richard Frase is the Berger Professor of Criminal Law Emeritus and Founder and former Co-Director of the Robina Institute of Criminal Law and Criminal Justice, University of Minnesota Law School.

[§] Juanita Freeman is a Judge in Minnesota's Tenth Judicial District. Prior to her appointment as a judge in 2018, she served a Hennepin County prosecutor.

I think the biggest challenge is that white people, we want to go faster, fix faster, feel better faster. That's just not how historical trauma works. So, any cities or communities looking at similar kinds of commissions need to take a long-view time frame in anything they set up, and not get trapped in thinking people will be reconciled and move on. It's been 500 years.

Gail Werrbach¹

¹ Martin Levine, *Maine's Truth and Reconciliation Effort: A New Path Forward*, NONPROFIT Q. (Nov. 5, 2020), <https://nonprofitquarterly.org/maines-truth-and-reconciliation-effort-a-new-path-forward/> [<https://perma.cc/JD6T-YFZW>] (quoting Gail Werrbach, one of the five commissioners of the Maine Wabanaki-Child Welfare Truth and Reconciliation Commission that was formed to address Maine's approach to meeting the child welfare needs of its Native American community).

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I. INTRODUCTION

Daunte Wright,² Jonathan Price,³ Breonna Taylor,⁴ Ahmaud Arbery,⁵ Elijah McClain,⁶ Alton Sterling,⁷ Philando Castile,⁸ Jamar Clark,⁹ Freddie

² See *The Killing of Daunte Wright and trial of Kimberly Potter*, MPR NEWS, <https://www.mprnews.org/crime-law-and-justice/killing-of-daunte-wright> [<https://perma.cc/EAS9-BW3L>] (last visited Feb. 18, 2022) (D.O.B. 2001–D.O.D. Apr. 11, 2021).

³ See *Jonathan Price—Say Their Names Memorial*, SAY THEIR NAMES MEM’L, <https://www.saytheirnamesmemorials.com/jonathan-price> [<https://perma.cc/9XVV-Q67D>] (last visited Feb. 18, 2022) (D.O.B. 1989–D.O.D. Oct. 3, 2020).

⁴ See *Breonna Taylor—Say Their Names Memorial*, SAY THEIR NAMES MEM’L, <https://www.saytheirnamesmemorials.com/breonna-taylor> [<https://perma.cc/JFB4-TLHC>] (last visited Feb. 18, 2022) (D.O.B. June 5, 1993–D.O.D. Mar. 13, 2020).

⁵ See *Ahmaud Arbery—Say Their Names Memorial*, SAY THEIR NAMES MEM’L, <https://www.saytheirnamesmemorials.com/ahmaud-arbery> [<https://perma.cc/VLA7-2W3X>] (last visited Feb. 18, 2022) (D.O.B. May 8, 1994–D.O.D. Feb. 23, 2020).

⁶ See *Elijah McClain—Say Their Names Memorial*, SAY THEIR NAMES MEM’L, <https://www.saytheirnamesmemorials.com/elijah-mcclain> [<https://perma.cc/FR7F-J8DD>] (last visited Feb. 18, 2022) (D.O.B. Feb. 25, 1996–D.O.D. Aug. 30, 2019).

⁷ See *Alton Sterling—Say Their Names Memorial*, SAY THEIR NAMES MEM’L, <https://www.saytheirnamesmemorials.com/alton-sterling> [<https://perma.cc/MM35-JG2L>] (last visited Feb. 18, 2022) (D.O.B. June 14, 1979–D.O.D. July 5, 2016).

⁸ See *Philando Castile—Say Their Names Memorial*, SAY THEIR NAMES MEM’L, <https://www.saytheirnamesmemorials.com/philando-castile> [<https://perma.cc/9RQZ-RYUF>] (last visited Feb. 18, 2022) (D.O.B. July 16, 1983–D.O.D. July 6, 2016).

⁹ See *Jamar Clark—Say Their Names Memorial*, SAY THEIR NAMES MEM’L, <https://www.saytheirnamesmemorials.com/jamar-clark> [<https://perma.cc/JE9N-MZ6J>] (last visited Feb. 18, 2022) (D.O.B. May 3, 1991–D.O.D. Nov. 16, 2015).

Gray,¹⁰ Eric Garner,¹¹ Amadou Diallo,¹² Harriette and Harry Tyson Moore,¹³ and George Floyd.¹⁴

These are fourteen of the more than 295 people listed on the Say Their Names Memorial website, a database “compiled to highlight the gravity of systemic racism on the Black community. It is not meant to be exclusionary, however names included must represent Black lives.”¹⁵ Some of the names on the website are widely known and others are not. They were born between 1902 and 2001. Some were as young as twenty years old, and others were in their fifties when they died. Each name is a Black man, woman or child who lost their life—many as the result of a justice system that failed them—and not just at the law enforcement stage.

George Floyd was neither the first nor the last Black man to have lost his life to systemic racism, but George Floyd’s murder¹⁶ sparked protests across Minnesota and in cities throughout the United States. The New York Times reported protests in at least 140 U.S. cities and that the National Guard

¹⁰ See *Freddie Gray—Say Their Names Memorial*, SAY THEIR NAMES MEM’L, <https://www.saytheirnamesmemorials.com/freddie-gray> [https://perma.cc/JK6N-57EM] (last visited Feb. 18, 2022) (D.O.B. Aug. 16, 1989–D.O.D. Apr. 19, 2015).

¹¹ See *Eric Garner—Say Their Names Memorial*, SAY THEIR NAMES MEM’L, <https://www.saytheirnamesmemorials.com/eric-garner> [https://perma.cc/JA7S-5LLA] (last visited Feb. 18, 2022) (D.O.B. Sept. 15, 1970–D.O.D. July 17, 2014).

¹² See Jane Fritsch, *The Diallo Verdict: The Overview; 4 Officers In Diallo Shooting Are Acquitted Of All Charges*, N.Y. TIMES (Feb. 26, 2000), <https://www.nytimes.com/2000/02/26/nyregion/diallo-verdict-overview-4-officers-diallo-shooting-are-acquitted-all-charges.html> [https://perma.cc/QPM6-GANV] (D.O.B. Sep. 2, 1975–D.O.D. Feb. 4, 1999).

¹³ See *Harry Tyson Moore—Say Their Names Memorial*, SAY THEIR NAMES MEM’L, <https://www.saytheirnamesmemorials.com/harry-tyson-moore> [https://perma.cc/2Q9Y-VXRN] (last visited Feb. 18, 2022) (D.O.B. Nov. 18, 1905–D.O.D. Dec. 25, 1951); *Harriette Moore—Say Their Names Memorial*, SAY THEIR NAMES MEM’L, <https://www.saytheirnamesmemorials.com/harriette-moore> [https://perma.cc/K3SX-JUHW] (last visited Feb. 18, 2022) (D.O.B. June 19, 1902–Jan. 3, 1952).

¹⁴ See *George Floyd—Say Their Names Memorial*, SAY THEIR NAMES MEM’L, <https://www.saytheirnamesmemorials.com/george-floyd> [https://perma.cc/B4DU-3Q7A] (last visited Feb. 18, 2022) (D.O.B. Oct. 14, 1973–D.O.D. May 25, 2020).

¹⁵ *Say Their Names Memorial*, SAY THEIR NAMES MEM’L, <https://www.saytheirnamesmemorials.com/names> [https://perma.cc/4RHA-D5WH] (last visited Nov. 11, 2021).

¹⁶ Amy Forliti & Steve Karnowski, *Chauvin Gets 22 ½ Years in Prison for George Floyd’s Death*, ASSOCIATED PRESS NEWS (June 25, 2021), <https://apnews.com/article/derek-chauvin-sentencing-23c52021812168c579b3886f8139c73d> [https://perma.cc/KN3R-CBCU].

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was activated in at least twenty-one states.¹⁷ Why were there global protests demanding police reform and racial justice this time, when for decades the response appeared muted or nonexistent?¹⁸

There are several possible explanations, but we believe that the most important explanation is that Darnella Frazier recorded Officer Chauvin kneeling on George Floyd's neck for nine minutes and twenty-nine seconds. In the recording, one can hear Mr. Floyd beg Officer Chauvin to stop and also call out to his mother.¹⁹ In an Instagram post on the first anniversary of George Floyd's murder, Frazier highlighted her role, stating: "If it weren't for my video, the world wouldn't have known the truth. I own that. My video didn't save George Floyd, but it put his murderer away and off the streets."²⁰ Undeniably, her video also activated communities across the nation to demand change.

The power of this video was two-fold. First, it is documentation of what happened. All too often there has been no video evidence and thus identifying what happened was subject to interpretation or the memories of

¹⁷ Derrick Bryson Taylor, *George Floyd Protests: A Timeline*, N.Y. TIMES (Nov. 5, 2021), <https://www.nytimes.com/article/george-floyd-protests-timeline.html?auth=login-email&login=email> [https://perma.cc/VX2C-FVPT].

¹⁸ *Protests Across the Globe After George Floyd's Death*, CNN WORLD (June 13, 2020, 3:22 PM), <https://www.cnn.com/2020/06/06/world/gallery/intl-george-floyd-protests/index.html> [https://perma.cc/X2B4-RUQ7] (viewing photo gallery of protests from around the world).

¹⁹ Lonnae O'Neal, *George Floyd's Mother was not There, but he Used her as a Sacred Invocation*, NAT'L GEOGRAPHIC (May 30, 2020), <https://www.nationalgeographic.com/history/article/george-floyds-mother-not-there-he-used-her-as-sacred-invocation> [https://perma.cc/BV7W-AXLK].

²⁰ *Darnella Frazier's Tribute to George Floyd*, FACING HIST. & OURSELVES, https://www.facinghistory.org/sites/default/files/2023-03/Darnella_Frazier%E2%80%99s_Tribute_to_George%20Floyd.pdf [https://perma.cc/7EAC-R38S] (last visited June 4, 2023); See generally Jamiles Lartey & Abbie VanSickle, 'Don't Kill Me': Others Tell of Abuse by Officer Who Knelt on George Floyd, N.Y. TIMES (Feb. 2, 2021), <https://www.nytimes.com/2021/02/02/us/derek-chauvin-george-floyd-past-cases.html> [https://perma.cc/3M95-N74L] (explaining that while preparing for Chauvin's trial, the Minnesota Attorney General's Office uncovered similar cases, dating as far back as 2015, where Chauvin was accused of using excessive force when he restrained people "by their necks or by kneeling on top of them." According to police records, Chauvin was never formally reprimanded, "even though at least two of those arrested said they had filed formal complaints.").