

**m COUNCIL FOR MINNESOTANS  
OF AFRICAN HERITAGE**

**Council for Minnesotans of African Heritage  
658 Cedar Street, Suite G57  
St. Paul MN 55155**

February 13, 2021

**Erik Misselt  
Executive Director  
Minnesota Board of Peace Officer Standards and Training  
1600 University Ave., Suite 200  
St. Paul, MN 55104-3825**

Dear Mr. Misselt and POST Board Members,

Last summer, we witnessed what occurs when there are inadequate accountability measures in place to protect the First Amendment rights of persons and groups to free speech and public assembly. We witnessed rogue actors, including law enforcement officials, respond to public assemblies by impeding the right to assemble. We saw police officers attack demonstrators, journalists, and onlookers with pepper spray, rubber bullets, and tear gas. We experienced how far bad actors will go when unchecked and unaccountable. This year we cannot continue to make the same mistakes.

Our coalition of community partners calls on the POST Board to act immediately to protect the First Amendment rights of protestors and bystanders in preparation for the trial of Derek Chauvin. A critical first step for securing such protections is for the POST Board to pass a measure that requires that officers follow their existing First Amendment policies regarding public assembly response or be subject to discipline, up to and including loss of their license to serve. Please see Rep. Carlos Mariani's proposed amendment to H.F. 445 as an example of policy language related to this rule change.

The adoption of a First Amendment standard for public assembly response aligns with the constitutional duties of local law enforcement. Law enforcement departments have the dual responsibility to preserve public safety and protect civil liberty, including the constitutional rights of those gathered to demonstrate. Community activists have faced regular violations of department policies without local discipline for decades. The POST Board's authority over the rules and standards for peace officer licensure provides an opportunity to create an effective instrument for First Amendment protection.

A First Amendment standard for public assembly response would help law enforcement leadership address key challenges the state faces in its police reform efforts. Chiefs, sheriffs, and other law enforcement leaders have argued that local disciplinary appeals processes make it difficult to remove problem officers. A First Amendment standard would provide a needed remedy for our broken discipline appeals processes, and we are hopeful that law enforcement leadership will partner with us at the POST Board to pass this measure.

Lastly and very importantly, a First Amendment standard reflects the core Minnesota value in free speech and public safety for all. Minnesotans want to protect the civil liberties of all, including those of persons and groups with whom they disagree. The proposed First Amendment standard would protect folks across the political spectrum: from Black Lives Matter protestors in Moorhead, to 'Stop the Steal' protestors at the Capitol, to 'Stop Line 3' water protectors in the North, to Blue Lives Matter counter-protestors who are likely to appear at the Chauvin Trial.

Minnesotans of every race, place, and creed deserve to exist with dignity and respect. We cannot continue to allow police officers to act with impunity against the people they took an oath to serve and protect. The proposed change would make following the First Amendment a requirement for being a police officer. We know that this moment calls for this change.

Sincerely,

Linda Sloan  
Executive Director  
Council for Minnesotans of African Heritage

Nick Muhammad  
Executive Director  
Black Civic Network

Angela Rose Myers  
President  
Minneapolis NAACP

Lars Negstad  
Policy Director  
ISAIAH

Brian Fullman  
Lead Organizer  
Barbershops & Black Congregation Cooperative

CC:

Governor Tim Walz and Lt. Governor Peggy Flanagan

POCI Caucus and United Black Legislative Caucus

POST Board's Advisory Council

## Misselt, Erik (DPS)

---

**From:** Tock, Rosa (MCLA)  
**Sent:** Monday, February 22, 2021 1:13 PM  
**To:** Misselt, Erik (DPS)  
**Cc:** rep.kaohly.her@house.mn; Jamael Lundy  
**Subject:** Support of Petition for Minimum Standards for 1st Amendment Protections  
**Attachments:** CMAH - Coalition Letter to POST Board.pdf; Proposed Rule Language for POST Board First Amendment Standard (Plain).pdf

Hello Erik,

I am in support of CMAH's request and proposal to the POST's Citizen's Advisory Council to act on the following recommendations:

1. Immediately require that police follow their own local policies on public assembly response or face licensure action.
2. Require the POST Board to work with activists over the next year to draft a model first assembly response policy which all locals would be required to adopt at a minimum.

These are essential changes to guarantee citizens' integrity in the exercise of first amendment rights, as well as trust and accountability in law enforcement.

Thank you for bringing our support to the attention of the Citizen's Advisory Council.

Best,

Rosa

**Rosa Tock**  
Executive Director

**Minnesota Council on Latino Affairs**  
658 Cedar Street, Suite G56  
Saint Paul, MN 55155  
C: 651-592-7487 | [mn.gov/mcla](http://mn.gov/mcla)

 **MINNESOTA**  
COUNCIL ON LATINO AFFAIRS



**First Amendment Standard for Public Assembly Response**  
**Example of Proposed Rule Language**

The following exemplifies policy language that establishes a First Amendment standard for public assembly response. We are requesting that the Ensuring Policy Excellence and Improving Community Relations Advisory Council (1) hears a proposal for a First Amendment standard at its upcoming meeting and (2) passes forward the First Amendment standard with recommendation to the full POST Board to pass into rule under the authority given to it in Minn Stat. § 626.843 Subd. 1(6).

**Section 2 of the A6 Amendment to H.F. 445**

**Model policy required:**

By December 15, 2021, the board, in consultation with the legislative councils of color, the American Civil Liberties Union, community organizations that lead direct action campaigns, the Minnesota Chiefs of Police Association, the Minnesota Sheriffs' Association, the Minnesota Police and Peace Officers Association, and other interested parties, must develop a comprehensive model policy on responding to public assemblies. The policy must be based on best practices in public gathering management drawn from both domestic and international sources. The board must distribute the model policy to all chief law enforcement officers.

**Agency policies required:**

(a) By March 15, 2022, the chief law enforcement officer of every state and local law enforcement agency must establish and enforce a written policy that is identical or substantially similar to the board's model policy described in subdivision 1.

(b) Every state and local law enforcement agency must certify to the board that it has adopted a written policy in compliance with this subdivision.

(c) The board must assist the chief law enforcement officer of each state and local law enforcement agency in developing and implementing policies under this subdivision.

**Application:**

Each chief law enforcement officer and peace officer must comply with the public assembly response policy adopted by the officer's department pursuant to this section even while working in a joint law enforcement environment or outside of the officer's primary jurisdiction.

**Peace officer standards of conduct; public assembly response policy violations:**

**A peace officer who fails to comply with the officer's department's public assembly response policy is in violation of the peace officer standards of conduct maintained by the Peace Officer Standards and Training Board pursuant to section 626.843, subdivision 1, clause (6). The board must revise the peace officer standards of conduct maintained in rule to incorporate this requirement.**

**Compliance reviews authorized:**

**The board has authority to inspect state and local law enforcement agency policies to ensure compliance with subdivision 2. The board may conduct this inspection based upon a complaint it receives about a particular agency or through a random selection process. The board may impose licensing sanctions and seek injunctive relief under section 214.11 for an agency's failure to comply with subdivision 2.**