

Legal Rights Center, Inc.

A LAW FIRM OF AND FOR THE PEOPLE
1611 Park Avenue South, Minneapolis, Minnesota 55404-1683

Phone: (612) 337-0030

Fax: (612) 337-0797

Statement of the Legal Rights Center and ACLU of Minnesota May 31, 2020

The Legal Rights Center and ACLU of Minnesota Demand Immediate Amendment of the Charges in the Derek Chauvin Criminal Complaint and Appointment of a Special Prosecutor

The Legal Rights Center and the American Civil Liberties Union of Minnesota have grave concerns about the legal sufficiency of the criminal complaint charging former Minneapolis Police Officer Derek Chauvin with Third Degree Murder in the death of George Floyd. The charging of Third Degree Murder instead of First or Second Degree Murder may prove to be legally defective and allow Chauvin to evade the punishment warranted for his actions.

The issuance of a potentially defective murder charge, combined with the delay by the Hennepin County Attorney's office in charging Chauvin and the other involved officers, further strengthens and validates demands for appointment of a special prosecutor to handle charges arising from this tragic event and its aftermath. Both the LRC and ACLU-MN fully support and join these demands.

The complaint filed by the Hennepin County Attorney's Office charging former officer Chauvin with Third Degree Murder is potentially deficient on its face and therefore incurably defective because, under Minnesota law, Third Degree Murder applies only when the acts of the defendant were committed without regard to their effect on any particular person, and *not when the actions were directed to a specific person*. Minnesota courts have repeatedly ruled that to support a charge of Third Degree Murder, the offender's actions need to be "eminently dangerous to *more than one person*."¹ This has been the law in Minnesota since 1896 and includes numerous State Supreme Court decisions stretching all the way to the present saying the same thing.

The relevant facts in this case are clear. Officer Chauvin's actions were directed solely towards George Floyd and were not "eminently dangerous" to anyone other than George Floyd, although Chauvin and the other officers may well have been aware that their actions would ultimately spark the public outrage that has ravaged the Twin Cities ever since. The charge for Third Degree Murder therefore potentially will not stick.

It is inconceivable that experienced, professional Hennepin County prosecutors did not recognize the potential flaws in the Third Degree Murder charge. Charging Third Degree Murder instead of charging Second Degree murder or seeking an indictment for First Degree murder only serves to further undermine community trust in the Hennepin County Attorney's Office. This is why the LRC and ACLU-MN demand the IMMEDIATE amendment of the murder charge and appointment of a Special Prosecutor.

¹ *State v. Stewart*, 276 N.W.2d 51, 54 (Minn. 1979) (*emphasis added*).