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July 16, 2024

Re: *Hennepin County Attorney Mary Moriarty's Apparent Violations of the Minnesota Rules of Professional Conduct in the Prosecution of Trooper Ryan Londregan*

Dear Board Members,

We write to formally lodge a complaint against Hennepin County Attorney Mary Moriarty ("Moriarty") for her conduct in the prosecution of Minnesota State Patrol Trooper Ryan Londregan ("Trooper Londregan"), captioned *State of Minnesota v. Ryan Patrick Londregan*, Court File No. 27-CR-24-1844 (the "Proceeding"). Our concerns are substantiated by significant evidence of unethical behavior, as outlined below, which indicates multiple violations of the Minnesota Rules of Professional Conduct. We request a thorough investigation into these matters and appropriate action to address these issues.

Below, we will demonstrate that Moriarty, and the Hennepin County Attorney's Office ("HCAO") under her supervision, violated several of the Minnesota Rules of Professional Conduct.

## **I. Timeline**

### **A. The Underlying Incident**

According to the criminal complaint filed by the HCAO, at approximately 2 a.m. on July 31, 2023, Trooper Londregan arrived at a traffic stop initiated by his colleague, Minnesota State Trooper Brett Seide. ("Seide"), on Interstate 94 in Minneapolis, Hennepin County, Minnesota. Seide had stopped Ricky Cobb II ("Cobb") for driving at night without his lights on. Also present was Minnesota State Trooper Garret Erickson.

The troopers quickly learned that Cobb was the subject of an "attempt to locate" from the Ramsey County Sheriff's Office and was wanted in connection with a felony level violation of an Order for Protection. Under Minnesota statute, peace officers "shall arrest without a warrant and

take into custody a person whom the peace officer has probable cause to believe has violated” such an order for protection, even if the violation took place outside the peace officer’s presence.<sup>1</sup>

Despite having probable cause to immediately arrest Cobb, the troopers went the extra mile. Trooper Seide reached out to dispatch and sought to speak with Ramsey County to confirm that they still wanted Cobb arrested. After receiving that confirmation, Seide then stepped out of his squad car and informed Troopers Londregan and Erickson that the Ramsey County Sheriff’s Office wanted Cobb arrested and brought to jail. Trooper Seide stated that he would do a driver-side approach and—not for the first time—told Trooper Londregan that Cobb was “amped.”

The troopers then approached Cobb’s vehicle, with Trooper Seide approaching the driver-side door, Trooper Londregan approaching the passenger-side door, and Trooper Erickson standing behind Trooper Seide near the rear of the vehicle. Cobb had both front windows rolled down and the doors locked.

In the conversation that followed, Trooper Seide repeatedly directed Cobb to step out of the vehicle, which Cobb refused to do despite Trooper Seide stating that he would explain everything once Cobb exited the vehicle. Trooper Seide attempted to de-escalate by instead directing Cobb to hand over the key to the vehicle, which Cobb also refused to do. During this conversation, Seide repeatedly attempted to open Cobb’s driver-side door but could not do so as it was locked. During the same period, over ten cars drove past the traffic stop at highway speeds on I-94, all within feet of Trooper Seide.

After Cobb refused fifteen separate lawful requests or directives from Trooper Seide to either step out of the vehicle or hand over his key, Trooper Londregan placed his hand slightly inside Cobb’s open passenger-side window, pressed the button to unlock the doors, and began to open Cobb’s passenger-side door. After Trooper Londregan opened the door, Cobb put his foot on the brake, put his right hand on the gear shift, and shifted the car into drive. Cobb’s rear brake light illuminated almost simultaneously with Trooper Londregan’s opening of the passenger door. Also near simultaneously, another vehicle drove past at high speed just feet behind Trooper Seide. Trooper Seide then began to open the driver-side door.

Cobb then took his foot off of his vehicle’s brake. As the car began to move forward, Trooper Seide began to enter the vehicle to remove Cobb from the car. Observing the car moving and Trooper Seide’s arms, head, and torso enter the vehicle, Trooper Londregan reached for his firearm.

Trooper Seide reached in the driver’s compartment, over Cobb, and for Cobb’s seatbelt buckle with his left hand. Simultaneously, Trooper Londregan grabbed for his weapon. Trooper Erickson’s body-worn camera video, since publicly released, shows that Trooper Seide continued to enter the vehicle at this time; the video shows Trooper Seide was so far into the vehicle that his duty belt was obscured.

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<sup>1</sup> Minn. Stat. § 518B.01 subd. 14(e); Minn. Stat. § 629.34 subd. 1(c)(6).

Trooper Londregan drew his service weapon and pointed it at Cobb, who again stopped his car briefly. Trooper Londregan shouted to Cobb, “get out of the car now!” Approximately at the time Trooper Londregan said “car,” Cobb again took his foot off the brake. And as Trooper Londregan said the word “now,” Cobb hit his vehicle’s accelerator—the sound of the engine revving in response is audible on Trooper Erickson’s publicly available body-worn camera video. At this moment, Trooper Seide’s arms, shoulders, upper torso, knees, and head were almost entirely inside the driver-side compartment of the car, and both his feet appear to be off the ground. In addition, as Trooper Londregan pointed his weapon at Cobb, Cobb lifted his right arm towards Trooper Londregan’s gun.

Only then, with Trooper Seide hanging out of the open driver-side door and Cobb hitting the accelerator and reaching towards his gun, did Londregan fire his weapon twice. Both shots struck Cobb.

Trooper Londregan attempted to keep pace with the vehicle but was quickly and violently knocked aside and to the ground. Trooper Seide was dragged by the moving vehicle before being ejected partially into the right lane of traffic. The troopers briefly attempted to run after Cobb’s vehicle on foot before returning to their squad cars to pursue. About a quarter mile away from the stop, the troopers were able to pin Cobb’s vehicle into a concrete barrier and remove Cobb. The troopers attempted life-saving measures, but were unsuccessful.

## **B. The Purported Investigation**

Within days of the underlying incident with Cobb, the HCAO hired Jeffrey Noble (“Noble”), a California-based use-of-force expert. On September 19, 2023, the HCAO published a written press release, attributed to Moriarty, regarding the HCAO’s receipt of the case from the Minnesota Bureau of Apprehension (“BCA”). In the press release, Moriarty stated that her office had already retained a use of force expert—referring to Noble—whose analysis would be “critical” to the charging process.<sup>2</sup>

The HCAO provided Noble with extensive records, documents, videos, interview recordings and transcripts, State Patrol policies, and records relating to the troopers’ training. On October 13, 2023, after receiving and having weeks to review these materials, the HCAO held a video conference with Noble, attended by Moriarty and six other HCAO employees. There, Noble told Moriarty and those under her supervision that if Trooper Londregan shot Cobb because he feared for Trooper Seide’s safety, he would deem the use of force to be reasonable. Noble further explained that a reasonable officer in Trooper Londregan’s position would perceive Trooper Seide was in danger of death or great bodily harm, specifically from being dragged by Cobb’s vehicle as it continued to accelerate. Noble further explained, *inter alia*, that (1) Trooper Londregan did not create the danger to Trooper Seide; (2) even if Trooper Seide’s decision to enter Cobb’s vehicle was unreasonable, that determination did not make Trooper Londregan’s use-of-force

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<sup>2</sup> Press Release, *Hennepin County Attorney’s Office Receives Case in the Killing of Ricky Cobb II*, Hennepin County Attorney’s Office (September 19, 2023) (found at <https://www.hennepinattorney.org/news/news/2023/September/cobb-9-19-23>).

unreasonable; and (3) Trooper Londregan was authorized to reasonably respond to the danger to Trooper Seide.

On December 15, 2023, the lead prosecutor under Moriarty’s supervision contacted Noble regarding, among other things, the grand jury proceeding commenced by the HCAO, and promised to provide Noble with the transcripts of the testimony before the grand jury. The HCAO never did.

### **C. Moriarty Announces Charges Against Trooper Londregan**

On January 24, 2024, the HCAO charged Trooper Londregan with second degree murder, first degree assault, and second-degree manslaughter against Trooper Londregan.<sup>3</sup> The same day, the HCAO announced the charges by another press release—again attributed to Moriarty<sup>4</sup>—and an approximately 8-minute-long press conference held by Moriarty.<sup>5</sup> In both, Moriarty made false and unsupported assertions of fact that could serve only to prejudice Trooper Londregan.

*First*, in her press conference, Moriarty repeatedly claimed that Trooper Londregan had received extensive training that he had disregarded or otherwise failed to follow in the interaction with Cobb or had otherwise violated MSP policy.<sup>6</sup>

*Second*, in the press release, Moriarty stated:

A critical component of the work of the Minnesota State Patrol is engaging with drivers during motor vehicle stops. This is something that State Troopers do every day, and, as a result, they receive extensive training on how to do so safely and effectively. Trooper Londregan did not follow this training.<sup>7</sup>

In addition, Moriarty provided the complaint to the media through her press release.<sup>8</sup> The complaint, signed on Moriarty’s behalf by former Deputy Hennepin County Attorney Mark Osler, contained false and misleading representations. For instance, Moriarty’s complaint alleges:

State Patrol policy also states that members shall not shoot from or at a moving vehicle, except when deadly force is authorized, and that troopers should make

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<sup>3</sup> See Complaint filed January 24, 2024, in the Proceeding (the “Complaint”). All citations to filings herein are made to publicly available filings in the Proceeding made on the dates specified.

<sup>4</sup> Press Release, *Minnesota State Patrol Trooper Ryan Londregan charged in death of Ricky Cobb II*, Hennepin County Attorney’s Office (January 24, 2024) (found at <https://www.hennepinattorney.org/news/news/2024/January/londregan-charging-decision>) (the “January 24, 2024 Press Release”).

<sup>5</sup> HennepinAttorney, *Minnesota State Patrol Trooper Ryan Londregan charged in death of Ricky Cobb II: Press Conference*, YouTube (found at <https://www.youtube.com/watch?v=jSH4Gd5GcUA>).

<sup>6</sup> *Id.* at 0:40 - 0:51, 5:05-5:34, 7:05-8:06.

<sup>7</sup> See January 24, 2024 Press Release.

<sup>8</sup> See *id.*

every effort not to place themselves in a position that would increase the possibility that the vehicle they are approaching can be used as a deadly weapon against them or others.<sup>9</sup>

This portion of the complaint refers to MSP General Order 22-20-012 § VIII. This General Order concerns motor vehicle pursuits. The subject line states “Motor Vehicle Pursuit[.]”<sup>10</sup> The General Order further states, “The purpose of this General Order is to provide guidance on motor vehicle pursuits.”<sup>11</sup> And the General Order defines a “motor vehicle pursuit” as “[a]n active attempt by a sworn member operating a patrol unit to apprehend a driver of a motor vehicle who, having been given a visual and audible signal by a peace officer directing said driver to bring their vehicle to a stop [sic] . . . attempt[s] to elude a peace officer.”<sup>12</sup> In other words, the General Order referenced in Moriarty’s complaint concerns car chases.

In addition, the complaint purports to quote from an interview of the MSP’s “lead use-of-force trainer, referred to as “Trainer A[.]” who provided use-of-force training to Trooper Seide.<sup>13</sup> Specifically, the complaint states:

“Trainer A was asked whether a reasonable officer would believe that pointing a gun at a fleeing driver and yelling at the driver to stop would cause the driver to stop. Trainer A said, “No.” Trainer A was asked, “Would it be foreseeable to expect the exact opposite, meaning [the driver] would continue to leave?” Trainer A responded, “That was probably his intention to flee the area, so he’s gonna keep going in that direction away from me.”<sup>14</sup>

Neither the complaint nor the press release mentioned Noble, the expert Moriarty had claimed would be so “critical” to the charging decision. When asked by a reporter at the press conference, Moriarty claimed that the HCAO was able to determine “through investigation that came after that statement that charges were appropriate without the use of an expert.” In truth, the HCAO had “determined that charges were appropriate” *despite* Noble—and had purposefully sidelined Noble when his opinion did not support the charges that Moriarty had already decided to bring.

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<sup>9</sup> Compl. at 5.

<sup>10</sup> Minnesota State Patrol General Order 22-20-012 at “Subject:” (found at <https://dps.mn.gov/divisions/msp/dashboard/Documents/msp-general-orders-section-20-operations.pdf>).

<sup>11</sup> *Id.* § I (“Purpose”).

<sup>12</sup> *Id.* § III.A.1.

<sup>13</sup> Compl. at 5.

<sup>14</sup> *Id.*

Two days later, January 26, 2024, Moriarty’s office contacted Noble and directed him to stop working.<sup>15</sup>

#### **D. Moriarty’s Office Falsely Claims to Have Evidence of Other Offenses and to Seek an Aggravated Sentence**

On February 1, 2024, the HCAO publicly filed its “Notice of Prosecuting Attorney Pursuant to Rule 7” (the “Rule 7 Notice”).<sup>16</sup> In its Rule 7 Notice, Moriarty’s HCAO stated, “The State will seek to prove that Defendant [Londregan] committed additional offenses on other occasions” and “the State will seek an aggravated sentence.”

The next day, February 2, 2024, the HCAO filed an “Amended Notice of Prosecuting Attorney Pursuant to Rule 7” (the “Amended Rule 7 Notice”). In the Amended Rule 7 Notice, the State walked back their claims from the first Rule 7 Notice, stating “[i]t is unknown at this time whether the defendant has committed additional offenses on other occasions” and “[i]t is unknown at this time whether the State will seek an aggravated sentence.”<sup>17</sup>

#### **E. Moriarty’s Office Publicly Claims to Possess Secret Grand-Jury Testimony Establishing That Trooper Londregan Disregarded His Training**

On March 7, 2024, Moriarty’s HCAO filed a motion to quash a subpoena Trooper Londregan’s defense team had served upon Noble (the “Motion to Quash”).<sup>18</sup> On March 11, 2024, Trooper Londregan filed his response in opposition to the Motion to Quash (the “Response”).<sup>19</sup> In his Response, Trooper Londregan quoted extensively from meeting notes prepared by Moriarty’s HCAO regarding the October 13, 2023 meeting between Moriarty and other HCAO employees and included several screenshots of entire paragraphs.<sup>20</sup>

In reply to Trooper Londregan’s Response, Moriarty’s HCAO released a lengthy statement to the media.<sup>21</sup> In its Statement, Moriarty’s HCAO claimed, in part:

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<sup>15</sup> Fox9 Staff, *Ricky Cobb II shooting: Documents related to State Trooper use-of-force released*, Fox-9 (March 29, 2024) at “Exhibit 8” (found at <https://www.fox9.com/news/ricky-cobb-ii-shooting-documents-londregan>).

<sup>16</sup> See Notice of Prosecuting Attorney Pursuant to Rule 7, filed in the Proceeding on February 1, 2024.

<sup>17</sup> See Amended Notice of Prosecuting Attorney Pursuant to Rule 7, filed in the Proceeding on February 2, 2024.

<sup>18</sup> See State’s Notice of Mot. and Mot. to Quash Subpoena for Records Held by Third-Party, filed in the Proceeding on March 7, 2024.

<sup>19</sup> See Defendant Ryan Londregan’s Memorandum of Law in Opposition to State’s Motion to Quash Subpoena to Jeffrey Noble, and in Support of Motion to Compel Discovery Related To, and Deposition of, Jeffrey Noble, filed March 11, 2024.

<sup>20</sup> See *e.g.*, *id.* at 7, 8, 9 & 10.

<sup>21</sup> See News Release, *Hennepin County Attorney’s Office statement on Londregan case*, Hennepin County Attorney’s Office (March 11, 2024) (found at <https://content.govdelivery.com/accounts/MNHENNE/bulletins/38ffe26>).

The defense has selectively quoted a partial sentence of a lengthy document provided to them in the course of the confidential discovery process. The cherry-picked sentence excludes critical facts where the expert acknowledged information he would need to fully analyze the case. Specifically, the expert stated that he did not know the new use of force legal standard in Minnesota or how to interpret, that he did not have a statement from Trooper Londregan, and that critical details related to Trooper Londregan’s training were missing. Additionally, he did not have the information from the three months of investigation that occurred after this preliminary conversation, including grand jury transcripts detailing the extensive training that Londregan received on how to effectively and safely handle traffic stops involving potential fleeing drivers.<sup>22</sup>

The press statement from the HCAO further accused Trooper Londregan of “abusing the legal process.”<sup>23</sup>

#### **F. Sergeant Jason Halvorson Swears Under Oath that the Complaint Lies by Omission and Is Misleading**

On March 20, 2024, Trooper Londregan filed the sworn declaration of Minnesota State Patrol Sargent Jason Halvorson (the “Halvorson Declaration”).<sup>24</sup> In his declaration, Sgt. Halvorson states, among other things:

- (1) that he is the use-of-force trainer referred to as “Trainer A” in the complaint;<sup>25</sup>
- (2) that the author of the complaint “lied by omission” through “cherry-pick[ing] one sentence from a 37-page interview transcript and exclude[ing] critical facts and context thereby purposefully misleading the reader of the complaint”;<sup>26</sup>
- (3) that he offered to perform a full use-of-force review for HCAO, but his offer was not accepted;<sup>27</sup>
- (4) he had reviewed, among other things, relevant training materials and the publicly available videos, and concluded that Trooper Londregan had acted in accordance with his training and had not violated any MSP use-of-force General Order;<sup>28</sup> and

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*Id.*

23

*Id.*

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See March 19, 2024 Declaration of Jason Halvorson, enclosed herewith.

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*Id.* ¶ 19.

26

*Id.* ¶¶ 22, 27.

27

*Id.* ¶ 31.

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*Id.* ¶¶ 32, 34, 35.

(5) that he had not relied upon the MSP vehicle pursuit policy, as this was not a vehicle pursuit.<sup>29</sup>

In response to the Halvorson Declaration becoming public, Moriarty's HCAO released another written statement to the media. In this statement, Moriarty's HCAO stated:

Unfortunately, the defense continues to inappropriately use the court process to file baseless press releases. Now, they have introduced false accusations against Deputy County Attorney Mark Osler. There is significant evidence that supports the charges in this case. The complaint is accurate and lays out the evidence to establish probable cause.

The affidavit filed by the defense notably doesn't reference evidence revealed during the Grand Jury, during which Sergeant Halvorson testified. As the defense knows, the law prevents us from revealing Grand Jury evidence at this stage of the proceedings, and also prevented this information from being included in the complaint. We will address the voluminous defense filings and litigate the case in court, and not in the press.<sup>30</sup>

The next day, March 21, 2024, Judge Tamara Garcia entered a "Court Management Order" generally restricting the contents of motions and prohibiting the parties from filing exhibits except at hearings following the Court's ruling on their admissibility "[s]o that the Court can regulate its schedule, ensure that only properly admitted evidence is contained in the record, and give the parties the opportunity to be fully heard[.]"<sup>31</sup> Regarding this Order, Moriarty's HCAO put out another press statement, saying:

We have said from the beginning this case should be tried in the courtroom and not through the media. We were grateful for the judge's order today that will not allow filings that are intended to influence the public and the press. The judge made clear she wants a fair and orderly trial in the courtroom, and we are hopeful that will now be possible. We encourage elected officials and others not involved in the case to take the judge's comments to heart and refrain from creating more confusion by commenting on the ongoing case. Their comments disregard the established legal

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<sup>29</sup> *Id.* ¶ 33.

<sup>30</sup> Lou Raguse, *State Patrol trainer cited in Londregan murder complaint accuses prosecutors of lying by omission*, Kare11 (March 20, 2024) (found at <https://www.kare11.com/article/news/local/courts-news/state-patrol-trainer-cited-in-londregan-criminal-complaint-says-prosecutors-lied-by-omission-sgt-jason-halvorson/89-dc4b2aca-bf13-4368-8478-0fbb183fdb62>).

<sup>31</sup> Court Management Order, *State of Minnesota v. Ryan Patrick Londregan*, Court File No. 27-CR-24-1844, entered March 21, 2024.



process, politicize the case, threaten the possibility of a fair trial, and ignore that there is a grieving family that is watching this unfold in the press.<sup>32</sup>

In the days following this press statement criticizing others for “politiciz[ing] the case” and “threaten[ing] the possibility of a fair trial[,]” Moriarty repeatedly published, or republished, statements about the case via her accounts on X.com, formerly known as Twitter. These included tweets calling Trooper Londregan a “bad cop”<sup>33</sup>; claiming Trooper Londregan “abuse[d] [his] power”<sup>34</sup>; accusing Trooper Londregan of “abusing the legal process”<sup>35</sup>; and promoting an article injecting race issues into the case and accusing Trooper Londregan of using “MAGA” tactics<sup>36</sup> and lying<sup>37</sup>.

### **G. Additional MSP Trainers, including a Current Major, Contradict Moriarty and the HCAO’s Statements**

Following the filing of the Halvorson Declaration, on March 24, 2024 and April 1, 2024, MSP Lieutenant Jonathan Wenzel—the firearms trainer who trained Trooper Londregan—and retired Technical Sergeant Troy Morrell—the MSP Emergency Vehicle Operations/Vehicle Contacts Coordinator that trained Trooper Londregan—also signed declarations (respectively, the “Wenzel Declaration” and the “Morrell Declaration”). Both swore that they had reviewed the publicly available videos of the incident and certified that Londregan had acted in accordance with

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<sup>32</sup> Kelsey Christensen and Krystal Frasier, *Hennepin County judge issues ruling on filings in Londregan case*, KSTP (March 21, 2024) (found at <https://kstp.com/kstp-news/top-news/hennepin-county-judge-issues-ruling-on-filings-in-londregan-case/>).

<sup>33</sup> @adekela\_lacy, Twitter.com (March 24, 2024) (found at [https://twitter.com/akela\\_lacy/status/1772018453437669381](https://twitter.com/akela_lacy/status/1772018453437669381)) (retweeted by @MaryMoriarty).

<sup>34</sup> @MaryMoriarty, Twitter.com (found at <https://twitter.com/MaryMoriarty/status/1772239348152275207>); @DanielMedwed, Twitter.com (March 25, 2024) (found at <https://twitter.com/danielmedwed/status/1772225858037518481>) (publishing Akela Lacy, *Prosecute a Cop? You’ll Face Removal from Office*, The Intercept (March 22, 2024)) (retweeted by @MaryMoriarty).

<sup>35</sup> @MaryMoriarty, Twitter.com (March 26, 2024) (found at <https://twitter.com/MaryMoriarty/status/1772775156005376070>) (publishing Mohamed Ibrahim, ‘*This isn’t about justice*’: Cobb family blasts calls to take trooper murder case from Moriarty’s office, MinnPost (March 26, 2024)); @MinnPost, Twitter.com (March 26, 2024) (publishing same article) (retweeted by @MaryMoriarty) (found at <https://twitter.com/MinnPost/status/1772662295014859095>).

<sup>36</sup> @MaryMoriarty, Twitter.com (March 28, 2024) (found at <https://twitter.com/MaryMoriarty/status/1773532945921278083>) (publishing Michael Collins, *Editorial Counterpoint: Let Moriarty pursue her state trooper case without interference*, Star Tribune (March 27, 2024) (found at <https://www.startribune.com/editorial-counterpoint-let-moriarty-pursue-her-state-trooper-case-without-interference/600354526/>).

<sup>37</sup> @ColorofChange, Twitter.com (March 31, 2024) (available at <https://twitter.com/ColorOfChange/status/1774525634884080063>) (publishing Liz Sayer and Kim Hyatt, *Memo: Use-of-Force expert in Minnesota state trooper case gave no final opinion in motorist’s fatal shooting*, Star Tribune (March 29, 2024)) (retweeted by @MaryMoriarty).

his training and had not violated any of the use-of-force General Orders.<sup>38</sup> Sgt. Morrell, the Vehicle Operations coordinator, further stated under oath that Trooper Londregan had not violated the “Minnesota State Patrol Pursuit Policy” referenced in the complaint.<sup>39</sup>

Despite these declarations, Moriarty told the New York Times that “she decided a use-of-force expert was not needed” because her office had “concluded that the troopers had acted in a way that was contrary to their training for such situations.”<sup>40</sup>

On April 23, 2024, current MSP Major Christopher Erickson also signed a declaration (the “Erickson Declaration”).<sup>41</sup> In his Declaration, Major Erickson explained that he oversaw the development of the MSP Pursuit and Use-of-Force policies<sup>42</sup> and that his duties specifically include reviewing use-of-force and pursuit incidents.<sup>43</sup> In fact, Major Erickson’s declaration explained that he has reviewed *hundreds* of use-of-force and pursuit incidents.<sup>44</sup> Major Erickson went on to explain that the pursuit policy relied upon by Moriarty, General Order 22-20-012, “would not be applicable to the situation Troopers Seide and Londregan were confronted with on July 31, 2023.”<sup>45</sup> This is because General Order 22-20-012 only applies to motor vehicle pursuits, which is not the situation faced by Trooper Londregan.<sup>46</sup> And Major Erickson further stated that, even if the motor vehicle pursuit policy *did* apply, Trooper Londregan’s actions would not have violated the policy, because he was authorized to use deadly force.<sup>47</sup> Moreover, Major Erickson states, under oath, that he has reviewed “the body worn cameras and motor vehicle recordings” of the incident and that Trooper Londregan did not violate the State Patrol’s use-of-force policy.<sup>48</sup>

## H. Moriarty Hires Private Counsel to Prosecute Londregan

On April 25, 2024, news broke that Assistant Hennepin County Attorney Joshua Larson, the lead prosecutor assigned to Trooper Londregan’s case, had left the prosecution.<sup>49</sup> Moriarty’s

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<sup>38</sup> Declaration of Lt. Jonathan Wenzel, enclosed herewith, ¶¶ 11-13; Declaration of Sgt. Troy Morrell, enclosed herewith, ¶¶ 7-11.

<sup>39</sup> Morrell Decl. ¶ 11.

<sup>40</sup> Ernesto Londoño, *This Prosecutor Pledged to Change George Floyd’s City. Her Critics Are Circling.*, The New York Times (April 14, 2024) (found at [https://www.nytimes.com/2024/04/14/us/minneapolis-prosecutor-george-floyd-moriarty.html?unlocked\\_article\\_code=1.kU0.LdqM.ltBFfE2V5NHA&smid=url-share](https://www.nytimes.com/2024/04/14/us/minneapolis-prosecutor-george-floyd-moriarty.html?unlocked_article_code=1.kU0.LdqM.ltBFfE2V5NHA&smid=url-share)).

<sup>41</sup> See Declaration of Maj. Christopher Erickson and exhibits thereto, enclosed herewith.

<sup>42</sup> *Id.* ¶¶ 12-13

<sup>43</sup> *Id.* ¶ 14.

<sup>44</sup> *Id.* ¶ 18.

<sup>45</sup> *Id.* ¶¶ 24-26.

<sup>46</sup> *Id.* ¶¶ 27-28.

<sup>47</sup> *Id.* ¶¶ 29-43.

<sup>48</sup> *Id.* ¶ 50.

<sup>49</sup> Kim Hyatt and Christopher Magan, *Prosecutor shake-up in Mary Moriarty’s office in murder case against state trooper Ryan Londregan*, Star Tribune (April 25, 2024) (found at <https://www.startribune.com/prosecutor-shake-up-underway-in-murder-case-against-state-trooper/600361654/>).

office claimed that they were “assembling a new prosecution team to handle what is an extraordinarily resource intensive case that will involve extensive litigation prior to trial.”<sup>50</sup>

On April 29, 2024, the HCAO announced that they would be retaining a group of private attorneys from the law firm Steptoe, LLP to take over the prosecution against Trooper Londregan.<sup>51</sup>

### **I. Another MSP Trainer Signs a Declaration Certifying that Londregan Followed His Training**

On May 20, 2024, Technical Sergeant David Johnston signed a declaration stating that he was an MSP firearms and use-of-force instructor who trained Trooper Londregan and was the current MSP firearms coordinator.<sup>52</sup> Sgt. Johnston further certified that he had reviewed the publicly available videos of the incident and that Trooper Londregan had acted consistently with his training and had not violated the MSP’s use-of-force General Orders.<sup>53</sup>

### **J. Moriarty Dismisses the Charges Against Londregan and Admits to Having No Evidence that Trooper Londregan Disregarded his Training or Violated MSP Policy**

On June 2, 2024, Moriarty’s Office abruptly dismissed the charges against Londregan under Minn. R. Crim. P. 30.01, citing purported “new evidence presented.” Shortly after, the Star Tribune published a story regarding the dismissal, revealing that before Moriarty’s office actually dismissed the case, she sat for a “lengthy interview” with the newspaper in order to spin the decision before making the defense or the Court aware of the dismissal.<sup>54</sup> Moriarty’s office also published *yet another* press release attributing statements to Moriarty,<sup>55</sup> including an “open letter to the community” from Moriarty personally<sup>56</sup> and the “executive summary” of a report prepared by Steptoe.

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<sup>50</sup> *Id.*

<sup>51</sup> Emily Baude & Brittney Ermon, *HCAO adds 4 ex-federal prosecutors to new team handling Trooper Londregan case*, KSTP (April 29, 2024) (found at <https://kstp.com/kstp-news/top-news/hcao-adds-4-ex-federal-prosecutors-to-new-team-handling-trooper-londregan-case/>).

<sup>52</sup> Declaration of Sgt. David Johnston Declaration, enclosed herewith, ¶¶ 4-5, 11.

<sup>53</sup> *Id.* ¶¶ 16-17.

<sup>54</sup> Andy Mannix, *Hennepin County Attorney Mary Moriarty drops murder charges against state trooper in shooting of Ricky Cobb II*, Star Tribune (June 2, 2024) (found at <https://www.startribune.com/hennepin-county-attorney-mary-moriarty-will-drop-murder-charges-against-state-trooper-in-shooting/600370487/>).

<sup>55</sup> Press Release, *County Attorney Announces Dismissal of Case Against MSP Trooper Londregan Following Disclosure of New Evidence by the Defense; Press Conference to Follow Monday*, Hennepin County Attorney’s Office (June 2, 2024) (available at <https://www.hennepinattorney.org/news/news/2024/May/rl-release>) (the “June 2 Press Release”).

<sup>56</sup> Letter from Mary F. Moriarty “To the Minneapolis Community”, undated, (found at <https://mc-379cbd4e-be3f-43d7-8383-5433-cdn-endpoint.azureedge.net/>).

In this Executive Summary, Steptoe—under Moriarty’s supervision—admitted that “there is no evidence that Seide or Londregan’s actions contravened their training”<sup>57</sup> and “the evidence does not establish that Seide or Londregan disregarded their training during their encounter with Mr. Cobb.”<sup>58</sup> In other words, the Executive Summary directly contradicted Moriarty and her office’s claims that Trooper Londregan disregarded or otherwise failed to follow his training. Similarly, the Executive Summary admitted that “none of the steps [the troopers] could have taken or should have taken were required by law, policy or training, according to the expected testimony of MSP academy trainers . . . and the Special Prosecutors’ use of force expert.”<sup>59</sup> Indeed, the Executive Summary admitted that “there is no requirement—in law, MSP policy, or MSP training—that troopers continue to try to de-escalate a situation for a set period of time”; “trooper Londregan was permitted by MSP policy and training to open Mr. Cobb’s passenger side door in an effort to extract Mr. Cobb”; and “the troopers’ [alleged] decision to attempt to extract Mr. Cobb while the car was in drive . . . was not contrary to their training or any policy in place at the time.”<sup>60</sup>

The Executive Summary also relied upon an unnamed expert retained by Steptoe, who apparently opined that an officer in Trooper Londregan’s circumstances “could have, with objective reasonableness, perceived that he and Trooper Seide were in imminent danger of serious bodily injury or death because they were partially inside of a fleeing vehicle.”<sup>61</sup> In other words, Moriarty’s office shopped around for another expert, but the new expert told them essentially the same thing that Noble had told them in October 2023.

#### **K. Moriarty Holds Another Press Conference and Repeats False Statements of Fact Regarding the Case**

Not content with her preemptive Star Tribune interview, her press release, her open letter, and her Executive Summary, Moriarty also held a press conference on the morning of June 3, 2024.<sup>62</sup> The press conference lasted approximately 42 minutes.

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[/media/cao/news/2024/May/20240602\\_openletter.pdf?rev=a636f54fcfc24ddba94f76732ff44299&hash=617B6943C937357A0F3E5C0DA0405CC8](https://media/cao/news/2024/May/20240602_openletter.pdf?rev=a636f54fcfc24ddba94f76732ff44299&hash=617B6943C937357A0F3E5C0DA0405CC8)) (the “Open Letter”).

<sup>57</sup> Executive Summary, Special Prosecutors’ Report and Recommendations in *State v. Ryan Patrick Londregan*, Submitted to the Hennepin County Attorney’s Office (dated June 2, 2024) (available at <https://mc-379cbd4e-be3f-43d7-8383-5433-cdn-endpoint.azureedge.net/-/media/cao/news/2024/May/executive-summary.pdf?rev=5fc91076ef37415b805ecf57293954ed&hash=304CC2F6BE7874930A1C61E84F6BD5B9> at v.)

<sup>58</sup> *Id.* at iii.

<sup>59</sup> *Id.* at v.

<sup>60</sup> *Id.* at vi.

<sup>61</sup> *Id.* at iv.

<sup>62</sup> Fox 9 Minneapolis-St. Paul, *Hennepin County Attorney Mary Moriarty on Trooper Londregan case dismissal [Raw]*, YouTube (June 3, 2024) (“June 3 Press Conference Video”) (found at <https://www.youtube.com/watch?v=D80VgHfDiV4>).

During the press conference, Moriarty made multiple claims:

- (1) Moriarty stated that her office dismissed the prosecution, rather than proceeding to trial, because a loss at trial would mean that “[Trooper] Londregan and [the Minnesota Police and Peace Officers Association] would be able to talk about ‘hey there was a jury verdict’ and we then would not really be able to talk as effectively about the systemic that set that up to happen”<sup>63</sup>—apparently in reference to Trooper Londregan’s Fifth Amendment right to not provide statements to Moriarty’s office regarding the charges against him. Yet in the same press conference, Moriarty claimed that the dismissal was “absolutely not” a political decision.<sup>64</sup>
- (2) Moriarty claimed that the troopers never told Cobb that he was under arrest.<sup>65</sup> The criminal complaint alleges, “Trooper A interjected by stating for the first time, “This is now a lawful arrest.”<sup>66</sup>
- (3) Moriarty claimed that, based on the information uncovered during the grand jury process, the Trooper Londregan and Trooper Seide “had some training on extraction from a car. They didn’t follow that training at all.”<sup>67</sup>
- (4) Moriarty claimed that her office possessed another expert opinion describing allegedly “horrible, horrible tactics” used by Trooper Londregan and a 60-page report prepared by Steptoe. Moriarty claimed that her office intended to release the full-60 page report prepared by Steptoe, but because the report relied upon grand-jury materials, they would first seek an order from the court authorizing the release of these materials. Moriarty’s office would inexplicably wait weeks before taking any action to seek that court order—doing so only shortly before the Fourth of July holiday week.

#### **L. Moriarty Repeats False Claims in Radio Interview**

The next day, June 4, 2024, Moriarty organized a radio interview by WCCO, during which she again addressed the Londregan prosecution.<sup>68</sup> Again, Moriarty repeated her false claim that the Troopers had never told Cobb that he was under arrest.<sup>69</sup>

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<sup>63</sup> *Id.* at 17:55—18:28.

<sup>64</sup> *Id.* at 41:00—41:12.

<sup>65</sup> *Id.* at 22:00—24:15.

<sup>66</sup> Compl. at p. 4.

<sup>67</sup> June 3 Press Conference Video at 29:29—29:41.

<sup>68</sup> The Morning News with Vineeta Sawkar, published June 4, 2024, (found at <https://omny.fm/shows/the-morning-news-with-vineeta-sawkar/hennepin-county-attorney-explains-why-charges-were>) (the “June 4 Radio Appearance”).

<sup>69</sup> *Id.* at 10:50-10:52, 13:12-13:14, & 13:32-13:45.

## II. VIOLATIONS OF THE RULES OF PROFESSIONAL CONDUCT

### A. Rule 3.6 (Prejudicial Pretrial Publicity)

Minnesota Rule of Professional Conduct 3.6(a) provides, “A lawyer who is participating or has participated in the investigation or litigation of a criminal matter shall not make an extrajudicial statement about the matter that the lawyer knows or reasonably should know will be disseminated by means of public communication and will have a substantial likelihood of materially prejudicing a jury trial in a pending criminal matter. In addition, Minnesota Rule of Professional Conduct 3.6(c) provides, “No lawyer associated in a firm or government agency with a lawyer subject to paragraph (a) shall make a statement prohibited by paragraph (a).”

Moriarty, and those under her supervision, made numerous extrajudicial statements for publication about the case against Trooper Londregan from the very beginning of the case. These included, but are not limited to:

- (1) Moriarty’s September 19, 2023 press release announcing that her office had received the case from the BCA and that Noble would be a “critical” to the charging process;
- (2) Moriarty’s January 24, 2024 press release announcing the charges against Trooper Londregan, and claiming that, *inter alia*, Trooper Londregan “receive[d] extensive training” and “did not follow this training”;
- (3) Moriarty’s January 24, 2024 press conference announcing the charges against Trooper Londregan claiming, *inter alia*, that Trooper Londregan received extensive training that he did not follow and violated Minnesota State Patrol policy;
- (4) Moriarty’s office’s March 7, 2024 press statement claiming to possess “grand jury transcripts detailing the extensive training that Londregan received on how to effectively and safely handle traffic stops involving potential fleeing drivers”;
- (5) Moriarty’s office’s March 20, 2024 press statement again claiming to possess secret “evidence revealed during the Grand Jury” justifying the charges;
- (6) Moriarty’s April 2024 statement to the New York Times that an expert was unnecessary because Trooper Londregan’s actions were contrary to his training; and
- (7) Moriarty’s incessant tweeting about the case and Trooper Londregan.

All discussed above. Moriarty and those under her supervision repeatedly courted pretrial publicity that they knew would be substantially likely to materially prejudice a jury. Indeed, their knowledge of this risk is highlighted by their repeated claims that they intended to try the case in the courtroom—undercut by their efforts to shape a preferred public narrative throughout the

prosecution and after dismissal. The improper nature of this conduct is underscored by the fact that many of these prejudicial statements—particularly the repeated allegations that Londregan acted contrary to his training or violated MSP policy—were knowingly false, as discussed immediately below.

### **B. Rules 4.1 (Knowingly False Statements of Fact or Law) and 3.3 (Candor Toward the Tribunal)**

Minnesota Rule of Professional Conduct 4.1 provides, “In the course of representing a client a lawyer shall not knowingly make a false statement of fact or law.” Minn. R. Prof. Conduct 4.1. Moriarty and her office repeatedly violated this rule by knowingly making false statements of fact while representing the State against Trooper Londregan. In particular:

*First*, Moriarty and her office repeatedly claimed to the press that Trooper Londregan had disregarded or failed to follow his “extensive” training and had violated MSP policy and that these allegations were supported by grand-jury evidence and so could not be made public. But the Executive Summary published by Moriarty’s office and relied upon by Moriarty in her press release and press conference admits that there is “no evidence” that Trooper Londregan’s actions contravened his training or violated any MSP policy, as discussed above. Both statements cannot be true—Moriarty either had evidence or did not. Consequently, Moriarty and her office, at a minimum, made false statements of fact to the public regarding Trooper Londregan’s training and MSP policy.

*Second*, Moriarty repeatedly claimed that none of the troopers on the scene told Cobb he was under arrest, as discussed above. But this is contradicted by *her own criminal complaint*, signed on her behalf by her former chief deputy, Mark Osler.<sup>70</sup> Thus, either Moriarty’s claims to the media are false or the complaint signed on her behalf by her chief deputy violates Rule 3.3(a)(1) (“A lawyer shall not knowingly: (1) make a false statement of fact or law to a tribunal, or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer[.]”).

*Third*, Sgt. Halvorson asserted, under oath, that the author of the complaint “lies by omission” and “purposefully mislead[s] the reader” of the complaint in its selective and out-of-context use of quotations attributed to him as “Trainer A.”<sup>71</sup> These are serious allegations and should be investigated to determine if Moriarty violated Rule 3.3(a) through filing the Complaint and Rule 4.1 through publicizing the false allegations via Moriarty’s press release.

### **C. Rule 8.4 (Conduct Prejudicial to the Administration of Justice)**

Minnesota Rule of Profession Conduct 8.4: Misconduct reads, “It is professional misconduct for a lawyer to: [...] (d) engage in conduct that is prejudicial to the administration of justice. Notably, “[l]awyers holding public office assume legal responsibilities going beyond those of other citizens.” *Id.* [Comment 3]. The Minnesota Supreme Court has explained that “[a]

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<sup>70</sup> Compl. at p. 4. (“Trooper A interjected by stating for the first time, “This is now a lawful arrest.”).

<sup>71</sup> Halvorson Decl. ¶¶ 22 & 27.



prosecutor holds a unique and powerful position in a democratic society.” *State v. Erickson*, 589 N.W.2d 481, 485 (Minn. 1999). Indeed, the Supreme Court has held “that a prosecutor ‘is a minister of justice,’ and thus [her] job is to seek justice rather than convictions.” *Id.* (citing *State v. Salitros*, 499 N.W.2d 815, 817 (Minn. 1993)).

Moriarty’s conduct with respect to Trooper Londregan falls far short of acting as a minister of justice. As discussed above, Moriarty personally and those under her supervision commenced this prosecution despite the publicly available video demonstrating the obvious and immediate threat of harm Cobb’s attempted flight in a motor vehicle posed to Trooper Seide. Moriarty announced to the public that her office had retained an independent use-of-force expert whose analysis would be “critical” to the charging decision, then jettisoned that expert when it became clear that his analysis would not support the charges Moriarty had already determined she would bring. After the lead prosecutor quit the case and none of the many career attorneys in her office would agree to take it over, Moriarty found a private, DC-based law firm willing to accept public funds to write a 60-page report—also non-public—attempting to justify her decisions. Only when yet *another* expert reached the same conclusion as every reasonable person to review the evidence in the case—that no conviction could be had—did Moriarty finally dismiss the baseless charges. All the while, Moriarty and her deputies repeatedly sought publicity for their claims that, among other things, they possessed extensive evidence that Trooper Londregan disregarded his training and violated State Patrol policy—evidence they claimed could not be made public—only to belatedly admit that no such evidence existed. And even *then*, after dismissing the unsupported charges, Moriarty used her office to continue her campaign against Trooper Londregan by repeatedly seeking to publicize false statements despite contradicting her own criminal complaint.

Taken together, Moriarty’s conduct can be explained only by a desire to prosecute a peace officer—regardless of the facts—to achieve political ends. Moriarty *admitted* that even the decision to finally dismiss was based on the impact a verdict of acquittal would have on her preferred policy goals, not on the interests of justice. And the timing of the dismissal—late on a Sunday afternoon—was likely the result of learning of “credible rumors” that her office would soon be losing control of the case.<sup>72</sup> In other words, both the decision to prosecute and the decision to dismiss were made based on political considerations, not on the impact a months-long murder prosecution of a plainly innocent man would have on the defendant or the interests of justice generally. For Moriarty and her office to make these decisions, ignoring or suppressing all indications of innocence, and then attempt to shape a prejudicial public narrative based on lies is “prejudicial to the administration of justice” and violates Rule 8.4.

### III. Conclusion

Moriarty’s conduct is beneath the dignity of her office. Yet rather than acknowledge her errors in judgment or the deficiencies in the process she oversaw, Moriarty has repeatedly called

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<sup>72</sup> Andy Mannix, Rochelle Olson and Liz Sawyer, *Gov. Walz planned to remove Moriarty from trooper prosecution, fueling speculation over dismissal*, Star Tribune (June 3, 2024) (found at <https://www.startribune.com/walz-said-he-planned-to-remove-moriarty-from-state-trooper-murder-prosecution/600370692/?refresh=true>).



her unjustifiable prosecution of an innocent man not only “ethical,” but “courageous.”<sup>73</sup> This body should not abide such brazen disregard for the responsibilities of any attorney, but particularly not for the elected prosecutor of this state’s largest county. For these reasons and those discussed above, we respectfully request that the Board thoroughly investigate these matters and take appropriate action.

Please do not hesitate to contact us for additional information.

Yours Truly,



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Jim Schultz (0395125)



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Brian Peters (Executive Director, Minnesota  
Police and Peace Officers Association)

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<sup>73</sup> See, e.g., Andy Mannix, *Hennepin County Attorney Mary Moriarty drops murder charges against state trooper in shooting of Ricky Cobb II*, Star Tribune (June 2, 2024) (found at <https://www.startribune.com/hennepin-county-attorney-mary-moriarty-will-drop-murder-charges-against-state-trooper-in-shooting/600370487/>); Moriarty’s Open Letter; the June 4 Radio Appearance at 1:31—1:44; June 3 Press Conference Video at 40:40—41:21.