

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

State of Minnesota,

Case Type: Criminal

Court File No. 27-CR-20-12953

Plaintiff,

vs.

**STATE'S NOTICE OF INTENT
TO OFFER OTHER EVIDENCE**

J. Alexander Kueng,

Defendant.

TO: The Honorable Peter A. Cahill, Judge of District Court, the above-named Defendant and Defendant's attorney, Thomas Plunkett, U.S. Bank Center, 101 East Fifth Street, Suite 1500, St. Paul, MN 55101.

Please take notice that at the trial of the above-captioned matter, the State intends to offer evidence of the following:

On December 23, 2019, Defendant and fellow officers encountered an intoxicated, injured, and uncooperative individual. During their encounter with this individual, Defendant and his fellow officers struck the individual, took the individual to the ground, and used their body weight to pin the individual on the ground in the prone position to prevent injury to officers and to place the individual in handcuffs. Once the individual was handcuffed and had calmed down, the individual was brought to his feet and placed in a squad car. *See* MPD Case #2019-375167.

In this above-entitled case, on May 25, 2020, Defendant and his codefendants believed that the victim George Floyd was intoxicated, uncooperative, and injured and restrained Mr. Floyd by placing their body weight on his neck, back, and legs, while Mr. Floyd laid in prone position on the ground. Defendant shifted his body weight onto Mr. Floyd's back, contributing conduct which rendered Mr. Floyd unconscious. Defendant and his codefendants

continued to restrain Mr. Floyd in this position beyond the point when such force was needed under the circumstances causing Mr. Floyd's death.

In the upcoming trial, the State anticipates that Defendant or defense counsel may claim that Defendant did not intentionally assault Mr. Floyd in a manner inconsistent with training.

To meet its burden of proof and in light of anticipated defenses, the State seeks to introduce in its case in chief the circumstances surrounding the above-listed incident to prove Defendant's knowledge of and experience in a comparable scenario; common scene or plan; absence of a justifiable mistake, accident, or misunderstanding; and state of mind at the time of the crime. The State intends to prove the underlying conduct by offering testimonial evidence, photographic and video evidence, and any other supporting documentation.

Please note that the State intends to file a separate memorandum in support of admission of this evidence prior to trial. In addition, the State may offer evidence of other acts, instances of specific conduct, and prior convictions pursuant to Minn. R. Evid. 404, 608, and 609. At this time, however, the State is still receiving, reviewing, and disclosing materials related to these types of evidence and will file notices to admit such evidence as soon as it is identified by the State.

Dated: September 10, 2020

Respectfully submitted,

KEITH ELLISON
Attorney General
State of Minnesota

/s/ Matthew Frank
MATTHEW FRANK
Assistant Attorney General
Atty. Reg. No. 021940X

445 Minnesota Street, Suite 1400
St. Paul, Minnesota 55101-2131
(651) 757-1448 (Voice)
(651) 297-4348 (Fax)
matthew.frank@ag.state.mn.us

ATTORNEYS FOR PLAINTIFF