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I. INTRODUCTION

In this year of commemorations of the Declaration of Independence's 250th anniversary, much attention has been paid to the Declaration's ideals about self-evident truths and inalienable rights. Most of the text of the Declaration is a full-throated indictment of tyranny. The twenty-seven enumerated grievances of the Americans document the wholesale removal of self-determination in the colonies, including through interference with the creation of laws by local legislative bodies and the presence of occupying forces of intimidation.¹ In the face of such oppressions, the colonists declared their right to rid themselves of tyranny.

If tyranny is defined by the removal of self-determination, Memphians living through this year's commemorations may find themselves identifying powerfully with the Founders who so carefully spelled out their accusations that the "direct object" of those holding power was to establish "an absolute tyranny." In the twelve months between July 4, 2025, and July 4, 2026, Memphians have seen local law enforcement taken over and amplified by state and federal forces, including the National Guard; a locally-elected school board superseded by a newly-created state-imposed body; and their congressional districts divided in a transparent effort to dilute Memphians' electoral voice. The cumulative effect of these "repeated injuries and usurpations" is the same as that spelled out by the Founders—disenfranchisement in flagrant violation of the right to self-determination.

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1. THE DECLARATION OF INDEPENDENCE para. 2 (U.S. 1776).

In 2026, Memphians find themselves with virtually no political voice. Local legislative bodies have seen their enactments overridden by the state, either through direct nullification of local action or by supplanting local control with state power. Within the Tennessee General Assembly, representatives from Memphis find themselves in an extreme minority with little power to pass or even influence legislation. And recent efforts to redistrict the state's federal congressional districts could silence Memphians' voice in Congress. As a result, Memphians' agency in their pursuit of happiness has been severely eroded. What is happening in Memphis is a warning for the nation.

But it is more than that. While Memphians may be uniquely politically vulnerable in this highly partisan moment, disenfranchisement of segments of Americans has been a consistent feature of the past 250 years, despite the Declaration's egalitarian ideals. The autonomy of many has been legally curtailed in countless ways: often along lines of race, sex, ethnicity, and other demographic characteristics. The disenfranchisement of Memphis is, not coincidentally, also the disenfranchisement of one of the nation's largest majority-Black cities. In this way, it fits within a long line of tyrannies that have restricted the autonomy of African Americans and have fiercely resisted Black political power.

This Essay seeks to zoom both in and out to capture the plight Memphis is facing. It does so by documenting the three most significant recent actions removing Memphians' self-determination: the imposition of an aggressive state and federal law enforcement task force, the supplanting of the locally-elected school board, and the slicing up of the city via unprecedented redistricting.² Each of these actions justifies more detailed evaluation on its own. But the effort

2. In addition to these direct interferences with local autonomy, Memphians are also confronting potentially existential threats to their environment, including the city's water supply. *See generally* Lauryn Carr, *From Primacy to Poison: The Structural Betrayal of the Safe Drinking Water Act When Silence Becomes Policy*, U. MEM. BLOG REV. (forthcoming 2026) (examining the threat data centers pose to Memphis' sand aquifer and how the Safe

here is also to zoom out by tying them together as part of a broader effort disenfranchising Memphians and a longer history subjugating African Americans. Like the Declaration itself, this Essay is a call to action,³ both for Memphians to organize in the face of legalized disenfranchisement and for others disturbed by this theft of agency and for whom this form of tyranny may yet come.

In many ways, what is happening in Memphis exemplifies a contemporary evolution of anti-democratic (but nominally legal) tendencies that represent the nation's most significant failure to embrace the Declaration's ideal of equality.⁴ The Declaration identified the role of government as securing the rights of life, liberty, and the pursuit of happiness, and "deriving their just powers from the consent of the governed."⁵ On this 250th anniversary, Memphis serves as a cautionary tale for what can happen when the consent of the governed is disregarded. It thus represents a key battle in the persistent fight to establish a truly representative democracy.

Drinking Water Act will likely fail to prevent xAI from contaminating Memphis' drinking water). Notably, this Essay does not directly deal with aggressive immigration enforcement in this moment or attempt to unpack the full complexity of historic struggles with police and community violence, educational inequality, economic disempowerment, or other dynamics that contribute to a sense of tyranny.

3. This is something about the Declaration of Independence that is often overlooked. It is as much an argument to other Americans emphasizing the urgency of pushing back as it is a declaration of independence aimed at the British. See Harrison W. Mark, *Declaration of Independence*, in WORLD HIST. ENCYCLOPEDIA (Apr. 3, 2024), <https://www.worldhistory.org/article/2411/declaration-of-independence/> (on file with the University of Memphis Law Review) ("[The Declaration of Independence] has been cited in the push for the abolition of slavery and in many civil rights movements, and it continues to be a rallying cry for human rights to this day."). After all, it is not as though the British received the Declaration and simply agreed to American independence—it was something that had to be fought for with collective action and sacrifice. The Declaration of Independence was a rallying cry.

4. The American commitment to equality has long coexisted with the exclusion of Black Americans from meaningful political participation. See 2 ALEXIS DE TOCQUEVILLE, *DEMOCRACY IN AMERICA* 215–25 (Henry Reeve trans., Cambridge, Sever & Francis 1863) (1840) (noting the glaring contradiction between America's democratic ideals and the brutal reality of American racism and slavery); W. E. B. DU BOIS, *THE SOULS OF BLACK FOLK* 13–40 (Cambridge, McClurg & Co. 1903) (exploring how the promise of American freedom was withheld from Black citizens after the Civil War).

5. THE DECLARATION OF INDEPENDENCE para. 2 (U.S. 1776).

II. MEMPHIS: A VULNERABLE COMMUNITY STUCK IN ITS CORNER

Memphis sits in the extreme southwest corner of Tennessee, with two of its boundaries set by state borders with Mississippi (to the south) and Arkansas (to the west). It is the largest city in the westernmost of Tennessee's three Grand Divisions that divide the state topographically and culturally. West Tennessee is the most agricultural of the Grand Divisions, and Memphis' economy and demographics have been shaped by its more direct proximity to and connection with the historical cotton industry. As a site for migration of African Americans from the fields of Mississippi and Arkansas,⁶ Memphis has always had a large Black population. As of the 2020 census, Memphis' population was approximately 63% Black, making it one of the largest majority Black cities in the United States.⁷ The Black population in Memphis sets it apart demographically from the rest of Tennessee as well—the state population is 15.7% Black,⁸ so more than one-third of the 1.1 million Black Tennesseans live in Memphis. Expanding the lens beyond the Memphis city line to include all of Shelby County (of which Memphis is the county seat), nearly 45% of the state's Black residents reside in the county.⁹

6. Beverly Greene Bond, *Envisioning Black Memphis at Midcentury*, BLACK PERSPECTIVES (Oct. 9, 2018), <https://www.aaihs.org/envisioning-black-memphis-at-midcentury/> [https://perma.cc/AQ9H-K5X4].

7. *QuickFacts: Memphis City, Tennessee*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/fact/table/memphiscitytennessee/PST045225> (last visited Sep. 28, 2026) (on file with the University of Memphis Law Review). Memphis is the second largest majority Black city—it trails only Detroit, though for a moment in 2023, it seems that Memphis had a larger city population than Detroit and so was briefly the largest majority Black city. *See* Clara Hendrickson, Kristi Tanner, & Dana Afana, *Detroit's 40-Year Reign as Nation's Largest Majority-Black City May Be Over*, DETROIT FREE PRESS (May 23, 2023, at 17:21 ET), <https://www.freep.com/story/news/local/2023/05/23/detroit-largest-black-city-census-population-duggan/70235685007/?gnt-cfr=1&gca-cat=p&gca-uir=false&gca-epti=z1132xxu002444e1132xxv001544&gca-ft=280&gca-ds=sophi> (on file with the Memphis Law Review).

8. *QuickFacts: Tennessee*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/fact/table/TN/PST045225> (last visited Sep. 28, 2026) (on file with the University of Memphis Law Review).

9. According to the 2020 Census, Shelby County had about 930,000 residents, 51.7% of whom were Black (approximately 481,000), while Tennessee had approximately 6.9 million residents, 15.7% of whom were Black (approximately 1.085 million). *QuickFacts: Shelby County, Tennessee*, U.S. CENSUS BUREAU,

Although eligible voter demographics do not match census figures precisely due to age distributions by race and mechanisms of voter disenfranchisement,¹⁰ Black Memphians have significant political power locally. The city elected its first Black mayor in 1991,¹¹ and Black representatives make up a majority of the Memphis City Council, Shelby County Commission, and Memphis-Shelby County School Board.¹² Both the city and county have elected several Black mayors, including the current incumbents, and Black leaders have held those executive seats for most of the twenty-first century.¹³ Even in offices currently held by White leaders, including Shelby County District Attorney Steve Mulroy and U.S. Representative Steve Cohen, these successful candidates have enjoyed significant support from the Black community.¹⁴

<https://www.census.gov/quickfacts/fact/table/shelbycountytennessee/PST045225> (last visited Sep. 28, 2026) (on file with the University of Memphis Law Review); see *QuickFacts: Tennessee*, *supra* note 8.

10. In addition, low voter turnout, which may result from an impression that voting does not matter, can contribute to the reduction of political power even where such power may exist numerically. Tennessee’s voter turnout has historically been low, and turnout in Shelby County is particularly low. See Redistricting & Voting Rights Data Office, *Citizen Voting Age Population by Race and Ethnicity*, U.S. CENSUS BUREAU (Jan. 30, 2026), <https://www.test.census.gov/programs-surveys/decennial-census/about/voting-rights/cvap.html> [<https://perma.cc/X544-VQSV>] (voting age population data); Christopher Uggen et al., *Locked Out 2024: Four Million Denied Voting Rights Due to a Felony Conviction*, SENT’G PROJECT (Oct. 10, 2024), <https://www.sentencingproject.org/reports/locked-out-2024-four-million-denied-voting-rights-due-to-a-felony-conviction/> [<https://perma.cc/QVG8-GY3B>] (felon disenfranchisement, particularly among African Americans, in Tennessee).

11. See generally MARCUS D. POHLMANN & MICHAEL P. KIRBY, *RACIAL POLITICS AT THE CROSSROADS: MEMPHIS ELECTS DR. W. W. HERENTON* (1996) (describing the campaign leading up to the historic 1991 election).

12. See *City Council*, CITY OF MEMPHIS, <https://memphistn.gov/city-council/> [<https://perma.cc/BBK9-DR58>] (last visited Sep. 26, 2026) (listing current members of the Memphis City Council); *Meet Your Shelby County Commissioners*, SHELBY CNTY., TENN., <https://www.shelbycountyttn.gov/1209/Meet-Your-Shelby-County-Commissioners> [<https://perma.cc/LA57-YJPB>] (last visited Sep. 26, 2026) (listing current members of the Shelby County Commission); *Board Members*, MEM. SHELBY CNTY. SCHS., <https://www.scsk12.org/board/index?PN=44> [<https://perma.cc/5HD4-NE4L>] (last visited Sep. 26, 2026) (listing current members of the Memphis-Shelby County Schools Board of Education).

13. Since the City of Memphis elected its first Black mayor, W. W. Herenton, in 1991, Black mayors have held the office for all but eight years, during Jim Strickland’s 2016–2024 tenure. Similarly, since Shelby County elected its first Black mayor, A.C. Wharton, in 2002, Black mayors have held the office except during Mark Luttrell’s 2010–2018 tenure. See *A Brief History of Shelby County*, SHELBY CNTY. TENN., <https://www.shelbycountyttn.gov/1264/A-Brief-History-of-Shelby-County> [<https://perma.cc/WZF3-FD2A>].

14. See Brittany Brown, *Their Work Helped Mulroy Win the DA Race. Here’s What They Want to See Him Change First*, MLK 50 (Aug. 12, 2022), <https://mlk50.com/2022/08/12/their-work-helped-mulroy-win-the-da->

While Black Memphians enjoy significant political power locally, expanding the lens to the Tennessee General Assembly and governorship reveals a different story. Memphis stands out from the rest of the state not only demographically, but politically. Although Tennesseans have historically elected both Democrats and Republicans, the political shifts in the South over the past sixty years culminated in Tennessee in 2010 with Republican majorities in both branches of the General Assembly and the election of a Republican governor.¹⁵ Since then, the Republican grip on state politics has intensified—the current General Assembly includes a state House with seventy-five Republicans and twenty-four Democrats and a Senate with Republican control of 27-6.¹⁶ Republicans have enjoyed a supermajority in both houses since 2012, leaving Democrats with little ability to influence state legislation.¹⁷

race-heres-what-they-want-to-see-him-change-first/ [https://perma.cc/47TG-S5N3] (describing the grassroots organizing that contributed to Mulroy’s election and the support of local organizations seeking racial, economic, and criminal justice reform); Josh Spickler & Lindsay Kee, Opinion, *Shelby County Voters Embrace Reform over Retribution in DA’s Race*, COM. APPEAL (Aug. 5, 2022, at 21:00 CT), <https://www.commercialappeal.com/story/opinion/columnists/2022/08/06/shelby-county-elections-prosecutor-race-amy-weirich-steve-mulroy/10252095002/> [https://perma.cc/L78P-JEKK] (noting that Mulroy was elected on a platform of reforming a local criminal justice system replete with racial disparities); see also Alex Isenstadt, *Will Race Factor Decide Cohen’s Fate?*, POLITICO (Apr. 30, 2009, at 04:40 EDT), <https://www.politico.com/story/2009/04/will-race-factor-decide-cohens-fate-021900> [https://perma.cc/UV6P-YHGA] (reporting on polling that 85% of likely Black Democratic primary voters approved of Cohen’s performance and that Cohen led a prospective Black challenger 50% to 21% among likely Black voters).

15. See Katie Bohn, *Power Struggles: How Tennessee Became More Racially and Politically Divided*, PENN STATE UNIV. (Jan. 15, 2020), <https://www.psu.edu/news/research/story/power-struggles-how-tennessee-became-more-racially-and-politically-divided> [https://perma.cc/62SD-VDZW] (describing Tennessee’s political realignment and the emergence of Republican control); *Tennessee*, N.Y. TIMES: ELECTION 2010, <https://archive.nytimes.com/www.nytimes.com/elections/2010/results/tennessee.html?src=tp> [https://perma.cc/J95M-LCXE] (last visited Sep. 26, 2026) (reporting results of the 2010 elections, including Republican Bill Haslam’s election as Tennessee governor).

16. See Jonathan Mattise & Kimberlee Kruesi, *Republican Supermajority Unchanged in Tennessee Statehouse but Democrats Don’t Give Up Ground*, ASSOCIATED PRESS (Nov. 6, 2024, at 16:04 CDT), <https://apnews.com/article/tennessee-statehouse-republican-control-election-51aa7133c0456f8db478ded9124f301c> [https://perma.cc/NAN2-9R52]; see also Adam Friedman, *Election 2026: The Tennessee House and Senate Races Potentially in Play*, TENN. LOOKOUT (Feb. 17, 2026, at 05:00), <https://tennesseelookout.com/2026/02/17/election-2026-the-tennessee-house-and-senate-races-potentially-in-play/> [https://perma.cc/7TMX-U4HE] (describing Republican control of Tennessee politics as extending for nearly two decades).

17. See *GOP Gets Supermajority in Tenn. Legislature*, WMOT 89.5 (Nov. 7, 2012, at 06:19 CST), <https://www.wmot.org/politics/2012-11-07/gop-gets-supermajority-in-tenn-legislature> [https://perma.cc/U4Y9-

Meanwhile, Memphis remains a Democratic stronghold, a result that is not surprising given the correlation between race and political party.¹⁸ Most of the city's delegation to the General Assembly are Democrats, saddled by the political weakness the party suffers there.¹⁹ Thus, while Black Memphians enjoy political strength locally and are able to send representatives to the capital, the influence of those representatives once there is severely limited. This makes Memphis politically vulnerable to state action, subjecting Memphians to the potential of tyranny targeted at the city and over the objections of the local community.

III. UNLEASHING LAW ENFORCEMENT WITHOUT LOCAL CONTROL

In January 2023, Memphis took its turn in the tragic spotlight when Memphis Police officers beat and killed Tyre Nichols, a twenty-nine-year-old Black man, only steps from his home. The murder of Mr. Nichols took its place both in a line of police killings of Black Memphians²⁰ and the line of twenty-first century police killings caught on camera. Protest and grief followed

ULCD] (reporting that Republicans secured supermajorities in both chambers of the General Assembly in the 2012 election).

18. See *Partisanship by Race, Ethnicity and Education*, PEW RSCH. CTR. (Apr. 9, 2024), <https://www.pewresearch.org/politics/2024/04/09/partisanship-by-race-ethnicity-and-education/> [https://perma.cc/L64B-DAGQ] (reporting that 83% of Black registered voters identify with or lean toward the Democratic Party, compared with 12% who identify with or lean toward the Republican Party). See also *11.05.2024 Shelby County, Tennessee Federal and State General and Municipal Elections*, SHELBY CNTY. ELECTION COMM'N (Nov. 5, 2024) <https://app.enhancedvoting.com/results/public/shelby-county-tn/elections/General11052024> [https://perma.cc/AT2U-MBG4] (reporting that the Democratic presidential candidate received approximately 62% of votes cast in Shelby County).

19. Memphis-based legislators account for half of all Democrats in the Tennessee Senate and more than one-third of all Democrats in the Tennessee House. See *Senate Member Directory*, TENN. GEN. ASSEMB., <https://wapp.capitol.tn.gov/apps/LegislatorInfo/Directory?chamber=S> [https://perma.cc/55J7-KUYN] (last visited Sep. 26, 2026) (identifying Raumesh Akbari, Sara Kyle, and London Lamar as Democratic senators); *House Member Directory*, TENN. GEN. ASSEMB., <https://wapp.capitol.tn.gov/apps/LegislatorInfo/Directory?chamber=H> [https://perma.cc/2AMA-9XTB] (last visited Sep. 26, 2026) (identifying Karen Camper, Jesse Chism, G.A. Hardaway, Torrey Harris, Larry Miller, Antonio Parkinson, Justin J. Pearson, Gabby Salinas, and Joe Towns, Jr., as Democratic representatives).

20. Emily Yellin, Opinion, *Violent History Echoes in the Killing of Tyre Nichols*, N.Y. TIMES (Jan. 28, 2023), <https://www.nytimes.com/2023/01/28/opinion/tyre-nichols-memphis-police-violence.html> [https://perma.cc/NB2E-AN6G] (identifying the police murders of Larry Payne in 1968, Elton Hayes in 1971, Edward Garner in 1974, and Darrius Stewart in 2015).

the murder in what has become a ritualized process.²¹ But for a moment, the broader response felt different. The offending officers were immediately disciplined and local prosecutors (both state and federal) quickly brought charges.²² And at the urging of Nichols’ family, the Memphis City Council unanimously passed the “Driving Equality Act in Honor of Tyre Nichols” in April 2023. The ordinance prohibited pretextual traffic stops like the one for a broken taillight that had started the Nichols encounter. However, this small legislative victory in the aftermath of tragedy was only the beginning of a tug between local cries for justice and law enforcement accountability and external pushes for *more* aggressive law enforcement that culminated in October 2025 with the arrival of the National Guard in Memphis.

Within a year, the state nullified the ordinances with a simple piece of legislation transparently aimed directly at overriding the City Council’s actions.²³ The legislation provided:

[Local governments] shall not adopt or enact a resolution, ordinance, or policy that prohibits or limits the ability of a law enforcement agency to conduct traffic stops based on observation of or reasonable suspicion that the operator or a passenger in a vehicle has violated a local ordinance or state or federal law.²⁴

21. See Anisha Kohli, *Protests Call for Police Reform Across the U.S. After the Release of Tyre Nichols Videos*, TIME (Jan. 28, 2023, at 14:47 CT), <https://time.com/6251018/tyre-nichols-protests/> [<https://perma.cc/K2CS-C2K6>] (describing Memphis protesters blocking the Interstate 55 bridge and nationwide calling for justice and police reform).

22. Jonathan Franklin & Russell Lewis, *5 Memphis Ex-Police Are Charged with Murder and Jailed over the Death of Tyre Nichols*, NPR (Jan. 26, 2023, at 18:39 ET), <https://www.npr.org/2023/01/26/1151721800/memphis-officers-charged-tyre-nichols-murder> [<https://perma.cc/QUP6-LAUB>]; see Kiara Alfonseca, Nakylah Carter, & Ivan Pereira, *Tyre Nichols: A Timeline of the Investigation into His Death*, ABC NEWS (Sep. 12, 2023, at 13:40), <https://abcnews.com/US/tyre-nichols-timeline-investigation-death/story?id=96695791> [<https://perma.cc/D8UG-WTFT>] (explaining the firing and indictment of the involved officers).

23. H.B. 1931, 113th Gen. Assemb., Reg. Sess., 2024 Tenn. Pub. Acts 631 (codified as amended at TENN. CODE ANN. § 7-63-301).

24. *Id.* Any such ordinance is “null and void.” *Id.*

The legislation passed upon partisan lines over the votes of the majority of legislators from Memphis.²⁵ Thus, the state was able to override local officials' efforts to validate the calls from the community for accountability and prevention.

State nullification of local action (typically along partisan lines) is neither new nor unique to Memphis.²⁶ On touchstone cultural issues related to immigration, LGBTQ rights, and abortion, efforts of localities can draw the ire of state legislatures with different political priorities.²⁷ Scholars may debate whether this dismissal of localism is a wise political theory,²⁸ but the legal structure of states versus cities (as distinct from the dual sovereign relationship between states and the federal government) makes cities vulnerable to this particular form of tyranny.²⁹

25. *HB 1931: Votes*, TENN. GEN. ASSEMB.: 113TH GEN. ASSEMB. (2023–2024), <https://wapp.capitol.tn.gov/apps/BillInfo/Default?BillNumber=HB1931&GA=113#:~:text=Local%20Government%2C%20General%20-%20As%20introduced,fulfill%20the%20law%20enforcement%20agency's> [<https://perma.cc/4QFV-Z2WM>] (last visited Sep. 26, 2026). Of note, the bill was introduced by legislators from Shelby County. Although the majority of legislators from Shelby County are Democrats, those representing the county's suburbs along with portions of Memphis are Republicans. This partisan split is also largely a racial split—of the Democratic legislators from Shelby County, ten of twelve are Black (and one is Latina), while all six Republican legislators from Shelby County are White. It was White, Republican legislators from Shelby County, who lack a local majority but are able to leverage state power in Memphis, who introduced this legislation and often drive the state's incursions in Memphis.

26. See Molly Hennessy-Flake, *Antagonisms Flare as Red States Try to Dictate How Blue Cities Are Run*, WASH. POST (Nov. 27, 2023), https://www.washingtonpost.com/nation/2023/11/27/red-states-blue-cities-preemption-control/?_pml=1 [<https://perma.cc/XXV5-J9YR>]; *Exploring Trends in State Preemption in the 2024 Legislative Session*, LOC. SOLS. SUPPORT CTR. (Apr. 3, 2024), <https://www.supportdemocracy.org/the-latest/exploring-trends-in-state-preemption-in-the-2024-legislative-session> [<https://perma.cc/SRP2-DZM9>] (discussing the increasing use of state preemption to override local policymaking, including Tennessee legislation preempting Memphis ordinances concerning pretextual traffic stops and firearms).

27. See *Blue Cities, Red States: The Troubling Turn in State Preemption*, AM. CONST. SOC'Y (June 22, 2018), <https://www.acslaw.org/video/blue-cities-red-states-the-troubling-turn-in-state-preemption/> [<https://perma.cc/9EFJ-4DUE>] (discussing state legislation overriding local policies).

28. See *Hunter v. City of Pittsburgh*, 207 U.S. 161, 178–79 (1907) (explaining that municipalities are political subdivisions of the state and that states generally possess authority to modify or withdraw municipal powers, even without local consent); Richard Briffault, *Our Localism: Part I—The Structure of Local Government Law*, 90 COLUM. L. REV. 1, 7–8 (1990) (examining the subordinate position of local governments within the state-local governmental structure).

29. See, e.g., Quinton D. Lucas & Gavriel Schreiber, *Post-Emption and the Mayoral Toolbox: Levers and Limits of City Resistance to State Preemption*, 91 U. CHI. L. REV. 2229, 2234–40 (2024) (describing how state supremacy limits city power).

However, even as the state was nullifying local efforts, the federal Department of Justice began its own post-Tyre Nichols investigation into the Memphis Police Department (“MPD”).³⁰ That process included meetings with local stakeholders to determine how the Nichols killing fit into broader trends.³¹ After nearly eighteen months of work, the Justice Department released its seventy-three-page report in December 2024, concluding that there was reasonable cause to believe that MPD engages in a pattern or practice of unconstitutional or unlawful activity.³² Specifically, the report found evidence of excessive force, unlawful stops, searches, and arrests, racial discrimination, and discrimination against people with behavioral health disabilities.³³

With regard to traffic stops, the report critiqued “MPD’s decision to prioritize traffic enforcement as a central method to address crime in Memphis, while at the same time failing to ensure that officers understand and follow constitutional requirements when they stop and detain people.”³⁴ The report found that MPD made over 866,000 traffic stops between January 2018 and August 2023, resulting in nearly 300,000 citations.³⁵ Of those stops resulting in citations (i.e., not including the half million stops that did not result in a citation), more than half involved

30. Press Release, U.S. Dep’t of Just., Justice Department Announces Pattern or Practice Investigation of the City of Memphis and the Memphis Police Department (July 27, 2023), <https://www.justice.gov/archives/opa/pr/justice-department-announces-pattern-or-practice-investigation-city-memphis-and-memphis> [<https://perma.cc/NH87-H9MF>] (announcing an investigation into whether the Memphis Police Department engaged in systemic constitutional or federal-law violations, including excessive force, unlawful stops, searches and arrests, and racially discriminatory policing).

31. U.S. DEP’T OF JUST., C.R. DIV. & U.S. ATT’Y’S OFF., W. DIST. OF TENN., INVESTIGATION OF THE MEMPHIS POLICE DEPARTMENT AND THE CITY OF MEMPHIS 9 (2024), <https://www.justice.gov/crt/media/1379096/dl?inline> [<https://perma.cc/PHF9-XJFE>].

32. *Id.* at 1–3.

33. *Id.* at 1.

34. *Id.* at 26.

35. *See id.* at 10 (showing figures were significantly higher than in Nashville, a city with a slightly larger population and smaller police force).

documentation or equipment violations (such as broken taillights)—the types of stops targeted by the City Council’s Driving Equality Act.³⁶ The DOJ report found that the stops stemmed from a culture that measured officers’ “productivity” based on the number of stops made and tickets issued, resulting in quips like “two tickets a day keeps the lieutenant away.”³⁷ And those stops were sometimes accompanied by unlawful detentions where officers handcuffed people and detained them in patrol vehicles while issuing misdemeanor citations for issues like expired tags.³⁸ The DOJ report thus documented the unlawfulness of police behavior the City Council had sought to address, only to be overridden by the state.

Other similar DOJ investigations led to cities agreeing to consent decrees aimed at reforming unlawful patterns and practices of police departments.³⁹ However, that did not occur in Memphis for a variety of reasons, mostly connected to questions about how the incoming Trump Administration might shift DOJ priorities.⁴⁰ And indeed, the Trump Administration promptly

36. *Id.* at 26–27.

37. *Id.* at 28 (citation modified) (noting also the opinion of one MPD supervisor calling the program “a joke” because tracking officer’s productivity had turned patrol enforcement into “a contest” or “game” against fellow officers).

38. *Id.* at 29–30.

39. *See, e.g., Consent Decree Basics*, BALT. POLICE DEP’T <https://www.baltimorepolice.org/transparency/consent-decree-basics> [<https://perma.cc/XEP3-N99B>]; Press Release, U.S. Dep’t of Just., Justice Department Announces Consent Decree with City of New Orleans to Resolve Allegations of Unlawful Misconduct by New Orleans Police Department (July 24, 2012), <https://www.justice.gov/archives/opa/pr/justice-department-announces-consent-decree-city-new-orleans-resolve-allegations-unlawful> [<https://perma.cc/ZK2D-ZXMX>]; Press Release, U.S. Dep’t of Just., Justice Department and City of Ferguson, Missouri, Resolve Lawsuit with Agreement to Reform Ferguson Police Department and Municipal Court to Ensure Constitutional Policing (Mar. 17, 2016), <https://www.justice.gov/archives/opa/pr/justice-department-and-city-ferguson-missouri-resolve-lawsuit-agreement-reform-ferguson> [<https://perma.cc/HX34-D6ZS>]; *Department of Justice Consent Decree*, CITY OF MINNEAPOLIS (June 10, 2025), <https://www.minneapolismn.gov/resident-services/public-safety/police-public-safety/investigations-settlement-agreement/consent-decree/> [<https://perma.cc/M4VJ-WLB8>] (consent decrees resolving investigations into various police departments whose officers committed highly publicized police killings).

40. Emily Cochrane, *Memphis Says It Will Not Yet Agree to Federal Oversight of Police Department*, N.Y. TIMES (Dec. 5, 2024), <https://www.nytimes.com/2024/12/05/us/politics/memphis-justice-oversight-police-department.html> [<https://perma.cc/Z4RY-ZQXC>]. Instead of entering into a consent decree, Memphis Mayor Paul Young appointed retired federal judge Bernice Bouie Donald to lead a group in developing a plan for police reform.

rescinded the DOJ's findings and ended its investigations in Memphis and elsewhere.⁴¹ But unlike the state, which merely undid the City Council's reform effort, the federal government aggressively imposed its own vision of law enforcement onto Memphis.

"You are unleashed," White House Deputy Chief of Staff Stephen Miller told the Memphis Police Department less than a year after the release of the DOJ's report. "The handcuffs you're carrying? They're not on you anymore, they're on the criminals."⁴² Miller's comments were offered in the wake of the creation of the Memphis Safe Task Force, which was established by the President to "end street and violent crime in Memphis" through "hypervigilant policing" and other strategies.⁴³ The President further encouraged activation of the National Guard "to support public safety and law enforcement operations,"⁴⁴ thus adding Memphis to a list of cities in which the federal government sought to mobilize the military for domestic law enforcement purposes.⁴⁵

The author was appointed to serve on that group. Katherine Burgess, *Who Will Work with Judge Donald to Monitor MPD? City Names Task Force*, MLK50 (Feb. 18, 2025), <https://mlk50.com/2025/02/18/memphis-names-police-reform-task-force/> [<https://perma.cc/KP7E-9HP4>].

41. Sarah N. Lynch & Andrew Goudsward, *Trump Administration Drops Police Oversight Spurred by Floyd, Taylor Killings*, REUTERS (May 21, 2025, at 13:27 CDT), <https://www.reuters.com/world/us/us-abandons-police-reform-accords-sought-over-deaths-george-floyd-breonna-taylor-2025-05-21/> [<https://perma.cc/QJK8-LVR5>].

42. Kelly Rissman & Adrian Sainz, *'You Are Unleashed': White House Officials Rally Memphis Law Enforcement Ahead of National Guard Troop Deployment*, THE INDEPENDENT (Oct. 1, 2025), <https://www.the-independent.com/news/world/americas/us-politics/memphis-stephen-miller-unleashed-national-guard-b2837719.html> [<https://perma.cc/57VN-ZS2M>]. Of note, following a recent ICE raid in Memphis, Secretary of Homeland Security Markwayne Mullin reiterated the phrase "unleashed," albeit speaking about immigration rather than law enforcement and thus indicating the overlap in the work of the Memphis Task Force. Press Release, U.S. Dep't of Homeland Sec., *More than 120 Illegal Aliens Arrested at Memphis Night Club* (Sep. 1, 2026) <https://www.dhs.gov/news/2026/09/01/more-120-illegal-aliens-arrested-memphis-nightclub> [<https://perma.cc/FW5Z-6DQW>] ("Under the Trump Administration, the brave men and women of ICE have been unleashed to remove illegal aliens from our communities and make America safe again.").

43. Presidential Memorandum, *Restoring Law and Order in Memphis* (Sep. 15, 2025) <https://www.whitehouse.gov/presidential-actions/2025/09/restoring-law-and-order-in-memphis/> [<https://perma.cc/V9WQ-ECRM>].

44. *Id.*

45. Lazaro Gamio & Chris Hippensteel, *How and Where the National Guard Has Deployed to U.S. Cities*, N.Y. TIMES (Oct. 27, 2025), <https://www.nytimes.com/interactive/2025/10/27/us/us-national-guard-deployments.html> [<https://perma.cc/P2VX-JK7V>]; Billy Witz, *What to Know About Trump's Federal Crackdown, City*

However, unlike Chicago or Los Angeles, Memphis found itself uniquely vulnerable to such an occupation due to a compliant governor who authorized the National Guard deployment amidst a surge of state and federal law enforcement in the city. Even before the National Guard's deployment, there were hundreds of additional law enforcement personnel, including from the Tennessee Highway Patrol and Tennessee Bureau of Investigation, focused on the city.⁴⁶

Debates have swirled about the wisdom and efficacy of expanded law enforcement in Memphis since before the Task Force's arrival, and those debates continue to this day. Violent crime statistics had begun to decline even before the Task Force's arrival, a reduction that has continued in the months since.⁴⁷ But the Task Force has also strained the local criminal justice system⁴⁸ and contributed to a culture of fear within marginalized communities.⁴⁹ In addition, at

by City, N.Y. TIMES (Nov. 18, 2025), <https://www.nytimes.com/2025/11/18/us/trump-immigration-raids.html> [<https://perma.cc/38D2-XZJ3>]; Campbell Robertson, *One Year Later, Trump's 'Takeover' Has Changed D.C. Is It Better Off?*, N.Y. TIMES (Aug. 10, 2026), <https://www.nytimes.com/2026/08/10/us/national-guard-washington-dc.html> [<https://perma.cc/63GZ-34DJ>]. See also THE DECLARATION OF INDEPENDENCE para. 2 (U.S. 1776) ("He has erected a multitude of New Offices, and sent hither swarms of Officers to harass our people, and eat out their substance. He has kept among us, in times of peace, Standing Armies without the Consent of our legislatures.").

46. Samuel Hardiman, *More Than 700 Task Force Members in the City, Police Chief Says*, THE DAILY MEMPHIAN (Oct. 7, 2025, at 19:07 CT), <https://dailymemphian.com/section/metrocity-of-memphis/article/55850/more-than-700-memphis-safe-task-force-members-in-city?streamId=55065> (on file with the Memphis Law Review).

47. Phenix S. Halley, *Fact Check: Crime in Memphis Was Falling Way Before Trump's Task Force Showed Up*, THE ROOT (Sep. 17, 2026), <https://www.theroot.com/fact-check-crime-in-memphis-was-falling-way-before-tru-2000126493> [<https://perma.cc/W56L-MY4P>]; George Chidi, *After Four Killings and a Revealing Autopsy, Memphis is Fed Up with National Guard Takeover*, THE GUARDIAN (Sep. 18, 2026), <https://www.theguardian.com/us-news/2026/sep/18/memphis-national-guard-troops> [<https://perma.cc/UMR9-7LQW>].

48. Adrian Sainz, *Trump's Memphis Crime Task Force Strains Overcrowded Jail, Courts*, L.A. TIMES (Nov. 24, 2025, at 08:33 PT), <https://www.latimes.com/world-nation/story/2025-11-24/thousands-of-arrests-by-trumps-crime-fighting-task-force-in-memphis-strain-crowded-jail-courts> [<https://perma.cc/D56V-HJBY>].

49. Wendi C. Thomas & Katherine Burgess, *They Were Sleeping, Driving, Walking in Memphis. Then Trump's Police Task Force Came*, MLK50 (Nov. 3, 2025), <https://mlk50.com/2025/11/03/they-were-sleeping-driving-walking-in-memphis-then-trumps-police-task-force-came/> [<https://perma.cc/CU26-6B76>]. Though the Task Force did not initially emphasize immigration enforcement, that has become a component of the broader surge of law enforcement in the community. Kat Lonsdorf, *In Memphis, an 'Anti-Crime' Task Force Quietly Turned into an ICE Crackdown*, NPR (July 27, 2026, at 05:00 ET), <https://www.npr.org/2026/07/27/nx-s1-5896284/national-guard-memphis-immigration-task-force> [<https://perma.cc/UJ4P-PGTZ>].

least four people have been killed by law enforcement during the surge.⁵⁰ Like many other communities, Memphis remains locked in discussions about the relative value of criminal justice reform versus more aggressive policing. The Task Force's arrival has amplified the urgency of those discussions.

Independent of questions of wisdom and efficacy, the Task Force represents a removal of local oversight and control of law enforcement. The Task Force's embrace of hypervigilant policing seems designed to amplify some of the very same tactics the DOJ report had condemned, and which the City Council had sought to curtail. And when several local elected officials sued to enjoin deployment of the National Guard component of the Task Force, initially succeeding on the grounds that the deployment exceeded Governor Bill Lee's statutory authority.⁵¹ However, the Tennessee Court of Appeals reversed, concluding that the local officials lacked standing.⁵² Thus, the state's courts have been closed, on top of the cumulative disadvantages suffered within the legislature.

Despite local resistance, Memphians have found themselves subjected to occupation by the federally funded, state-endorsed task force. Appeals to representatives in both Washington and Nashville have fallen upon deaf ears. And the fact that litigation has failed on grounds of standing deepens the charge that Memphians lack agency to determine their own affairs—or even get others to meaningfully consider their complaints. Even if the Task Force has contributed to reductions in crime (a contested conclusion), it has undeniably come at the cost of local self-determination.

50. George Chidi, *Fourth Person Killed by Agents from Trump's Anticrime Taskforce*, THE GUARDIAN (July 8, 2026), <https://www.theguardian.com/us-news/2026/jul/08/memphis-federal-anticrime-agents-kill-man> [<https://perma.cc/8TY5-FYMJ>].

51. *Harris v. Lee*, No. 25-1461-I, at 35 (Tenn. Ch. Ct., Davidson Cnty. Nov. 17, 2025) (order granting plaintiffs' motion for temporary injunction).

52. *Harris v. Lee*, No. M2025-01915-COA-R9-CV, at 13–14 (Tenn. Ct. App. Apr. 28, 2026).

IV. SUPPLANTING LOCALLY ELECTED OFFICIALS: THE SCHOOL BOARD

Running parallel with the state’s work undoing locally-adopted law enforcement reforms was an effort to undo a local election. Steve Mulroy was elected Shelby County District Attorney (“DA”) in 2022 and almost immediately became the target of attacks by those blaming him for every component of Memphis crime. That Shelby County voters had opted for Mulroy and his reform campaign over the incumbent DA (not to mention that Mulroy had only just arrived) did not deter state officials from pursuing his removal.⁵³ Through repeated ethics complaints, an audit by the state comptroller, an attempt at legislative removal, and persistent public criticism, Mulroy’s legitimacy—and with it, the legitimacy of voters’ choice—was questioned and undermined.⁵⁴ The efforts to displace the elected DA have not proven successful, but the state has targeted other locally-elected bodies with greater success.

The relationship between the Memphis-Shelby County Schools and the State of Tennessee is complicated, to say the least. While the state is the primary funder of local schools, the local-state division of authority provides no shortage of areas for potential disagreement. The local board has resisted the state’s expansions of charter schools and school vouchers,⁵⁵ and the state put its

53. See Katherine Burgess, *State Sen. Taylor Is Seeking to Oust DA Mulroy. The Move Is Rooted in Misinformation*, MLK50 (July 3, 2024), <https://mlk50.com/2024/07/03/state-sen-taylor-is-seeking-to-oust-da-mulroy-the-move-is-rooted-in-misinformation/> [<https://perma.cc/S3FZ-AV9B>]; Aaron Fleming, *State Senator Reveals Case for Mulroy Ouster*, THE DAILY MEMPHIAN (Jan. 9, 2025, at 19:16 CT), <https://dailymemphian.com/section/metroshelby-county/article/49073/shelby-county-brent-taylor-allegations-steve-mulroy-ouster> (on file with the University of Memphis Law Review).

54. Bill Dries, *Taylor Changing Strategy to Oust Mulroy*, THE DAILY MEMPHIAN (Mar. 28, 2025, at 23:14 CT), <https://dailymemphian.com/article/50861/brent-taylor-changing-strategy-to-oust-steve-mulroy> (on file with the University of Memphis Law Review).

55. Regarding charter schools, the state has even created a state charter school authorizer that applicants can choose for authorization of a local charter school without local school board approval. On vouchers, MSCS and Metro Nashville Public Schools sued the state on the grounds that the initial voucher law was unconstitutional special legislation (i.e., it targeted a particular locality in violation of the Tennessee Constitution). See TENN. CONST. art. XI, §§ 8–9. The school districts won in the chancery court and court of appeals but lost at the Tennessee Supreme Court. See *Metro. Gov’t of Nashville v. Tenn. Dep’t of Educ.*, 645 S.W.3d 141, 154 (Tenn. 2022). The voucher issue was made moot as the legislature expanded voucher availability to the whole state.

thumb on the scale during a transformative moment in the local education landscape resulting in the creation of six suburban municipal districts within Shelby County in 2014.⁵⁶ The parties have even engaged in litigation regarding funding as the state has adjusted its funding formula in recent years.⁵⁷

The most direct insertion of state authority over the local school district's power came with the creation in 2011 of the Achievement School District ("ASD"), whereby schools persistently performing at the lowest levels under the state's school accountability model could be removed from the jurisdiction of Memphis-Shelby County Schools ("MSCS")⁵⁸ and taken over by the ASD.⁵⁹ The creation of the ASD was part of broader national trends in education reform whereby control of poorly performing schools was reallocated—other districts experienced far more

56. Daniel Kiel, *Annulment: Inside the Largest—and Briefest—School District Consolidation in American History*, 50 U. MEM. L. REV. 887, 891 (2020).

57. The local school board sued the state in 2015. *See* Complaint at 1, *Shelby Cnty. Bd. of Educ. v. Haslam*, Case No. 15-1048-III (Tenn. Ch. Ct., Davidson Cnty. Aug. 31, 2015). That case was one of several brought by various school districts challenging the state's school funding program. After years of discovery and failed efforts to have the case dismissed, the state's adoption in 2022 of an entirely new funding statute led to the case being set aside. *See Plaintiffs Accuse Tennessee Officials of Violating Their Constitutional Duty*, EDUC. L. CTR. (Sep. 2, 2015), <https://edlawcenter.org/plaintiffs-accuse-tennessee-officials-of-violating-their-constitutional-duty/> [<https://perma.cc/VXQ8-TRC3>]; *Tennessee*, HARV. L. SCH. YOUTH ADVOC. & POL'Y LAB <https://ylab.law.harvard.edu/tennessee/> [<https://perma.cc/HE4U-ED6P>] (summarizing funding litigation in Tennessee).

58. This essay uses "MSCS," the current name of the school district, but that name has shifted significantly in recent years. Until 2012, the district was Memphis City Schools ("MCS") and had boundaries coterminous with the City of Memphis. When MCS was dissolved, the students in Memphis were briefly a part of a countywide Shelby County Schools ("SCS"), but that district shrunk substantially with the secession of six municipal districts for the 2014–15 school year. The district continued to be SCS but only included students in Memphis and unincorporated portions of the county—that district changed its name to Memphis Shelby County Schools ("MSCS") in 2022. *See* Daniel Kiel, *The Endangered School Districts: The Promise and Challenge of Redistributing Control of Public Education*, 22 B.U. PUB. INT. L.J. 341, 373 (2013).

59. *See* TENN. CODE ANN. § 49-1-614 (2026) (responsibilities of the Achievement School District); Tennessee First to the Top Act of 2010, 2010 Tenn. Laws Extra. Spec. Sess. Pub. Ch. 2 (codified as amended at 49 TENN. CODE ANN. chs. 1, 2, 3, and 5).

significant losses, such as moving oversight from school boards to mayors.⁶⁰ After a decade, the state's ASD was largely viewed as a failure in turning around schools, and was phased out.⁶¹

However, the state's interest in further removing power from the elected school board remained. Just as the law enforcement incursions were justified with reference to allegedly rampant crime, the rationale for intervening in school operations was based on poor performance. With little attention to the poverty contributing to the challenges in both areas, some state leaders seemed to send the message that local officials could not be trusted in their own city.

Low confidence in Memphis schools is a narrative that has plagued the district for decades and is not limited to those outside the city. In late 2024, the MSCS Board added fuel to district criticism when it engaged in an ugly, public effort to investigate and ultimately fire Superintendent Marie Feagins. The Feagins firing supplied the impetus to ignite longstanding desires to wrest power from the district's elected board, and legislators promptly introduced legislation for the spring 2025 session that would create a state-appointed board to supersede the elected MSCS Board.⁶² While the legislation stalled at the end of the 2025 session, the state's comptroller was allocated \$6 million to hire a consultant to conduct an audit of the district to evaluate "fraud, waste,

60. See Joseph O. Oluwole & Preston C. Green III, *State Takeovers of School Districts: Race and the Equal Protection Clause*, 42 IND. L. REV. 343, 350 (2009); Frederick M. Hess, *Looking for Leadership: Assessing the Case for Mayoral Control of Urban School Systems*, 114 AM. J. OF EDUC. 219, 220 (2008).

61. Marta W. Aldrich, *Tennessee's Shrinking Achievement School District Set to Make its Move*, THE DAILY MEMPHIAN (Feb. 21, 2025, at 18:05 CDT), <https://dailymemphian.com/article/50048/tennessee-achievement-school-district> (on file with the Memphis Law Review). The ASD was replaced with a tiered approach that substantially reduced state involvement. Max Lubbers, *Tennessee Lawmakers Vote to Replace Failed Achievement School District Turnaround*, CHALKBEAT (April 21, 2025, at 19:26 CDT), <https://www.chalkbeat.org/tennessee/2025/04/22/asd-shutdown-vote-new-intervention-model-tennessee-house/> [<https://perma.cc/P5NL-CN87>].

62. *HB 0662: Bill History*, TENN. GEN. ASSEMB.: 114TH GEN. ASSEMB. (2025–2026), <https://wapp.capitol.tn.gov/apps/BillInfo/Default?BillNumber=HB0662> [<https://perma.cc/GU5H-HL5D>] (last visited Sep. 28, 2026). The bill history shows it stalling in April 2025 before being revived in the 2026 portion of the session. The bill has come in several forms as seen in the various amendments since its initial introduction, but the actual text of the statute is discussed below and cites to the code.

abuse, and any deficiencies” as well as the “effectiveness and efficiency of MSCS operations.”⁶³ State legislative leaders championed the audit, positioning its potential findings as a basis for aggressive intervention.⁶⁴ Interim results of the audit were released in April 2026, and the legislative effort was revived based on its findings of transactions consistent with waste or abuse, though those totaled less than 1% of the district’s budget.⁶⁵

The bill ultimately passed in May 2026 and called for the appointment of an educational oversight board once various school performance and operational criteria were met. Specifically, the board would be created upon satisfaction of four of the following six criteria:

- Less than 50% proficiency in math and English Language Arts on the state’s accountability tests;
- More than 25% of schools in the district are rated D or F by the state’s accountability system;
- More than 25% of students were chronically absent in the previous school year;
- At least one school in the district was rated a “priority” school by the state’s accountability system for each of the previous five school years;

63. Melissa Brown, *Memphis-Shelby County Schools Forensic Audit Set to Begin in July*, CHALKBEAT (June 9, 2025, at 15:47 CDT), <https://www.chalkbeat.org/tennessee/2025/06/09/memphis-schools-tennessee-forensic-audit/> [https://perma.cc/CP9Q-PRWC].

64. Sam Stockard, *Tennessee Planning \$6 Million Audit of Memphis Shelby Schools*, TENN. LOOKOUT (April 15, 2025, at 05:00), <https://tennesseelookout.com/2025/04/15/tennessee-planning-6-million-audit-of-memphis-shelby-schools/> [https://perma.cc/PW5P-Q7YM]; Lydian Coombs, *House Speaker, Lt. Gov. Claim MSCS Is ‘Destroying Documents’ Ahead of Forensic Audit*, ACTION NEWS 5 (June 12, 2025, at 22:52 CDT), <https://www.actionnews5.com/2025/06/12/house-speaker-lt-gov-claim-mscs-is-destroying-documents-ahead-forensic-audit/> [https://perma.cc/EB2F-DEFC].

65. Melissa Brown, *Early Memphis Schools Audit Findings ‘Consistent with Waste or Abuse’*, CHALKBEAT (Apr. 1, 2026, at 11:03 CDT), <https://www.chalkbeat.org/tennessee/2026/04/01/memphis-audit-results-waste-abuse-spur-state-takeover/> [https://perma.cc/9KF7-X8ZL].

- An audit conducted by the Comptroller finds deficiencies in management, accounting, or internal controls, or instances of fraud, waste, abuse, or financial mismanagement;
- The district has employed more than two interim superintendents over the previous four years.⁶⁶

While the criteria could apply to other districts, at the time of passage, the law subjected only MSCS to takeover. State Senator Raumesh Akbari of Memphis noted that the bill “was written very surgically to apply only to Memphis and Shelby County schools.”⁶⁷

The legislation calls for the creation of a nine-person oversight board, appointed by the governor (five members) and the House and Senate speakers (two members each), to serve for four years,⁶⁸ with at least eight board members residing in the taken-over district.⁶⁹ The oversight board receives a thorough statutory list of topics to evaluate and is charged with creating a transformation plan for the district.⁷⁰ Though the elected local board is not to be disbanded, the oversight board holds veto power over budget decisions,⁷¹ and the elected local board is precluded from entering into contracts higher than \$50,000.⁷² Further, the oversight board is given the authority to direct

66. TENN. CODE ANN. § 49-1-621(a) (2026).

67. Melissa Brown, *Memphis Schools Takeover Push Could Target Other Tennessee Districts*, CHALKBEAT (Apr. 20, 2026, at 14:11 CDT), <https://www.chalkbeat.org/tennessee/2026/04/20/mscs-state-takeover-bill-oversight-board-could-affect-more-school-districts/> [https://perma.cc/2GPX-SUY4].

68. TENN. CODE ANN. § 49-1-621(d) (2026). The term can be extended if the district continues to meet 4 of the 6 criteria from subsection (a).

69. *Id.* § 49-1-621(c).

70. *Id.* §§ 49-1-621(d)(6) to (7).

71. *Id.* § 49-1-621(e)(1)(B).

72. *Id.* § 49-1-621(e)(2)(A). The oversight board also is given veto power over charter school authorization decisions. *Id.* § 49-1-621(e)(4).

the elected local board and/or the district superintendent to take actions, as well as the power to fire the superintendent or other district employees.⁷³ In short, the oversight board is in charge of the district.

The oversight board members were appointed in summer 2026 and began meeting even amidst legal challenges to the action.⁷⁴ However, just hours before a July 1 board meeting, United States District Court Judge Waverly Crenshaw granted the Memphis-based plaintiffs' request for a temporary injunction.⁷⁵ The judge required maintenance of the status quo (i.e., the oversight board was enjoined from exercising its authority) to protect against interference with the lead up to the 2026–27 school year, which was set to begin on August 3.⁷⁶

The plaintiffs brought suit on the grounds that the oversight board unlawfully displaced local governance⁷⁷ and unconstitutionally discriminated based on race.⁷⁸ The complaint questions

73. *Id.* § 49-1-621(e)(5).

74. Melissa Brown, *Former Memphis-Shelby County School Board Chair Will Lead New Oversight Board*, CHALKBEAT (June 18, 2026, at 12:41 CDT), <https://www.chalkbeat.org/tennessee/2026/06/18/billy-orgel-will-chair-memphis-oversight-board/> [https://perma.cc/9FBV-PSJG]; Adam Friedman, *Shelby County Government Sues Tennessee Lawmakers over School Board Takeover Law*, TENN. LOOKOUT (June 23, 2026, at 10:27), <https://tennesseelookout.com/briefs/shelby-county-government-sues-tennessee-lawmakers-over-school-board-takeover-law/> [https://perma.cc/2N6S-54PY]. The challenge was brought by the Shelby County government rather than MSCS itself after two newly enacted restrictions on school-district litigation. *See* Act of Apr. 16, 2026, 2026 Tenn. Pub. Acts 818 (codified at TENN. CODE ANN. § 49-3-321) (prohibiting a local education agency (“LEA”) or public charter school from using public funds to bring or maintain a civil action against Tennessee, a state agency, or a state officer challenging a school- or district-accountability measure established by state law); Act of Apr. 22, 2026, 2026 Tenn. Pub. Acts 1057 (codified at TENN. CODE ANN. § 49-1-616(g)) (prohibiting a local board subject to an oversight board from bringing, intervening in, or funding an action challenging the oversight board’s actions).

75. *Shelby Cnty. Gov’t v. Lee*, No. 3:26-cv-00835, at 1 (M.D. Tenn. July 1, 2026) (order granting temporary restraining order). Plaintiffs include the MSCS Board, individual board members and their children, Shelby County, and the Shelby County Commission.

76. *Id.*

77. The complaint alleged that local governance had been removed not only from the MSCS Board, but also from the County Commission due to the opportunity for the oversight board to override the county’s budget determinations for the district. Verified Complaint at 2, *Shelby Cnty. Gov’t v. Lee*, No. 3:26-cv-00835 (M.D. Tenn. June 18, 2026).

78. *See id.* at 28–32. Plaintiffs make an *Arlington Heights*-based argument that the racially disparate impact combined with the extraordinary substantive and procedural chronology demonstrate an intent to discriminate

the legitimacy of the justifications for the creation of the oversight board, highlighting the history of state interference, arguing that the audit was conceived after the fact simply to justify the takeover, and contending that the statute was intentionally directed solely at MSCS, a district that serves a student population that is nearly 75% Black and 20% Hispanic.⁷⁹ As the school year was set to begin, the court had before it a motion to extend the injunction as the lawsuit continues.⁸⁰

The supplanting of locally-elected officials builds on the effort to nullify local legislation. In each case, the will of the people of Memphis is being overridden and disregarded. However, 2026 saw further extraordinary efforts to disenfranchise Memphians by silencing voters' opportunity to elect a representative of their choice at all.

V. REDISTRICTING AND THE DILUTION OF MEMPHIS VOICES

It did not take long for Republicans in Tennessee to identify the opportunity presented by the Supreme Court's decision in *Louisiana v. Callais* making voting discrimination claims more difficult.⁸¹ Senator (and gubernatorial candidate) Marsha Blackburn urged the state legislature—which had concluded its session weeks before—"to reconvene to redistrict another Republican seat in Memphis" by redrawing the state's congressional map.⁸² "Flip Memphis," wrote John Rose,

based on race. The complaint was subsequently amended to focus exclusively on the racial discrimination claim. Second Amended Verified Complaint at 32–36, *Shelby Cnty. Gov't v. Lee*, No. 3:26-cv-00835 (M.D. Tenn. Aug. 11, 2026).

79. *About this District*, TENN. DEP'T OF EDUC.: MEMPHIS-SHELBY CNTY. SCHS., <https://tdepublicschools.ondemand.sas.com/district/00792> [<https://perma.cc/Q85M-3VFS>] (last visited Sep. 23, 2026).

80. Motion for Preliminary Injunction and [Proposed] Order Granting Plaintiffs' Motion for Preliminary Injunction, *Shelby Cnty. Gov't v. Lee*, No. 3:26-cv-00835 (M.D. Tenn. July 27, 2026).

81. 608 U.S. ___, 146 S. Ct. 1131, 1143 (2026); see Otis Sanford, Opinion, *A Closer Look at Red State Tennessee's Mad Dash to Erase the Blue*, THE DAILY MEMPHIAN (Aug. 27, 2026, at 04:00 CT), <https://dailyMemphian.com/subscriber/article/65956/otis-sanford-tennessee-redistricting-backstory> (on file with the University of Memphis Law Review).

82. Marsha Blackburn (@VoteMarsha), X (Apr. 29, 2026, at 10:45 CT), <https://x.com/VoteMarsha/status/2049515547910381782?lang=en> [<https://perma.cc/ML8U-JHCY>].

one of Blackburn's opponents in the Republican gubernatorial primary.⁸³ Within two days, Governor Bill Lee had called the legislature back into special session, claiming that "we owe it to Tennesseans to ensure our Congressional districts accurately reflect the will of Tennessee voters."⁸⁴ The legislature gathered on May 5. By May 7, the work had been done, and Tennesseans would be utilizing new congressional maps for the 2026 election.⁸⁵

The primary effect of the new maps was to split Memphis into three districts. The majority of the city had previously been in District 9, which was 58.7% Black; the gerrymandering redrew District 9 to remove some of Memphis and extend along the southern edge of the state all the way to suburban Nashville, 200 miles away.⁸⁶ Other portions of Memphis were moved into District 5 and District 8, which also extend eastward to ensure favorable Republican prospects. After the redistricting, District 9's Black population dropped from 58.7% to 30.6%.⁸⁷ Meanwhile, District 5's Black population grew from 11.6% to 26.7% and District 8's grew from 16.9% to 25.5%.⁸⁸

It was no secret that the intent behind the redistricting was to dilute the voting strength of Memphis voters, who overwhelmingly vote for Democrats, and deny them the opportunity to elect

83. Bill Dries, *Blackburn, Rose Call to 'Flip Memphis' in Wake of Supreme Court Ruling*, THE DAILY MEMPHIAN (May 15, 2026, at 10:47 CT), <https://dailymemphian.com/article/62411/sen-marsha-blackburn-john-rose-call-for-redistricting-tennessee-all-republican> (on file with the Memphis Law Review).

84. *Gov. Lee Calls Special Legislative Session to Review Congressional Map*, TENN. OFF. OF THE GOVERNOR, (May 1, 2026, at 16:38) (citation modified), <https://www.tn.gov/governor/news/2026/5/1/gov--lee-calls-special-legislative-session-to-review-congressional-map.html> [<https://perma.cc/S8X2-9FG9>].

85. Sarah Fortinsky, *Tennessee Approves GOP House Map, Drawing Out Lone Democrat Seat*, THE HILL (May 7, 2026, at 14:47 ET), <https://thehill.com/homenews/campaign/5868361-tennessee-approves-gop-house-map-redistricting-2026/> [<https://perma.cc/8WGB-YDW5>].

86. REDISTRICTING DATA HUB, TENNESSEE CONGRESSIONAL REDISTRICTING CHANGE ANALYSIS 2 (2026), <https://redistrictingdatahub.org/dataset/tennessee-120th-congressional-district-change-report/> (on file with the University of Memphis Law Review).

87. *Id.*

88. *Id.*

a candidate to represent the majority of the city. Such nakedly partisan gerrymandering has been licensed by the Supreme Court, which declared such actions to be unreviewable political questions in 2019.⁸⁹ The Court further insulated partisan gerrymanders from review in 2024, when it rejected a racial discrimination claim resting on the high correlation between race and political party in South Carolina.⁹⁰

But the connection between the Tennessee redistricting to *Callais*, a case that had more to do with racial discrimination and the Voting Rights Act than partisanship, fuels arguments that the 2026 disenfranchisement of Memphis was racially-motivated. Indeed, the legislature had already split Democrat-leaning Nashville into multiple districts through partisan gerrymandering after the 2020 census.⁹¹ The mid-decade redistricting impacting Memphis, which required calling a special session of the legislature and lifting a statutory ban,⁹² was accomplished within eight days of the *Callais* decision and was transparent in its attack on Memphis, the place in Tennessee where Black Tennesseans enjoy(ed) the most significant political power.

Somewhat ironically, that political power had been consolidated in congressional elections as a result of a prior bout of redistricting in the 1970s. It was the Tennessee legislature's failure to adjust state legislative districts between 1900 and 1960 that presaged the Supreme Court's

89. Rucho v. Common Cause, 588 U.S. 684, 721 (2019).

90. Alexander v. S.C. State Conf. of the NAACP, 602 U.S. 1, 7 (2024).

91. See Blaise Gainey, *GOP Redraws Nashville from 1 Democratic District into 3 Republican-Leaning Districts*, WCMU PUB. MEDIA (July 26, 2022, at 16:57 EDT), <https://www.wcmu.org/politics/politics/2022-07-26/gop-redraws-nashville-from-1-democratic-district-into-3-republican-leaning-districts> [<https://perma.cc/V35U-LJGL>]; Margaret Renkl, Opinion, *Republicans 'Have Chosen to Wreck the Nashville District'*, N.Y. TIMES (Jan. 31, 2022), <https://www.nytimes.com/2022/01/31/opinion/nashville-gerrymander-voting-jim-cooper.html> [<https://perma.cc/KS3W-8VCY>].

92. See H.B. 7002, 114th Gen. Assemb., 2d Extra. Spec. Sess. (Tenn. 2026) (codified as amended at TENN. CODE ANN. § 2-16-102) (deleting statutory language from that would have prohibited the 2026 redistricting).

monumental “one person, one vote” mandate in *Baker v. Carr*.⁹³ Those decades of dereliction led to legislative districts that varied widely in population, severely diluting the votes in growing urban areas like Memphis and Nashville. While racial voting discrimination explicitly restricted the power of Black voters, the legislative malapportionment also disproportionately impacted Black voters, who increasingly lived in higher populated areas. However, after *Baker* required districts of roughly equal size and the Voting Rights Act of 1965 prohibited racial discrimination in voting, the political dynamics in Tennessee were fundamentally altered.

When the legislature redistricted congressional districts after the 1970 census, the Democratic majority expanded the district around Memphis to ensure a Democrat would win by combining the votes of White voters who remained aligned with the party with Black voters who increasingly favored Democrats by the 1970s.⁹⁴ While the plan failed in 1972 due to many White Democrats voting for the White Republican incumbent over the Black Democratic challenger,⁹⁵ Democrat Harold Ford, Sr., became Tennessee’s first Black member of Congress when he narrowly won the seat in 1974 in a district that was by that time 47.5% Black.⁹⁶ The district has remained compact and centered in Memphis in the decades since, with Ford holding the office until his son’s

93. 369 U.S. 186, 192 (1962). The “one person, one vote” mandate came in later, though *Baker* set the stage. See *Reynolds v. Sims*, 377 U.S. 533, 558 (1964).

94. Steven A. Knowlton, “A Democrat for All the People”: *The Historic Election of Harold Ford, Sr., to the United States House of Representatives*, 73 TENN. HIST. Q. 280, 283 (2014). It is also worth noting that the district was *not* created as a minority-majority district (or “opportunity district”) to provide an opportunity for Black voters to elect a candidate of their choice, a phenomenon that developed elsewhere to ensure compliance with the Voting Rights Act. See Richard Pildes, *The Decline of Legally Mandated Minority Representation*, 68 OHIO ST. L.J. 1139, 1149–50 (2007); Jowei Chen & Nicholas O. Stephanopoulos, *The Race-Blind Future of Voting Rights*, 130 YALE L.J. 862, 867–68 (2021). This makes the timing connecting to *Callais* all the more puzzling, as that case dealt with a majority-minority district that *had* been drawn to comply with the Voting Rights Act. Since Tennessee’s 9th Congressional District had not been drawn for those purposes, it is unclear why *Callais* would alter the legal landscape for an allegedly political gerrymander—a political gerrymander of a district with no connection to the Voting Rights Act would be just as legal before *Callais* as after. Unless, of course, the redistricting *was* actually about race.

95. Knowlton, *supra* note 94, at 285.

96. *Id.* at 290.

election to the seat in 1996. In 2006, when Ford, Jr., ran for Senate, the seat was won by Democrat Steve Cohen, who became the only White Representative in a majority-Black congressional district. Although Black challengers have periodically contested Cohen’s seat, he comfortably won reelection ten times with substantial support from Memphis’ Black community.⁹⁷

Following the 2026 redistricting, Cohen withdrew his bid for another term, noting, “the state legislature is trying to take [Memphis] over” and arguing that “it was all partially because it’s a majority Black city.”⁹⁸ In addition to the political ramifications of the 2026 redistricting, several lawsuits have challenged its legality.⁹⁹ In the wake of *Callais*, which made claims based on disparate racial effects more difficult, the litigation has mostly focused on claims of *intentional* racial discrimination.¹⁰⁰ However, the district court rejected plaintiffs’ initial request for a

97. See Adam Nossiter, *Race Is Top Issue in Bid to Represent Memphis*, N.Y. TIMES (Sep. 27, 2006), <https://www.nytimes.com/2006/09/27/us/politics/race-is-top-issue-in-bid-to-represent-memphis.html> [https://perma.cc/H97G-G3M2]; Ken Rudin, *Post Racial America? Not in Tennessee’s 9th CD*, WKNO 91.1 (July 21, 2009, at 11:45 ET), https://www.npr.org/sections/politicaljunkie/2009/07/post_racial_america_not_in_ten.html [https://perma.cc/LU8B-4S3D] (noting the racial dynamics in Cohen’s 2008 and 2010 primary campaigns against Black candidates).

98. Matt Brown, *Tennessee Redistricting Plan Splits Memphis Neighbors and Reshapes Midterms as Other States Follow*, ASSOCIATED PRESS (May 9, 2026, at 14:03 CDT) (citation modified), <https://apnews.com/article/tennessee-redistricting-memphis-black-voters-south-b35a4b19c2c4818a660d3689cb8b1f82> [https://perma.cc/9UW5-PQDR].

99. Angele Latham, *Fourth Lawsuit Filed Against TN Redistricting Map*, THE TENNESSEAN (May 15, 2026, 05:03 CDT), <https://www.tennessean.com/story/news/2026/05/15/league-of-women-voters-naacp-file-fourth-lawsuit-against-new-tn-map/90082712007/> [https://perma.cc/CW2D-FKKD].

100. There are currently three federal suits pending, all of which have been assigned to the same judge in the Middle District of Tennessee, William Campbell, Jr. Anita Wadhvani, *Three Federal Challenges to Tennessee Redistricting Now Assigned to Same Judge*, TENN. LOOKOUT (May 19, 2026, at 05:00) at <https://tennesseelookout.com/2026/05/19/three-federal-challenges-to-tennessee-redistricting-consolidated-into-one-case> [https://perma.cc/5SHD-87JK]; Adam Friedman, *NAACP Files for Federal Court Injunction to Stop New Tennessee Congressional Map*, TENN. LOOKOUT (June 10, 2026, at 12:20), <https://tennesseelookout.com/2026/06/10/naacp-files-for-federal-court-injunction-to-stop-new-tennessee-congressional-map> [https://perma.cc/6DLS-KEC4]. A three-judge panel was appointed under 28 U.S.C. § 2284 because the challenge was to legislative maps; that panel included Judge Campbell, along with Judge Gregory Stivers of the Western District of Kentucky and Judge John Nalbandian of the Sixth Circuit (and also from Kentucky). In addition to the three federal cases, there was a state court case brought by the NAACP that challenged the procedure by which the legislature enacted the new districts. That case was dismissed in May 2026. NAACP Tenn. State Conf. v. Tennessee, Case No. 26-0591-II (Tenn. Ch. Ct., Davidson Cnty. May 26, 2026) (final order).

temporary restraining order,¹⁰¹ and a three-judge panel denied a request for a preliminary injunction on July 23.¹⁰² The panel concluded that the plaintiffs had failed to prove that the redistricting represented a “purposeful device to minimize or cancel out the voting potential of racial or ethnic minorities.”¹⁰³

Specifically, the panel focused on the plaintiffs’ inability to produce an alternative map that would have accomplished the state’s goal (producing a congressional delegation likely to include nine Republicans and no Democrats) without the racial effect. Citing the political and numerical realities, the panel noted that such a 9-0 Republican map *required* splitting Memphis and thus “political motivations readily explain the map’s dilutive effects.”¹⁰⁴ The panel was unconvinced by the offered circumstantial and historical evidence of racial discrimination as well.

Thus, the redistricting may be legal under existing law. However, the panel candidly acknowledged that, legal or not, the new districts have the effect of preventing plaintiffs from electing their preferred candidates.¹⁰⁵ That may be “legal,” but it is still intentional disenfranchisement.¹⁰⁶ In her dissent in *Callais*, Justice Elena Kagan anticipated this precise

101. *Sherman v. Hargett*, No. 3:26-cv-00616, at 14 (M.D. Tenn., May 26, 2026) (memorandum and order denying temporary restraining order).

102. *Sherman v. Hargett*, No. 3:26-cv-00616, at 1 (M.D. Tenn. July 23, 2026) (order denying preliminary injunction).

103. *Id.* at 4 (quoting *Alexander v. S.C. State Conf. of the NAACP*, 602 U.S. 1, 38 (2024)).

104. *Id.* at 7.

105. *See id.* at 7–8 (“Instead, Plaintiffs invoke affidavits from Black Memphians who attest to supporting Democratic candidates, explaining that Tennessee’s new map will prevent Democrats—who they prefer over Republicans—from being elected. But that’s exactly the stated purpose behind the new map. So the affidavits show the map’s surgical ability to accomplish its purported political purpose: preventing Democrats from being elected to Congress.”).

106. Of course, Memphians will technically have congressional representatives in the three candidates elected from the districts now encompassing the city. If those representatives end up being Republican, each will have the opportunity to demonstrate the extent to which they advocate for the needs and preferences of constituents who likely did not vote for them.

outcome, noting that the case was “about the many other districts, particularly in the South, that in the last half-century have given minority citizens, and particularly African Americans, a meaningful political voice. After today, those districts exist only on sufferance, and probably not for long.”¹⁰⁷ As the Memphis case demonstrates, it is not only the districts that will go, but the political voice with them.¹⁰⁸

VI. CONCLUSION

The citizens of Memphis find themselves in a position of political powerlessness making them vulnerable to acts of tyranny. Local legislation has been nullified; local law enforcement has been issued orders emanating from elsewhere; locally-elected officials have been supplanted; and local voters have seen their voice rendered meaningless. In times past, such perversions of democracy have been untenable. 250 years ago, it led to cries for independence, the tyranny making it “necessary for one people to dissolve the political bands which have connected them with another.”¹⁰⁹ Among the Declaration’s self-evident truths is that once a form of government becomes destructive of securing inalienable rights, “it is the Right of the People to alter or abolish it.”¹¹⁰ At least one Memphis official is ready to declare Memphis’ independence.¹¹¹

107. *Louisiana v. Callais*, 608 U.S. ___, 146 S. Ct. 1131, 1190 (Kagan, J., dissenting).

108. Earlier in her dissent, Justice Kagan outlined a hypothetical majority-Black district that was compact and politically cohesive but was cracked into multiple districts to achieve political aims. In such a “not-so-hypothetical” scenario, “[e]lection after election, Black citizens’ votes are, by every practical measure, wasted.” *Id.* at 1164.

109. THE DECLARATION OF INDEPENDENCE para. 1 (U.S. 1776).

110. *Id.* para. 2.

111. Ryan Mancini, *Tennessee Lawmaker Calls for Memphis to Secede over Redistricting*, THE HILL (May 7, 2026, at 20:10 ET), <https://thehill.com/homenews/state-watch/5868969-tennessee-redistricting-memphis-lawmaker-secession/> [<https://perma.cc/AXJ4-L6GD>] (noting the comments of State Rep. Antonio Parkinson, including, “[l]et Memphis secede from the state of Tennessee” due to it “being systematically stripped of political power”). Notably, this was not the first time Parkinson sought to declare Memphis’ independence; he previously made similar comments in the context of retributive state action taken after Memphis removed several Confederate monuments in 2018. *Id.* These schisms run deep.

Short of revolution, Memphis represents a twenty-first century case study of what tools are available to citizens when political power is denied and disenfranchisement endorsed in law. Such mechanisms to limit self-determination are not new to American history. While the specific laws and forms of disenfranchisement have evolved to fit contemporary circumstances, the fact that the crusade has been led by White leaders—including White legislators from the Memphis area itself who might feel they lack political strength locally—offers loud echoes of a past that triggered its own series of declarations. “Freedom Now!” “We Shall Overcome!” In Memphis, “I am a Man.” And echoing the Declaration itself, “All Men are Created Equal.”

But Memphis represents a test more for the future than the past. Will the legal system continue to tolerate mechanisms that are transparently designed to frustrate the structure of representative government? If so, what other forms of disenfranchisement might vulnerable communities be subjected to? And where else beyond Memphis might such efforts be attempted?

Or will new interventions be created—a modern Voting Rights Act or voting rights amendment, a democratic rejection of the scourge of partisan gerrymandering—to return the just powers of government to the consent of the governed? And if so, how will such movements overcome the structural impediments being constructed to frustrate them? What coalitions can be built and sustained to transcend the division and isolation that have enabled antidemocratic designs to flourish?

In 1776, these questions were front and center in Philadelphia. In 2026, they are front and center in Memphis.