

September 28, 2016



Mayor Muriel Bowser
Executive Office of the Mayor
John A. Wilson Building
1350 Pennsylvania Avenue NW
Washington, D.C. 20004

**Re: Responding to Violations of General Order 302-13 (Body Worn Camera Program) –
Disciplinary Mechanisms & the Recent Police Shooting of Terrence Sterling**

Dear Mayor Bowser:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 200 national organizations to promote and protect the civil and human rights of all persons in the United States, and the ACLU of the Nation's Capital, we are writing to request a meeting with you to discuss the killing of Terrence Sterling in the District of Columbia and how the Executive Office of the Mayor will address officer violations of General Order 302-13 (Body Worn Camera Program). In particular, we would like to discuss the internal disciplinary measures, formal policy changes, and training your office and the Chief of Police will pursue to ensure officers follow department policy affecting body cameras, proper police procedure, and use of excessive force.

Over the last several years, since the killing of Michael Brown in Ferguson, we have seen an increase in the number of African American men and women who have died at the hands of police officers under often questionable circumstances. In many of these cases, officers have clearly violated department policy, but communities have not seen those same officers held accountable for their unlawful actions. The Leadership Conference has long supported increased accountability and transparency in policing through policy changes that include bans on racial profiling; mandated training on implicit bias; de-escalation; use of force; proper interactions with people with disabilities and mental illness; and collection and reporting of disaggregated data of pedestrian and traffic stops, arrests, and use of force incidents.

Additionally, we have worked to develop practical guidance for implementation of police body worn camera programs in ways that are positive for civil rights. This is because video footage that documents law enforcement interactions with the public can often play a valuable role in ensuring transparency and accountability. In 2015, we joined with a broad coalition of civil rights, privacy, and media rights organizations to release shared civil rights principles for the use of body worn cameras by law enforcement.¹ These principles continue to serve as guidance to police departments across the country who wish to ensure that their body camera policies *enhance* rather than undermine civil rights. Soon after the release of these guiding principles, The Leadership Conference launched an ongoing project, www.bwscorecard.org, which evaluates the civil rights safeguards of body worn camera policies being used by police departments. Because the Metropolitan Police Department (MPD) received \$1,000,000 in

federal funding for its body camera program,² the MPD's body worn camera policy was one of the first policies evaluated.³

When we evaluated MPD's body worn camera policy along a continuum of civil rights safeguards, we applauded provision §§V.3-4 for clearly establishing when officers must record; however, good policy is ineffective without strict enforcement and widespread compliance. News reports indicate that the officer in the passenger side of the police vehicle was wearing a body camera, but did not turn the camera on *until after he shot and killed Mr. Sterling*.⁴ In doing so, this officer was in clear violation of Section §§V.3-4 of General Order 302-13, which states that officers are required to activate their body worn cameras "as soon as a call is initiated...or at the beginning of any self-initiated police action."⁵ The officer's violation was confirmed during a press conference when you unequivocally expressed, "I can tell you that our policy is very clear: that officers are required to activate their body worn cameras in situations like this."⁶

News reports indicate that the officers involved in the shooting of Mr. Sterling are both currently under investigation by the U.S. Attorney's office and have been placed on paid, administrative leave.⁷ News reports also indicate that the MPD is rolling out a new policy requiring dispatchers to remind police officers to turn on their cameras, and for officers to confirm body camera activation over the radio prior to responding to calls.⁸ We applaud all of these efforts at holding the officers accountable and improving compliance with General Order 302-13. However, we are concerned that we have heard absolutely no discussion of the internal disciplinary measures that will be pursued. We are especially concerned that *without* disciplinary follow through, violations of body worn camera policy will continue to occur here in Washington D.C.

Further, early reports indicate that the officers may have given no commands to Mr. Sterling before opening fire.⁹ They may have violated protocol by initiating an unnecessary vehicular chase and using their department issued vehicle as a barricade.¹⁰ While Mr. Sterling may have "intentionally dr[iven] into the passenger door," prompting the officer to fire in response, as claimed by police,¹¹ it is also possible that Mr. Sterling may have unavoidably collided with the police vehicle only because the officers established an aggressive barricade.¹² In either case, it is our view that the officer's response was unwarranted and could constitute excessive use of force. Body camera footage would have helped illuminate what really happened leading up to Mr. Sterling's death. Instead, the investigation is left to rely upon conflicting statements from police and witnesses, as well as dash camera footage which, if available, likely did not capture the shooting since it occurred off the passenger side of the police vehicle.

Body worn camera footage has the potential to benefit police departments *and* the communities they serve. As explained on the MPD website, the body worn camera program promises to help with "improving police services, increasing accountability for individual interactions, and enhancing public safety."¹³ Body camera footage can also be used in administrative and court proceedings, to help bring to justice "bad cops," while also exonerating those who are falsely accused. However, body cameras can only fulfill these purposes if they actually record when they are supposed to be recording.

We urge the Executive Office of the Mayor, the City Council, and the Office of the Chief of Police to take all available measures to ensure that officers comply with body worn camera policy and are properly trained on proper police procedure and excessive force. We also request a meeting to discuss how your offices will be responding to violations of General Order 302-13 (Body Worn Camera Program), and specifically how your offices will be pursuing internal disciplinary measures in this case and in the

future.¹⁴ Thank you for your consideration of this critical issue. For further information, please contact Sakira Cook at 202-263-2894 or cook@civilrights.org.

Sincerely,



Wade Henderson
President & CEO



Nancy Zirkin
Executive Vice President



Monica Hopkins-Maxwell
Executive Director of ACLU of the Nation's Capital

Cc: Interim Chief of Police Peter Newsham
Council of the District of Columbia

¹ "Civil Rights, Privacy, and Media Rights Groups Release Principles for Law Enforcement Body Worn Cameras." *Civilrights.org*. May 15, 2015. <http://www.civilrights.org/press/2015/body-camera-principles.html>.

² "Body-Worn Camera Program Fact Sheet." *Bureau of Justice Assistance*. <https://www.bja.gov/bwc/pdfs/bwcpip-award-fact-sheet.pdf>.

³ "Police Body Worn Cameras: A Policy Scorecard." *Bwscscorecard.org*. Updated August 2016. <https://www.bwscscorecard.org/#metropolitan-police-department-of-the-district-of-columbia>.

⁴ While MPD has now made available video from the camera of Brian Trainer, who has been identified as the officer who shot Mr. Sterling, as noted above, Officer Trainer did not turn on the camera until after the shooting.

⁵ "Body worn Camera Program." *General Orders of the Metropolitan Police Department*. Effective March 11, 2016. §§ V.3-4. https://go.mpdconline.com/GO/GO_302_13.pdf.

⁶ "Mayor Gives Public Safety Update, 9/12/16." *YouTube*. September 12, 2016. <https://www.youtube.com/watch?v=FU71d2D9Agk>.

⁷ "Second DC police officer placed on leave in shooting of unarmed man." *Fox 5*. September 13, 2016. <http://www.fox5dc.com/news/local-news/205111952-story>.

⁸ Alexander, Keith L. and Heim, Joe. "D.C. police update body-camera policy following fatal shooting of motorcyclist." *The Washington Post*. September 15, 2016. https://www.washingtonpost.com/local/public-safety/dc-police-update-body-camera-policy-following-fatal-shooting-of-motorcyclist/2016/09/14/e926ad3c-7ac6-11e6-ac8e-cf8e0dd91dc7_story.html; "DC Police dispatchers to remind officers to turn on cameras prior to responding to calls." *Fox 5*. September 15, 2016. <http://www.fox5dc.com/news/205519505-story>

⁹ Wagner, Paul. "Bowser: DC police officer didn't turn on body camera until after motorcyclist was shot." *Fox 5*. September 12, 2016. <http://www.fox5dc.com/news/local-news/204774740-story>.

¹⁰ "Officers involved in fatal shooting of motorcyclist told to break off pursuit, FOX 5 sources say." *Fox 5*. September 14, 2016. <http://www.fox5dc.com/news/205300847-story>.

¹¹ Bui, Lynh. "D.C. officer fatally shoots man who crashed motorcycle into police cruiser." *The Washington Post*. September 11, 2016. https://www.washingtonpost.com/local/public-safety/dc-officer-fatally-shoots-man-who-crashed-motorcycle-into-police-cruiser/2016/09/11/ea758b2c-7828-11e6-bd86-b7bbd53d2b5d_story.html.

¹² Wagner, Paul. "Bowser: DC police officer didn't turn on body camera until after motorcyclist was shot." *Fox 5*. September 12, 2016. <http://www.fox5dc.com/news/local-news/204774740-story>.

¹³ "MPD and Body worn Cameras." *Metropolitan Police Department*. <http://mpdc.dc.gov/page/bwc>.

¹⁴ It is our understanding that General Order 120.21 and General Order 202.22 detail several disciplinary measures currently available in circumstances where an officer has violated official MPD policy.