



December 18, 2015

The Honorable R. Gil Kerlikowske
Commissioner
U.S. Customs and Border Protection
1300 Pennsylvania Avenue, NW
Washington, DC 20229

Dear Commissioner Kerlikowske:

On behalf of The Leadership Conference on Civil and Human Rights and the undersigned organizations, we write to express our serious concern about U.S. Customs and Border Protection's (CBP) announcement last month regarding body-worn cameras. While the announcement affirmed that the expanded use of body-worn and other cameras "could have positive benefits for CBP," the absence of a commitment to wide deployment of cameras for recording CBP interactions with the public is unacceptable more than two years after CBP began their examination of cameras. At a time when policing practices are under scrutiny across the country, CBP—our nation's largest law enforcement agency—must seize this opportunity and lead by example. We urge you to mandate use of body-worn cameras as a widely-recognized best practice for professional policing in the 21st century, and one that is necessary to achieving your transparency and accountability agenda. We respectfully request a meeting for a select group of representatives from our coalition of concerned organizations to be briefed on the plan for broad implementation of body-worn cameras, including the status of CBP's allocation request to the Office of Management and Budget and the process for adopting a clear accompanying policy framework for the camera program.

When paired with privacy and civil rights protections, body-worn cameras are an effective tool. As noted in the Department of Homeland Security's CBP Integrity Advisory Panel's Interim Report, "law enforcement organizations are increasingly equipping their officers with body-worn cameras as a method of reducing complaints, de-escalating volatile situations (thus enhancing officer/agent safety) and ensuring compliance with use of force policies."ⁱ President Obama's response to the current crisis of fatal incidents involving police included funding for expanded use of body-worn cameras at state and local law enforcement agencies across the country.ⁱⁱ Police departments nationwide, including the majority of the United States' 25 largest cities and numerous departments in border communities, have already implemented or plan to implement body-worn cameras, and learned lessons directly applicable to CBP.ⁱⁱⁱ Many civil society groups, from The Leadership Conference to the CATO Institute, as well as law enforcement leaders and experts, including the Police Executive Research Forum (PERF), recognize that body-worn cameras are a vital component of police reform.^{iv} We urge CBP to move quickly to adopt and deploy body-worn cameras for its officers and agents, who, along with the public, will benefit from having objective versions of disputed events.

We have been monitoring CBP's progress on cameras since September 2013, when a border summit at the White House included a pledge to examine body-worn and other cameras. More than two years later, CBP has yet to deploy body-worn recording devices. We are disappointed that CBP asked for even more time to study body-worn and dashboard cameras after having already undertaken a year-long three-phase feasibility study. It is equally

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Mary Kay Henry

Service Employees International Union

Sherrilyn Ifill

NAACP Legal Defense and
Educational Fund, Inc.

Michael B. Keegan

People for the American Way

Samer E. Khalaf

American-Arab

Anti-Discrimination Committee

Elisabeth MacNamara

disappointing that over the last two years, CBP has yet to complete a comprehensive study of the environments in which these cameras would be used.

As you know, public reaction to CBP's announcement was highly critical. The *Los Angeles Times* editorialized that CBP's additional period of study creates the perception that "the nation's largest law enforcement agency . . . is moving so slowly to adopt this new technology that it appears not to be moving at all."^v The *San Diego Union-Tribune* noted that "[i]f any agency could benefit from having body cameras be mandatory, it is one like the Border Patrol, which has exploded in size in recent years,"^{vi} while the *Arizona Republic* criticized "a disturbingly familiar approach from a secretive agency that has done little to dispel concerns about excessive use of force,"^{vii} and the *Las Cruces Sun-News* opined that CBP's hesitations "sound more like excuses than legitimate obstacles [Body-worn] cameras offer a critical level of transparency and accountability in an agency that could use large doses of both."^{viii}

CBP's delay in adhering to accountability best practices like body-worn cameras is troubling to the millions of border residents who regularly come into contact with CBP personnel. These individuals are acutely aware that some of the worst excessive use-of-force cases involving CBP were brought to light only by the happenstance of a bystander's cell-phone recording. Frankly, border residents wonder how many such cases have not been properly scrutinized for lack of video. Going forward, we cannot rely on chance to obtain this vital evidence.

Moreover, despite repeatedly raising the concern in NGO engagement meetings, CBP has failed to communicate properly and humanely with the at least 42 families whose loved ones were killed by CBP officers or agents in use-of-force incidents since 2010.^{ix} We urge you to rectify this silence and issue a public report addressing in detail why the PERF cases flagged by former Internal Affairs head Mark Morgan were closed (*e.g.*, identifying which ones were investigated and found to comply with prior use-of-force policy and which ones could not be reexamined, leaving questions over what really happened).

Cameras are not a substitute for broader necessary reforms and they must be deployed with carefully crafted protections in place. To ensure that cameras foster accountability and transparency, rebuild trust with our communities, and bring CBP in line with 21st century law enforcement best practices, we urge CBP's camera program and policy to adhere to the "Civil Rights Principles on Body Worn Cameras," which were developed and endorsed by a broad coalition of civil rights, privacy, and media rights organizations. As stated by Wade Henderson, president and CEO of The Leadership Conference, "[t]hese guidelines can help ensure that cameras are tools for accountability—not instruments of injustice. Without fair and transparent standards for the use of body worn cameras, police departments risk exacerbating the problems they are seeking to fix."^x

It is imperative that CBP follow these civil rights principles^{xi} as it develops and implements its camera program:

1. **Develop camera policies in public** with the input of civil rights advocates and the local community.
2. **Commit to a set of narrow and well-defined purposes** for which cameras and their footage may be used.
3. **Specify clear operational policies for recording, retention, and access**, and enforce strict disciplinary protocols for policy violations. While some types of law enforcement interactions (*e.g.*, when attending to domestic violence survivors) may happen off-camera, the vast majority of interactions with the public—including all that involve the use of force—should be captured on video.



4. **Make footage available to promote accountability** with appropriate privacy safeguards in place.

5. **Preserve the independent evidentiary value of officer** reports by prohibiting officers from viewing footage before filing their reports. Footage of an event presents a partial—and sometimes misleading—perspective of how events unfolded. Pre-report viewing could cause an officer to conform the report to what the video appears to show, rather than what the officer actually saw.

Thank you for your consideration. Please contact Christian Ramirez, Director of the Southern Border Communities Coalition, at Christian@alliancesd.org or Sakira Cook, Counsel for The Leadership Conference on Civil and Human Rights, at cook@civilrights.org with any questions.

Sincerely,

National Organizations

The Leadership Conference on Civil and Human Rights
America's Voice Education Fund
American Civil Liberties Union
American Friends Service Committee
American Immigration Council
American Immigration Lawyers Association
Americans for Immigrant Justice
At the Edges.com
Church World Service
Columban Center for Advocacy and Outreach
Council on American-Islamic Relations (CAIR)
Holy Spirit Missionary Sisters - JPIC -USA
Jesuit Conference
Latin America Working Group Education Fund (LAWG)
Lawyers' Committee for Civil Rights Under Law
League of United Latin American Citizens
National Council of Jewish Women
National Immigrant Justice Center
National Immigration Law Center
NETWORK
Northern Borders Coalition
South Texas Human Rights Center
Southern Border Communities Coalition
T'ruah: The Rabbinic Call for Human Rights
Union for Reform Judaism
Washington Office on Latin America
We Belong Together

State and Local Organizations

Albuquerque Center for Peace and Justice
Alianza Comunitaria

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Alliance San Diego
Annunciation House, Inc.
Border Network for Human Rights
Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA)
Comunidades en Acción y de Fe (NM CAFÉ)
Diocesan Migrant & Refugee Services, Inc.
El CENTRO de Igualdad y Derechos
Emmanuel Mennonite Church
Equality New Mexico
Filipino Advocates for Justice
First Christian Church (Disciples of Christ), Tucson, Arizona
Friends of Friendship Park
Gainesville Interfaith Alliance for Immigrant Justice
Illinois Coalition for Immigrant and Refugee Rights
Interfaith Center for Worker Justice
Interfaith Movement for Human Integrity
Kino Border Initiative
La Unión del Pueblo Entero
League of Women Voter of Greater Las Cruces
Missouri Immigrant and Refugee Advocates
New Mexico Faith Coalition for Immigrant Justice
North County Immigration Task Force
Northwest Immigrant Rights Project
OneAmerica
Partnership for the Advancement of New Americans
Paso del Norte Civil Rights Project
Pennsylvania Council of Churches
Pilgrim United Church of Christ
Proyecto Juan Diego
Religious of the Assumption, Chaparral, New Mexico
San Diego Immigrant Rights Consortium
Services, Immigrant Rights, and Education Network (SIREN)
South Texas Civil Rights Project
The Good Shepherd United Church of Christ
The Green Valley/Sahuarita Samaritans
United Taxi Workers of San Diego
UURISE - Unitarian Universalist Refugee & Immigrant Services & Education
Workers Defense Project

Cc:

Jeh Johnson, Secretary, Department of Homeland Security
Cecilia Muñoz, Assistant to the President and Director of the Domestic Policy Council, White House

ⁱ Homeland Security Advisory Council: Interim Report of the CBP Integrity Advisory Panel (June 29, 2015), <https://www.dhs.gov/sites/default/files/publications/DHS-HSAC-CBP-IAP-Interim-Report.pdf>

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- ⁱⁱ U.S. Department of Justice, “Justice Department Awards over \$23 Million in Funding for Body Worn Camera Pilot Program to Support Law Enforcement Agencies in 32 States,” (Sept. 21, 2015), <http://www.justice.gov/opa/pr/justice-department-awards-over-23-million-funding-body-worn-camera-pilot-program-support-law>
- ⁱⁱⁱ ACLU of Massachusetts, “Top 25 Largest Cities and Police Body Worn Cameras,” (Aug. 2015), <https://aclum.org/app/uploads/2015/08/BWCs-Top25Cities-8-4-15.pdf>; Vocativ, “Is Your Police Force Wearing Body Cameras?” (Nov. 15, 2014), <http://www.vocativ.com/usa/justice-usa/police-force-wearing-body-cameras/>
- ^{iv} Cato Institute, “Watching the Watchmen: Best Practices for Police Body Cameras,” (October 27, 2015), <http://www.cato.org/publications/policy-analysis/watching-watchmen-best-practices-police-body-cameras>; Leadership Conference for Civil Rights, “Press Release: Civil Rights, Privacy, and Media Rights Groups Release Principles for Law Enforcement Body Worn Cameras,” (May 15, 2015), <http://www.civilrights.org/press/2015/body-camera-principles.html>
- Police Executive Research Forum, “Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned,” (2014), [http://www.policeforum.org/assets/docs/Free Online Documents/Technology/implementing%20a%20body-worn%20camera%20program.pdf](http://www.policeforum.org/assets/docs/Free%20Online%20Documents/Technology/implementing%20a%20body-worn%20camera%20program.pdf)
- ^v “What does the Border Patrol have against body cameras?” (Nov. 18, 2015), <http://www.latimes.com/opinion/editorials/la-ed-adv-border-patrol-20151116-story.html>
- ^{vi} “Border Patrol’s ‘move along’ act is old.” (Nov. 10, 2015), <http://www.azcentral.com/story/opinion/editorial/2015/11/10/border-patrol-transparency/75486988/>
- ^{vii} “Border Patrol needs to join 21st century.” (Nov. 9, 2015), <http://www.sandiegouniontribune.com/news/2015/nov/09/border-patrol-body-cameras-skepticism/>
- ^{viii} “Border Patrol Resistant to Body Cameras.” (Nov. 19, 2015), <http://www.alamogordonews.com/story/opinion/editorials/2015/11/18/border-patrol-resistant-body-cameras/76014918/>
- ^{ix} ACLU of New Mexico, “Deaths and Injuries in CBP encounters since January 2010 (Nov. 12, 2015), <https://www.aclu-nm.org/wp-content/uploads/2015/11/11012015-Dead-and-Injured-by-CBP-Officials.pdf>
- ^x The Leadership Conference on Human and Civil Rights, “Civil Rights, Privacy, and Media Rights Groups Release Principles for Law Enforcement Body Worn Cameras,” (May 15, 2015), <http://www.civilrights.org/press/2015/body-camera-principles.html>
- ^{xi} Ibid.