



August 15, 2016

**Via First Class and Electronic Mail**

James W. Johnson, Chief  
Baltimore County Police Department  
700 Joppa Road  
Towson, Maryland 21286

Re: Police-involved shooting death of Korryn Gaines

Dear Chief Johnson:

On behalf of the NAACP Legal Defense and Educational Fund, Inc. (“LDF” or “Legal Defense Fund”), we write to request additional information regarding the police-involved shooting death of Korryn Gaines and the injuring of her young son Kodi on August 1, 2016 in Randallstown, Maryland. In particular, and as outlined in detail below, we ask for a thorough and transparent investigation of and response to inconsistent accounts that the Baltimore County Police Department (BCoPD) has provided about the incident. The Legal Defense Fund is the nation’s oldest civil rights law organization. Founded in 1940 by Thurgood Marshall, the country’s first African-American U.S. Supreme Court Justice and a native of Baltimore City, LDF has used litigation, policy advocacy, public education, and community organizing strategies to achieve racial justice and equity in the areas of education, economic justice, political participation, and criminal justice. Throughout its history, LDF has consistently worked to promote criminal justice laws and policies that are administered fairly and without regard to race, from police stops, to sentencing, to reentry.

For the past several years, the nation has witnessed what communities of color have experienced for decades – excessive and often lethal force by police officers who have taken an oath to protect and serve them. Although it is generally understood among police chiefs that officers should carry out their duties with the goal of preserving life,<sup>1</sup> there has been an exception to this rule for persons of color. According to news reports, since January 2015 four of the six (67 percent) police-involved shootings in Baltimore County have involved African-American victims,<sup>2</sup> despite an African-American population of just 28 percent. The BCoPD’s fatal interaction with Ms. Gaines is the latest example.

We appreciate your willingness to speak with us by phone on August 2, 2016 about the events leading up to Ms. Gaines’ death. Unfortunately, that conversation raised more questions than answers about how events unfolded on that fateful day. In addition to responding to LDF’s August 2, 2016 public

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<sup>1</sup> See, e.g., Police Executive Research Forum, *Guiding Principles of Use of Force*, Critical Issues in Policing Series, 34 (March 2016) (stating the “sanctity of human life should be at the heart of everything an agency does.”), <http://www.policeforum.org/assets/30%20guiding%20principles.pdf>.

<sup>2</sup> See, Police shootings, The Washington Post, <https://www.washingtonpost.com/graphics/national/police-shootings/>.



information act request for police reports, and consistent with best policing practices relating to transparency following a serious incident,<sup>3</sup> we respectfully request that you respond to the following questions about inconsistencies in the accounts provided by representatives of the BCoPD.

1. BCoPD has provided varying reports on whether there are any audio or video recordings of the six hours-long interaction between Ms. Gaines and BCoPD officers. Specifically, during a press conference, you stated that the BCoPD was “transcribing the tapes of the dialogue between the hostage negotiators and tactical personnel.”<sup>4</sup> Yet days later, a BCoPD written statement indicated that

*[t]here are no audiotapes of the negotiations with Gaines. In Maryland, the Courts and Judicial Proceedings Section 10-402 of the Annotated Code allows recording only in hostage situations. The child, Kodi Gaines, was not a hostage in this incident; the FBI defines "hostage" as a person held to fulfill a demand, and a threat of harm unless the demand is met. Though Kodi Gaines was not a hostage, police were concerned for his safety because of his mother's unusual erratic behavior; i.e., engaging police in an armed barricade with a five-year-old at her side and wielding a firearm in the vicinity of the child.”<sup>5</sup>*

Additionally, during the press conference, you explained that *there were no officers wearing body cameras that were involved in the direct conflict at this incident site.*<sup>6</sup> Several days later, BCoPD reported that *[t]here is body camera footage from several officers assigned to support roles on the outside perimeter of the incident. This footage is part of the investigation and will not be released at this time.*<sup>7</sup>

**LDF requests copies of police body-worn camera and other video footage of the August 1 incident involving Korryn Gaines in accordance with Maryland’s Public Information Act and BCoPD’s body-worn camera policy.<sup>8</sup> LDF urges you to provide regular public updates about the BCoPD’s review of video footage. Additionally, please provide documents describing the department’s deployment plan of officers outfitted with body-worn cameras, including the number of officers currently outfitted with cameras and their precinct and/or unit assignments.**

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<sup>3</sup> See, e.g., President’s Task Force on 21<sup>st</sup> Century Policing, *Final Report of the President’s Task Force on 21<sup>st</sup> Century Policing*, 1.3.2 and 2.2.5 Action Items, 13 (May 2015), [http://www.cops.usdoj.gov/pdf/taskforce/taskforce\\_finalreport.pdf](http://www.cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf).

<sup>4</sup> Baltimore County Police Department, *Press Conference concerning incident in Randallstown on August 1*, at 14:51 (Aug. 2, 2016), <https://www.youtube.com/watch?v=WKevvAuWuLI>, (hereinafter BCPD Press Conference)

<sup>5</sup> Baltimore County Police Department, *Investigation of Gaines Shooting Continues*, (Aug. 4, 2016) <http://www.baltimorecountymd.gov/News/PoliceNews/iWatch/date/2016/8/4> (hereinafter BCPD Written Statement)

<sup>6</sup> BCPD Press Conference, *supra* note 1 at 14:39.

<sup>7</sup> BCPD Written Statement, *supra* note 2.

<sup>8</sup> See, Maryland Public Information Act, Md. Code Ann., Gen. Provisions §§ 4-101, et seq. (2015), *See also*, Baltimore County Government, *BCoPD Body-Worn Camera Use Policy*, <http://www.baltimorecountymd.gov/Agencies/police/bodycameras/usepolicy.html>.

2. During a press conference, you reported that the BCoPD appeared at Ms. Gaines' apartment on August 1 at approximately 9:20 a.m. to serve a failure to appear arrest warrant resulting from a traffic stop involving Ms. Gaines in March 2016. You further reported that after knocking on the door, and hearing voices that included a crying child, BCoPD retrieved a key for the apartment from management. In response to a question from reporters about the legality of requesting the key to enter Ms. Gaines' apartment, you explained that *we are looking at the entry using the key at this time.*<sup>9</sup>

Days later, BCoPD reported in a written statement that BCoPD *has completed a legal review of the entry by warrant service officers into Gaines' apartment in the unit block of Sulky Court. After consultation with the State's Attorney and law enforcement attorneys, BCoPD has confirmed that the legal requirements for entry to serve an arrest warrant were met.* But, this statement does not state whether gaining access with a key obtained from a third party to execute an arrest warrant for a misdemeanor offense followed departmental policy. **LDF requests copies of BCoPD policies on the execution of arrest warrants.**

3. In its written statement your department stated that *BCoPD's standard procedure is to release the names of officers involved in shootings about 48 hours after the incident. This complies with terms of an agreement with the Fraternal Order of Police Lodge #4, which specifies the delay to give officers and their families times to cope with the situation.*<sup>10</sup> As stated in subsequent news reports, however, you announced that the officer's identity would not be released due to an *unprecedented number of threats* against officers.<sup>11</sup>

It is unclear whether withholding the officer's identity is indefinite. Certainly, it is in the public's interest to know the identity of all officers who were at the scene during the incident involving Ms. Gaines, particularly those who are still on active duty. **Kindly provide an update as to when you anticipate releasing the officers' identities, as well as the identity of "hostage negotiator" or "crisis intervention" units involved.**

**Please provide to LDF a copy of the agreement between BCoPD and the Fraternal Order of Police Lodge #4 referenced in the department's written statement above. Also, kindly provide the number of officers involved in the service of the arrest warrant for Ms. Gaines, including their rank and years of service in the BCoPD.**

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<sup>9</sup> BCPD Press Conference, *supra* note 1 at 12:32.

<sup>10</sup> BCPD Written Statement, *supra* note 2.

<sup>11</sup> Jessica Anderson, et al, *Police, citing threats, to withhold name of officer in shooting death of Korryn Gaines*, Baltimore Sun, Aug. 4, 2016, <http://www.baltimoresun.com/news/maryland/crime/bs-md-co-gaines-shooting-review-20160804-story.html>.



4. Reports indicate that Ms. Gaines said “if you come in, I’ll kill you” and the officer feared for his life. Considering what BCoPD contends was Ms. Gaines’ stance throughout the day (holding a shotgun on officers for hours), what about her words constituted an escalation that justified the officer’s decision to open fire on Ms. Gaines after hours of negotiation?
5. Please indicate any and all administrative review or disciplinary procedures in which you are engaged relating to this incident.
6. Please indicate whether the officer who shot and killed Ms. Gaines and shot her son continues to be assigned to administrative duty and whether he has been interviewed about this incident by BCoPD supervisors and/or a member of the State’s Attorney’s office.

In closing, we wish to emphasize the importance of transparency with the public in cases of this nature. Your prompt and public response to this inquiry, the prompt provision of public documents requested by our office and others, and the thorough and expeditious completion of your investigation into this incident are critical to promoting the public’s confidence in law enforcement and understanding of this tragedy. Please note that we are sharing a copy of this letter with the Principal Deputy Assistant Attorney General for the Civil Rights Division of the U.S. Department of Justice.

Thank you for your prompt attention to this matter. If you have any questions or concerns, please contact Monique Dixon at 202-682-1300 or me at 212-965-2200.

Sincerely,

A handwritten signature in cursive script that reads "Sherrilyn A. Ifill".

Sherrilyn A. Ifill  
President and Director-Counsel

Monique L. Dixon  
Deputy Director of Policy and Senior Counsel

cc: Vickie Wash, Esq., Legal Section, Baltimore County Police Department  
Vanita Gupta, Principal Deputy Assistant Attorney General, U.S. Department of Justice  
Adrienne Jones, Maryland Delegate, District 10, Baltimore County