

**AMNESTY
INTERNATIONAL**



Daniel Hahn
Chief of Police
Sacramento Police Department
Headquarters - Public Safety Center
5770 Freeport Blvd.
Sacramento, CA 95822

23 March 2018

Dear Chief Daniel Hahn,

CASE OF STEPHON CLARK: USE OF LETHAL FORCE BY SACRAMENTO POLICE DEPARTMENT OFFICERS

Amnesty International is writing to you to convey its deep concern regarding the fatal shooting of Stephon Clark, a 22-year-old man, on 18 March 2017 by officers of the Sacramento Police Department (SPD).

On 21 March, SPD released video from the officers' body cameras as well as night-vision, thermal-imaging video from a Sacramento Sheriff's Department helicopter. The release included three audio and three video recordings of the fatal shooting of Mr. Clark. Together, the videos show Mr. Clark alongside of his family's house before two SPD officers approached from the street. In the dark, the two police officers chased Clark into the backyard of his home. "Show me your hands!" one of the officers yelled. "Gun, gun, gun." Then police opened fire. Clark crumpled to the ground after the first five shots, momentarily tried to crawl before falling motionless as the officers fired 15 more shots. The two officers involved in the shooting then held their position for approximately five minutes until additional officers arrived before approaching the victim. Officers did not approach Mr. Clark to attempt to render any first aid for nearly five minutes following the shooting. Nearly six minutes after the shooting, after backup officers arrive, one officer can be heard telling another officer, "hey mute." Sound then cuts out as officers apparently turn off their microphones, however, the video continued to record and the officers can be seen speaking to each other and to at least one civilian on scene for about two more minutes before the video ends. Mr. Clark was unarmed and holding only his cell phone. He died at the scene. Police were responding to a report of vandalism to several cars on the street outside of Mr. Clark's home. Several agencies have opened investigations into the shooting, as will SPD homicide detectives, internal affairs and Crime Scene Investigation units.

Amnesty International is writing to seek assurances that this investigation will be thorough, transparent and impartial and that the investigation into this incident will conform to the highest standards for investigating officer-involved shootings, and that all relevant evidence, including the autopsy report and any witness testimony, will be made available to it. We urge that a report of the findings be made public as soon as possible, with information on the scope of the investigation, procedures and methods used to evaluate evidence, as well as conclusions and recommendations. We also seek your assurance that any officer found responsible for unlawful use of force will be held accountable in criminal proceedings as appropriate. Furthermore, the investigation should also include whether officers improperly silenced the audio function of their body cameras following the incident. Lastly, we call for the family of Mr. Clark to be fully informed throughout the investigation process.

Under international law, anyone whose rights have been violated has the right to remedy, which includes effective access to justice; reparation for harm suffered; and access to relevant information concerning violations. In a case involving an unlawful death in custody or death as a result of unlawful use of lethal force, the victim's family has that right to remedy. The UN Human Rights Committee has stated:

Article 2, paragraph 3, requires that in addition to effective protection of Covenant rights States Parties must ensure that individuals also have accessible and effective remedies to vindicate those rights. ... Administrative mechanisms are particularly required to give effect to the general obligation to investigate allegations of violations promptly, thoroughly and effectively through independent and impartial bodies. A failure by a State Party to investigate allegations of violations could in and of itself give rise to a separate breach of the Covenant...

Where the investigations referred to [above] reveal violations of certain Covenant rights, States Parties must ensure that those responsible are brought to justice. As with failure to investigate, failure to bring to justice perpetrators of such violations could in and of itself give rise to a separate breach of the Covenant.

At the same time, we emphasise that any officer found to have resorted to the unlawful use of lethal force be subject to criminal proceedings as appropriate. The UN Human Rights Committee is the expert body established under the International Covenant on Civil and Political Rights (ICCPR) to monitor implementation of this human rights treaty. The USA ratified the ICCPR in 1992. In its General comment 6 on the right to life under the Covenant, the Committee stated that "The deprivation of life by the authorities of the State is a matter of the utmost gravity" and that states must take measures to prevent arbitrary killing by their own security forces. Such measures are set out in the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Principle 9 of which states:

"Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life" (emphasis added).

Therefore, if the force is unavoidable it must be no more than is necessary and proportionate to achieve the objective, and law enforcement must use it in a manner designed to minimise damage or injury, must respect and preserve human life and ensure medical aid is provided as soon as possible to those injured or affected.

While Amnesty International USA welcomes the release of the videos of this incident, we are concerned that the footage, both from aerial cameras and a body camera, depict a use of lethal force that may be in breach of international law and standards. It is not clear that Mr. Clark, standing in the back yard of his own property and suspected of acts of vandalism presented "an imminent threat of death or serious injury" to the officers or others, still less that twenty shots were "strictly unavoidable in order to protect life".

With regard to the principle that police may use force only when strictly necessary, Principle 2 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials states that "Governments and law enforcement agencies should develop a range of means as broad as possible and equip law enforcement officials with various types of weapons and

ammunition that would allow for a differentiated use of force and firearms”. Having available such a range of weapons, and the training to use them, means that police are in a better position to use only such force as is necessary in the particular circumstances. Yet in this instance, it is not clear from the video whether officers even attempted to de-escalate the situation or whether they could have used alternative methods before resorting to the use of firearms in this incident.

Additionally, Amnesty International USA would like to draw your attention to California’s use of lethal force statute and its failure to meet international standards for the use of lethal force by law enforcement officers, let alone U.S. Constitutional standards. California law does not limit the use of lethal force to only those situations where there is an imminent threat of death or serious injury to the officer or to others, nor does it require that the use of lethal force may only be used as a last resort with non-violent and less harmful means to be tried first. In 2015, Amnesty International released a report, *Deadly Force: Police use of lethal force in the United States*, which found that the United States has failed to respect, protect and fulfill the right to life by failing to ensure that domestic legislation meets international human rights law and standards on the use of lethal force by law enforcement officers. The report details how all 50 states fail to comply with international law and standards whereby none of the state statutes require that the use of lethal force may only be used as a last resort with non-violent and less harmful means to be tried first or limits the use of lethal force to only those situations where there is an imminent threat to life or serious injury to the officer or to others.

As cases such as Mr. Clark’s continue to occur across the country, it is imperative that state legislatures enact laws that meet the above international standards to not only provide the proper guidance for law enforcement officers, but to also provide a framework of accountability for when those laws and standards are transgressed. It is why we are calling for your office to utilize this opportunity to call for California to revise its use of lethal force statute to bring it in line with international standards to help prevent these cases from continuously happening and providing accountability for the families of those who are shot and killed by law enforcement officers.

I thank you for your serious consideration of our concerns and look forward to your response.

Yours sincerely,

A handwritten signature in black ink that reads "Margaret Huang". The signature is written in a cursive, flowing style.

Margaret Huang
Executive Director
Amnesty International USA