ABC, ET AL V. CMPD

Please indicate all the parties present for the hearing and that the hearing was conducted on June 14, 2024. Judge Strickland granted the request for the hearing to be done in person and allowed counsel to be present virtually through WebEx.

The Court is denying the motion to dismiss due to only 1 petition filed rather than 460 (include correct number I calculate 428 Plus 32 from MCSO) ie: the number of body camera recordings.

The Court is denying the motion to dismiss due to lack of notice.

FINDINGS OF FACT:

1. On Monday April 29, 2024, members of the US Marshall Task Force attempted to execute an order for arrest of Terry Clark Hughes Jr. at 5525 Galway Drive, Charlotte, NC.
2. While attempting to serve the warrant, Mr. Hughes began firing at the officers.
3. Law enforcement agencies from around the area responded to the scene.
4. Four officers were killed in the incident - Deputy US Marshall Thomas M. Weeks, Jr., North Carolina Department of Adult Correction Officers Sam Poloche and William “Alden” Elliot, and CMPD Officer Joshua Eyer.

5. Seven officials were wounded by Hughes' gunshots, including CMPD Officers Christopher Tolley, Jack Blowers, Michael Giglio, and Justin Campbell. Cpl Casey Hoover of the Statesville Police Department was also wounded in the incident.
6. As Hughes jumped out of a window after firing multiples rounds of ammunition, officers shot and killed Hughes.
7. After Hughes was killed, SWAT negotiated with two individuals in the home who eventually exited the home.
8. CMPD confirmed in a press conference on May 31, 2024, that Mr. Hughes was the lone gunman on the afternoon of April 29, 2024. There was no friendly fire during the incident. The officers that were killed and wounded were done so by the hands of Mr. Hughes.
9. CMPD and the Bureau of Alcohol, Tobacco, Firearms and Explosives have an open investigation into this matter – namely how did Mr. Hughes get access to the assault rifle used in the commission of the crimes.
10. There are approximately 1,128 audio and video law enforcement agency recordings from April 29, 2024.
11. There is approximately 345 hours of body camera footage from CMPD.
12. There is approximately 32 hours of body camera footage from Mecklenburg County Sheriff Department.
13. The court has reviewed 8 hours of body camera footage from both CMPD and MCSO. The court has reviewed portions of tens of officers body camera footage. The

court has reviewed all of Officer Eyer's body camera footage and the body camera footage of numerous officers who were in and around the scene when gunfire erupted from Mr. Hughes, including officers who were wounded.

14. The court believes it has an excellent feel and understanding of what happened on the afternoon of April 29, 2024, despite not reviewing all 377 hours of the body camera footage.
15. The court looks to NCGS 132.1-4A when deciding whether to release this body camera footage.
16. The court understands, as per In re McClatchy Co, LLC 2024 NC Lexis 346, that the court has broad discretion when making this decision.
17. This Court understands that it can release all, none, or some of the body camera footage. This Court understands it has the ability to blur out images, mute certain portions of the footage, or anything else it deems fit.
18. The Court must consider the 8 factors listed in NCGS 132-1-4A(g) – Release of Recordings; General; Court Order Required.
19. (1) Release is necessary to advance a compelling public interest. Petitioner has not met this burden as the court is not aware of any conduct by a public official that is at issue. Mr. Hughes was the bad actor in this situation and no one is questioning the actions of law enforcement.

20. Certainly, a portion of the public would be interested in the release of this video, but this does not meet the criteria of a compelling public interest.
21. (2) The recoding contains information that is otherwise confidential or exempt from disclosure or release under State or federal law. This issue is not applicable to the Court's decision.
22. (3) The person requesting release is seeking to obtain evidence to determine legal issues in a current or potential court proceeding. This issue is not applicable to the Court's decision.
23. (4) Release would reveal information regarding a person that is of a highly sensitive personal nature. The Court weighs this factor heavily in not releasing the body camera footage. The body camera footage shows dead bodies. The footage shows officers being shot, bleeding, and wounded. The footage shows an officer being shot, saying his last words, struggling to breathe, taking his last breath….and dying. This Court cannot think of anything more sensitive and personal than the footage it witnessed depicting these events. Blurring of images and/or muting the sound at certain points of the numerous body camera footage cannot overcome the fact that these videos reveal information that is of a highly sensitive nature.
24. (5) Release may harm the reputation or jeopardize the safety of a person. The Court weighs this factor heavily in not releasing the body camera footage. The officers who

were killed have a total of 8 children between them – 6 sons and 2 daughters. The officers who were killed have widows. The officers who were killed have family members traumatized by this incident. Officers who were wounded and present are dealing with the trauma of the incident on April 29, 2024. These officers who were wounded and present also have family members impacted by what occurred on that afternoon. The Court considers the mental health of individuals as a consideration under this factor. If mental health is not considered to be under the safety of a person, then the court is making its own standard with respect to mental health, which the statue gives the court the ability to do.

25. Widows have been receiving hate mail in their mailboxes. Messages that tell them their husband deserved to die and that they should rot in hell. The Court believes if the body camera footage is released for all to see, these families would receive more hate mail.

26. The court also considers the impact on the children of the fallen and wounded officers. How would this impact a 12 year old boy who googles his father's name and can watch his assassination on YouTube? The Court doesn't know the answer to that question but does believe it impacts the mental health of a child – even if it is years from now.

27. Factors (4) and (5) are given the most weight by this Court due to reasons stated above.

28. (6) Release would create a serious threat to the fair, impartial, and orderly administration of justice. This issue is not applicable to the Court's decision.
29. (7) Confidentiality is necessary to protect either an active or inactive internal or criminal investigation or potential internal or criminal investigation. While there are active investigations, the Court did not put any weight into this factor when reaching its conclusion.
30. (8) There is good cause shown to release all portions of a recording. For reasons state above, there is not good cause to release all portions of a recording. Either the footage doesn't advance a compelling public interest (such as an officer directing traffic for 30 minutes) or the footage is of such a nature that reveals information that is of a highly sensitive personal nature, or it jeopardizes the safety or mental health of a person.

CONCLUSIONS

1. Petitioner has not met their burden in demonstrating why any portions of the body camera footage should be released.
2. The Court has weighed factors four and five as most controlling in reaching its decision. In addition, the concern about the mental health of numerous individuals in the community is also an important factor the Court considered.

ORDER

Petitioner's request for release is DENIED. The Court will not release any portion of the 377 hours of body camera footage.