

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA  
CIVIL DIVISION**

BLACK LIVES MATTER D.C., et al.,

Plaintiffs,

v.

MURIEL BOWSER, et al.,

Defendants.

2018 CA 003168 B  
Judge John M. Campbell

**PLAINTIFFS' SECOND SUPPLEMENTAL MEMORANDUM IN SUPPORT OF  
IMMEDIATE ISSUANCE OF PRELIMINARY INJUNCTION**

Plaintiffs submit this supplemental memorandum to update the Court regarding the new information contained in Plaintiffs' June 13, 2019, filing. In that brief, Plaintiffs informed the Court that Defendants confirmed that they use only body-worn camera footage to satisfy the NEAR Act's requirement that they "keep" records on the race or ethnicity of individuals subjected to traffic stops in the District of Columbia, and that the past six months' worth of that data is contained in a set of 31,521 individual videos, each of which would have to be obtained via FOIA and then individually reviewed, before being combined with race/ethnicity data for *non*-traffic stops, in order for Plaintiffs to compile a complete set of data about the race or ethnicity of individuals stopped by MPD.

In Plaintiffs' June 13 filing, they estimated, based on the number of responsive videos (31,521), a conservative estimate that each video is 5 minutes long, and a prior invoice from MPD in connection with a prior FOIA charging \$23/minute for redaction costs, that MPD would charge Plaintiffs ACLU-DC \$3,624,915 to produce all 31,521 videos. MPD has now provided an invoice for a fraction of the videos at issue here—1,077 out of the 31,521, or approximately  $\frac{1}{29}$  of the total

number. That invoice, dated June 20, 2019 and attached to this filing, would charge \$310,362. If this first invoice for  $\frac{1}{29}$  of the videos is representative (and there's no reason to believe it isn't), then the total cost for the 31,521 videos should be \$9,000,498 (which is \$310,362 times 29).

This latest information makes yet more obvious that MPD's data-collection regime, under which Plaintiffs would have to pay \$9 million and then watch 31,521 videos in order to compile a complete set of the data that the D.C. Council required MPD to collect, is a joke. It is designed to thwart the will of the Council and obstruct D.C. residents' access to information about how their police are carrying out their important responsibilities.

A preliminary injunction should issue forthwith. The Court should order Defendants to begin collection and retention of all the NEAR Act-required data for all stops in the District of Columbia, using Plaintiffs' proposed form, within 14 days. The Court should also deny Defendants' pending motion for a stay of discovery and order Defendants to respond within 14 days to the discovery requests that Plaintiffs propounded more than six months ago.

June 21, 2019

Respectfully submitted,

/s/ Scott Michelman

Scott Michelman (D.C. Bar No. 1006945)

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 21st day of June 2019, a copy of PLAINTIFFS' SUPPLEMENTAL MEMORANDUM (and its attachment) was served on counsel for Defendants through CaseFileXpress.

/s/ Scott Michelman

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