

**State Headquarters**

2966 Woodward Avenue  
Detroit, MI 48201  
Phone 313.578.6800  
Fax 313.578.6811  
E-mail [aclu@aclumich.org](mailto:aclu@aclumich.org)  
[www.aclumich.org](http://www.aclumich.org)

**Legislative Office**

115 West Allegan Street  
Lansing, MI 48933  
Phone 517.372.8503  
Fax 517.372.5121  
E-mail [aclu@aclumich.org](mailto:aclu@aclumich.org)  
[www.aclumich.org](http://www.aclumich.org)

**West Michigan Regional Office**

1514 Wealthy St. SE, Suite 260  
Grand Rapids, MI 49506  
Phone 616.301.0930  
Fax 616.301.0640  
Email [aclu@aclumich.org](mailto:aclu@aclumich.org)  
[www.aclumich.org](http://www.aclumich.org)

October 13, 2022

James E. White, Chief  
Detroit Police Department  
1301 Third Street, suite 75-751  
Detroit, Michigan 48226

Re: The Killing of Porter Burks

Dear Chief White:

The ACLU of Michigan shares the alarm and concern of many in the City of Detroit about the killing of 20-year-old Porter Burks on October 2, 2022. Detroit police officers fired a reported 38 rounds at the young man after he moved in their direction while carrying a knife with a blade slightly longer than three inches in length. We understand that the investigation of this killing continues, but there are certain issues that are of immediate concern to us, and we raise them here.

First, it is our understanding that Mr. Burks was challenged by schizophrenia, and if it is true that at least one of the responding officers was trained to respond to mental health emergencies, we believe that to be both appropriate and useful. However, after viewing the video of the event that you released, we have questions about whether the officers fully employed measures that might have allowed the encounter to end peacefully. Although officers used language that on its face suggested an intent to deescalate a tense encounter, implicit in their approach was an urgency – an expectation that Mr. Burks would comply immediately with their demands that he drop his knife and surrender. Law enforcement culture that gives highest priority to the establishment of the officers' authority and unquestioning compliance with officers' orders may have value in some situations, but it is a poor fit in others – most notably in cases like this one where a subject may lack the capacity to comply.

If officers determine early that compliance by a suspect is unlikely, to what extent per department policies may officers use their discretion to refrain from forcing compliance? For example, in this case Mr. Burks can be heard to say on at least two occasions that he just wanted to get some rest. If officers had the presence of mind to conclude from those comments that Mr. Burks was very tired, and that he might, within a reasonable time lack sufficient energy to resist being taken peacefully into custody, would officers have been authorized to disengage from active interaction with Mr. Burks, and to instead monitor his movements in silence for as long as might be required for him to finally settle into a passive state? If officers are primed and ready to use violence at the first sign of non-compliance, then violent reactions are often more likely to occur than not.

In addition, we are interested in protocols related to police responses to individuals armed with bladed weapons. Such may not be in the form of specific policies concerning use of force, but they may instead be part of officers' training programs. As just one example, we are interested in knowing whether officers are trained to carry shields or use other barriers during these encounters that might afford the officers greater confidence in responding to aggression with less than lethal force.

Ultimately, we are concerned that nationally, law enforcement as an institution somehow manages to take some white suspects who have engaged in mass, wanton murder into custody peacefully, while far too often, persons of color who have taken no lives are killed by police with a degree of ferocity that in no way corresponds with the victims' conduct.<sup>1</sup>

To have our questions answered, we would welcome an opportunity to meet with you. We would also appreciate full responses to the Freedom of Information Act requests below. Pursuant to the Michigan Freedom of Information Act ("FOIA"), MCL 15.231 *et seq.*, the American Civil Liberties Union of Michigan ("ACLU") hereby requests "records," as that term is defined to the fullest extent under FOIA. Records requested herein include documents in all forms, including, but not limited to: written reports, recordings, computer disks, medical records, affidavits, investigative records, videotapes, digital video discs, correspondence, memoranda, court documents and records, purchase orders, invoices, transcripts, telephone logs, photographs, news clippings and other preserved media reports, complaint forms, e-mail messages, activity logs, incident reports, daily reports etc. We specifically request the following:

1. All records that memorialize protocols, rules, guidelines, or policies related to police responses to mental health emergencies.
2. All records that contain directories or lists of Detroit Police Department personnel whose specific and exclusive responsibility is response to mental health emergencies.
3. For each Detroit Police Department employee who is identified as part of the response to number 2 above, provide records containing their job descriptions and professional credentials.
4. All records that contain instructions, training materials, guidelines, protocols or policies concerning police responses to persons carrying bladed weapons.
5. All records that memorialize protocols, rules, guidelines, or policies related to officers' discharge of firearms.

The ACLU requests limitation and waiver of fees pursuant to FOIA which provides for such limitation and waiver where searching for or furnishing the records can be considered as primarily benefiting the general public because it is likely to contribute to public understanding and is not in the commercial interests of the ACLU. See MCL 15.234(2). If this request for waiver of fees is denied and it will cost more than \$100 to process the request please contact the undersigned before proceeding. Please respond within the time period mandated by the statute. If the request is denied in whole or part please justify all deletions by reference to specific exemptions under FOIA. Separate any exempt material from non-exempt material and make the non-exempt material available. Direct all responses to the undersigned. If there are any questions or you require further information about this request, please contact me at (313) 578-6822. Thank you for your courtesies and cooperation.

Sincerely,

*Mark P. Fancher*

Mark P. Fancher  
Staff Attorney – Racial Justice Project

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<sup>1</sup> There have been a significant number of occasions when this has occurred, but perhaps the most noteworthy are the juxtaposed experiences of Bobby Crimo and Jayland Walker. On July 4, 2022, Crimo, a white man, killed seven people and wounded dozens more in Highland Park, Illinois. Crimo was taken peacefully into custody notwithstanding the violence of his crimes. Jayland Walker, an unarmed Black man, was pulled over for a traffic violation on June 27, 2022. Eight Akron, Ohio cops shot 90 bullets at Walker. It is also worth noting Dylann Roof, who on June 17, 2015 killed Black worshippers at Emanuel AME Church in cold blood. Not only was he arrested peacefully, but officers also bought him lunch on the way to jail.