



February 18, 2021

*UN Human Rights Office Consultation with Civil Society:
In view of the preparation of the Report of the High Commissioner
for Human Rights under Human Rights Council Resolution 43/1*

Testimony by Rachel Lopez

My name is Rachel Lopez and I am an Associate Professor of Law at Drexel's Kline School and an expert in international human rights law. I am also the Director of the Andy & Gwen Stern Community Lawyering Clinic, which provides free legal assistance to Drexel's neighbors in West Philadelphia.

Along with the ACLU of PA, I represent a group of residents and protesters, many of whom are African-American, who were attacked by police in their own homes and on their own streets on May 31st and June 1st of last year as they exercised their rights to freedom of expression and to peaceful assembly in the wake of the murder of George Floyd. In November, we filed a letter of allegation with the UN Special Rapporteurs urging them to investigate the human rights violations my clients suffered at the hands of police.

My clients' stories speak to the ruthlessness and callousness of the police toward Black lives on those days. The police who were meant to protect and serve them, brutalized them. As video footage of the events on highway 676 on June 1st shows, police corralled protesters from both sides of the highway essentially forcing them to scale a steep hill, instead of using safer means of escape. At the same time, the officers repeatedly pelleted them with rubber bullets and tear gas, causing a stampede. Some protesters tried to climb the high walls on the side of the highway, but most were trapped. My clients describe being unable to breathe, feeling like they would die on that hill, and seeing blood and hearing screams everywhere.

On May 31st at 52nd Street in West Philadelphia, as our client Amelia Carter explained earlier, the PPD indiscriminately and without warning deployed tear gas, pepper spray, and rubber bullets on protesters and residents alike, including many black children and the elderly.

An elderly African-American senior was hit twice by rubber bullets on his hand and leg. His hand swelled about twice its size and his leg was so swollen that he could not walk. Another elderly African-American woman who was visiting her niece in the neighborhood was shot in the head by a rubber bullet. According to numerous eyewitnesses and as we will detail in our report, which we submitted to you as part of this consultation, the police also appeared to be targeting medics, who were providing medical assistance to those injured by police as well as reporters who were documenting the violence. Our clients also witnessed police repeatedly fire canisters of tear gas onto residential streets, people's porches, and sometimes through the open windows of houses in a predominately black neighborhood. One mother barricaded herself and her 3 and 6 year old sons into their bathroom to escape the noxious fumes, spreading throughout her house. The police quite literally gassed them in their homes during a pandemic.

At the same time, the police empowered white groups, who were often armed with bats, clubs, and even military-style automatic weapons, to take over streets and parks, make threats of violence, and even assault protesters for Black lives. The police went so far as to forcibly disperse anti-racism protesters instead of dispersing the white groups that threatened violence against them. The purpose and effect of these practices has been to intimidate, deter, and punish protesters for Black lives from exercising their human and constitutional rights to peaceably assemble and exercise freedom of expression.

These acts put black Philadelphians at grave risk of serious injury and possibly death, violating their human rights. Tear gas, pepper spray, and rubber bullets are classified as "less-lethal" weapons, but, as the name suggests, that does not mean that they cannot kill. According to the CDC, tear gas exposure can also result in death, either from respiratory failure, or from severe chemical burns to the throat and lungs. If a tear gas canister hits someone directly, it can cause serious wounds, concussion, or other potentially lethal head injuries. Because of the nature of tear gas, it often has indiscriminate effects, meaning that it can easily hit bystanders due to changes in wind direction and cause stampedes, just it did on 676. Tear gas is so dangerous that it is considered a chemical weapon under international law and banned in war. In addition, according to UN guidance, rubber bullets should never be shot at the torso or head for risk of skull fracture, brain injury, and damage to the eyes and vital organs. This is particularly true for elderly individuals who are more susceptible to permanent injury and possibly death.

We ask that the United States formally recognize the history of racism and pattern of police brutality against Black communities across the United States, but especially in Philadelphia, acknowledge that police violence presents a public health crisis for these communities, and grant reparations that seek to support community healing and revitalization.

We ask the UN High Commissioner for Human Rights to condemn these acts and recognize that under CERD the US has a duty to actively facilitate and encourage the exercise of the rights to peaceful assembly and freedom of expression by Black Lives Matter (“BLM”) protesters and activists, not obstruct them.

Finally, in line with calls to defund the police, we ask the UN High Commissioner to advise the US that it should prioritize funding initiatives that would reduce the need for policing, by increasing access to education, mental health resources, housing, and addiction and harm reduction services.

Thank you for the opportunity to share my clients’ stories and for your work on this matter.