

**TESTIMONY OF CARL MESSINEO, ESQ.,  
LEGAL DIRECTOR OF THE PARTNERSHIP FOR CIVIL JUSTICE FUND  
BEFORE THE COMMITTEE ON THE JUDICIARY  
COUNCIL OF THE DISTRICT OF COLUMBIA  
REGARDING  
MPD'S PRACTICES AND PROTOCOLS FOR POLICE ESCORTS**

**JUNE 23, 2011**

Good afternoon, I am Carl Messineo, Legal Director of the Partnership for Civil Justice Fund. The PCJF is a non-profit legal and educational organization committed to the advancement and protection of civil rights which functions, among other things, as a watchdog organization challenging constitutional violations and police misconduct. Based in Washington, D.C., we have an organizational and personal commitment to the city which is our home.

The Partnership for Civil Justice brought the litigation that ended the MPD's military-style checkpoint program (the so-called "Neighborhood Safety Zone" program deployed in the Trinidad neighborhood) and obtained the unanimous appellate panel ruling declaring the program unconstitutional.

We have advanced First Amendment litigation to vindicate the constitutional rights of thousands of protestors and bystanders whose constitutional rights have been violated by the MPD, including through mass false arrest as well as brutal and unconstitutional uses of force.

We also have an active Freedom of Information and government transparency program, through which we brought litigation to end literally decades of secrecy by the DC Metropolitan Police Department, in which they refused the demands of civil liberties and community groups to make their operating policies, procedures, general and special orders available to the public. Now, as a result of the PCJF's litigation, around 90% of MPD Directives System orders have been uncovered and are available at our web site at [www.JusticeOnline.org](http://www.JusticeOnline.org). The remaining 10% is the subject of active litigation.

When the Charlie Sheen escort first came to light, on April 22, 2010, we filed a FOIA request with the MPD seeking production of policy materials and orders pertaining to escort services, reimbursable details, the specifics of the Sheen episode including all e-mails discussing or determining whether to provide the Sheen escort as well as copies of the recorded police channel communications for that escort.

The MPD's evasive responses have gone every which way, but straight. One wonders what it is that they are hiding. Citing "unusual circumstances," they took an enlargement of time to respond and provide what should have been readily available information.

And when they did respond, pursuant to letter dated June 7, 2011, we received only 13 pages in response consisting of one General Order from 1978, one Special Order from 2005, a copy of the payment check from Live Nation for the Sheen escort and a couple of related pages.

Even the few pages they provided raise questions. There is a check written from Live Nation with the same date as the nighttime escort services were provided, April 19, 2011, yet the DC MPD invoice bears a date of approval by Commander Burton of the Special Operations Division of April 24, 2011, after public uproar and inquiry.

The MPD did not provide the April 22, 2011 Division Order entitled “Handling Requests for Police Escorts” even though we specifically requested copies of all staff manuals or instructions authorizing or restricting use of police vehicles to escort celebrities. They refused to provide emails or copies of the recorded police channel communications.

When the Associated Press reported on documents related to provision of escort services to Bill Gates, Jay-Z and other celebrities and sports teams, we sent to the MPD a request for copies of all materials that had been produced to other requestors on this subject. The MPD has not produced these additional materials to us, nor have they directed us to another FOIA office if the materials were produced by another. The PCJF has the expertise to analyze those materials, but the MPD is withholding them from our scrutiny.

The MPD is obfuscating on this issue. They could provide the internal emails today, they could provide the radio runs now, they certainly could have provided the April 22, 2011 directive pertaining specifically to escorts. The MPD does not want oversight, and oversight is desperately needed on this issue. This is a matter that involves the use of funds from the public fisc, the money of the hardworking people of the District of Columbia, and it is an issue of public safety and danger to the residents of DC and the surrounding region.

We are appreciative of this Committee’s oversight because it is clear the MPD is incapable of policing itself when it comes to providing special services to celebrities and the wealthy elite.

It is as if the command staff view themselves as privileged to dispense escort services regardless of policy or public interest. Perhaps the command staff want to be a part of the celebrity entourage or have their photo snapped with celebrity when the opportunity arises. This

is a form of petty corruption and patronage for the privileged. The D.C. police are not to serve as a private limousine service for the rich and famous.

It appears that this may have long been a matter of routine within the Special Operations Division, which the current Chief, Cathy Lanier, used to head.

The problem is that this comes at a substantial risk to the public interest. The Sheen escort was a high speed escort outside of jurisdictional limits. I am reminded of the June 9, 2004 testimony of Assistant Chief of Police Winston Robinson before this committee, in which the MPD testified passionately against the expansion of authority to engage in high speed vehicular pursuits. Were more high speed pursuits permitted, there would be more high speed accidents, and he attested “the victims will be innocent motorists, passengers, pedestrians, bicyclists and children. Sometimes the victims will be police officers.”

Significantly, there is no legal authority for the MPD to provide police escort services outside of the Washington, D.C., across state lines and in Virginia or any other state. They are permitted to cross those lines only when in fresh pursuit of a fleeing felon, not as a matter of routine.

One can imagine the possible consequences, both in terms of injury and loss of life - - to say nothing of the extraordinary municipal liability - - had the Sheen escort ended in tragedy, accident, injury or death.

I'd like to focus on the hastily crafted Division Order regarding escorts dated April 22, 2011, after the Sheen escort.

That new order does not ban police escorts for non-dignitaries.

*It expressly permits them*, with virtually no policy limitations on when escorts for non-dignitaries, for celebrities and the elite can be doled out by the police.

The Order allows non-dignitary escorts to be provided “based on several criteria, **to include but not limited to** the requesting government agency or organizer, any known threat to the escorted individual’s safety and/or concerns of crowd control and public safety.” There are no limits as to what circumstances need to be present, it is a list that simply says that the decision to provide non-dignitary escorts shall be based on unstated and discretionless “criteria.”

The Order later provides that additional escorts outside the purview of the directive may be approved on a case-by-case basis. In other words, while generally, under this directive non-dignitary escorts should be lights and siren off (Code 2), they can choose if they please to proceed in emergency mode, with lights and sirens, and in disregard of standard traffic regulation, circumstances which increase the risk to the public and bystanders.

The prior policy, existing before the Sheen episode, appears to have prohibited not just the Sheen escort but the many other escorts provided to non-dignitaries. Yet, the *practice* appears to have been to provide police escort services frequently, routinely, or upon certain request.

This issue demands both policy reform and oversight of the practice, because as I indicated earlier, it appears the police are incapable of policing their own behavior when it comes to escorts.

We believe the Council must, first, issue statutory law that will regulate and limit specifically under what circumstances non-dignitary escorts may be permitted, including permitting such escorts only upon a specific documented showing of public safety need, banning such escorts from leaving city limits, and prohibiting use of siren and lights or speeding absent documentable emergency circumstances. Reporting requirements should mandate that all circumstances justifying provision of a non-dignitary escort by specifically recorded in writing

on a standard form, that the highest authority approving such escort personally sign off on the escort, and that the officers providing the escort certify whether or not lights and sirens were used, whether the speed limit was exceeded or standard traffic regulations disregarded, and whether units crossed D.C.'s lines into other states. Furthermore, we recommend the Council mandate routine and public reporting of the provision of non-dignitary escort services, including by requiring the MPD to post on the MPD's web site all forms and documentation recording the provision of non-dignitary escorts and the costs associated with it. The web posting should be required to be made within 15 days of the escort provision.

For our part, the Partnership for Civil Justice Fund, will continue to post material that we are able to obtain on this and other matters unclocking the secrecy of the Metropolitan Police Department on our website, [www.JusticeOnline.org](http://www.JusticeOnline.org) or [www.DCMPD.org](http://www.DCMPD.org) where the community may have access to the information on police department operations.

Thank you again for your oversight on this matter.