

RE: Summary of Letter Requesting that DOJ Investigate Pattern and Practice of Civil Rights Violations by Vancouver Police Department, Clark County Sheriff's Office, and Clark-Vancouver Regional Drug Task Force.

The American Civil Liberties Union of Washington and the below-listed community organizations request the Civil Rights Division of the Department of Justice (DOJ) open one or more pattern or practice investigations into excessive force, discriminatory policing harming Vancouver and Clark County area communities, and discriminatory policing arising from favoritism toward known white supremacist extremist groups. The law enforcement agencies that should be investigated are the Vancouver Police Department (VPD), the Clark County Sheriff's Office (CCSO), and a joint drug task force of both agencies (Task Force). Specifically, we request your investigation into VPD, CCSO, and the Task Force's disparate treatment of those who are Black, Indigenous, persons of color, unhoused, and/or mentally ill.

I. FACTS WARRANTING INVESTIGATION

A. THERE HAVE BEEN AN ALARMING NUMBER OF POLICE SHOOTINGS OF YOUNG BLACK MEN, IN A SHORT PERIOD OF TIME, WITH NO ATTEMPT TO DE-ESCALATE OR USE LESS-LETHAL MEANS

Over a 2.5-year period, there have been eight police-involved killings at the hands of VPD officers, CCSO deputies, and Task Force agents, one as recently as October 17, 2021. This is the largest concentration of police killings across the state since Initiative 940, a statewide de-escalation and mental health training requirement, was passed in Washington state in December 2018. Of these, five (63%) of the men killed were people of color, including three Black men and two Pacific Islanders, despite Black and Pacific Islanders people together account for no more than about 3% of the Clark County population.

In each case, the use of lethal force was unnecessary and excessive. In nearly all cases, police justified the use of lethal force with the same narrative — that the person “failed to comply.” However, these cases lack any non-law enforcement corroborating witnesses, body camera footage, or dash camera footage to verify these claims — some of which are summarized below:

February 19, 2019: VPD officers shot and killed Clayton Joseph, a 16-year-old Pacific Islander-Chuukese boy.

February 28, 2019: Two VPD officers shot and killed Michael Eugene Pierce, a 29-year-old white man experiencing homelessness and mental illness.

March 7, 2019: Two VPD officers killed Carlos Hunter, a 43-year-old Black man.

April 28, 2020: Three VPD officers shot and killed William Abbe, a 50-year-old white man experiencing homelessness and mental illness.

October 4, 2020: Two VPD officers killed Andrew Williams, a 41-year-old white man experiencing homelessness and mental illness.

October 29, 2020: Detectives from a joint VPD-CCSO drug Task Force shot and killed Kevin Peterson Jr., a 21-year-old Black man.

February 4, 2021: A Clark County Sheriff's deputy fatally shot Jenoah D. Donald, a 30-year-old Black man.

October 17, 2021: Clark County Sheriff's deputies fatally shot Kfin Karuo, a 28-year-old Pacific Islander-Chuukese man; CCSO deputies also terrified numerous community members of color by the deputies' "gunshots tearing through [the community members'] houses."

Throughout the 2.5-year period of incidents described above, each officer-involved shooting incident resulted in death – officers were shooting to kill. This blanket deadly response to a range of circumstances and subjects reflects a lack of care and regard for the people that police encounter, particularly Black, Indigenous, Brown, unhoused, and mentally ill people. It shows a pattern of police use of deadly force against people of color after claiming the person "failed to comply." The harm to impacted family and community members continues as we write this letter. On October 17, 2021, CCSO deputies took the life of a Pacific Islander man and put an entire neighborhood's safety at risk when deputies pursued the man inside a mobile home park, firing their guns into people's homes. One home had eleven bullet holes in the bathroom alone, indicating the magnitude of force being used. This police violence put elders and children in shock and at risk of deadly injury and left them feeling unsafe in their own homes. The need for DOJ investigation to stop the deadly pattern is greater now than ever.

In response to a growing number of officer-involved shootings and community demands for accountability, in June 2019 the City of Vancouver commissioned the Police Executive Research Forum (PERF), a third-party organization, to conduct a review into VPD's policies, practices, and training around the use of force. In its 90-page report analyzing VPD's use of force between 2017 and 2019, PERF found that VPD's use-of-force incidents rose by 65% with no apparent policy or reporting changes to explain the increase.

In an extremely concerning finding, PERF's report outlines that VPD's policy "does not direct officers to only use force that is proportional to the threat encountered." This lack of guidance about proportionality in the exercise of force is reflected in police practices on the ground, as demonstrated by the officer-involved shootings cited above. Additionally, PERF found multiple instances of inconsistency and missing definitions across specific use-of-force policies and procedures.

B. DISCRIMINATORY POLICING ALONG RACIAL, MENTAL HEALTH DISABILITY, AND ECONOMIC LINES INFLECTS GREAT HARM ON COMMUNITY MEMBERS

VPD and CCSO officers operate with disproportionately high rates of aggression toward Black and Pacific Islander community members and other residents of color, as well as those facing homelessness and mental illness. Both the city of Vancouver and Clark County have very small Black populations at around 2% each (2.3% in Vancouver and 2.4% in Clark County). Yet three (38%) of the eight people recently killed in Clark County were Black, and two were Pacific Islanders, and Black people and Pacific Islanders together account for no more than 3% of the Clark County population. Relative to city or county demographics, a Black or Pacific Islander person is significantly more likely than a white person to be the subject of police use of force.

Our analysis of VPD's use of force data from 2019 and 2020 provided on the VPD website similarly shows stark disparities. In both years, Black residents and Native Hawaiians and Pacific Islanders were disproportionately subject to the use of force, compared to their representation in the Clark County population. The share of use-of-force incidents against Black people increased markedly between 2019 and 2020, from 13.4% to 17.4%. For Native Hawaiians and Pacific Islanders, it increased as well, from 2.3% of use-of-force incidents to 2.8%. In contrast, it decreased significantly for whites/Caucasians, from 77% to 70.4%. It is noteworthy that in 2019, the race of the subject was listed as "unknown" in 3% of use-of-force incidents, in 2020, in 6.3% of use-of-force incidents, and in the first half of 2021, in 17.6% of force incidents.

Similarly, an analysis of traffic-stop data from the VPD reveals yet further evidence of disparate policing in Clark County to the extent it shows that Black/African American drivers and Hispanic drivers are stopped at 2.3 times the rate at which white drivers are. The rate is even higher for Pacific Islanders, who are stopped at 2.8 times that of white drivers but only make up 0.9% of the population. In contrast, white people make up 80.1% of the population.

People with mental illness are also an alarming proportion of the victims in use-of-force incidents. All three of the above-mentioned white men killed by VPD were experiencing homelessness and mental health crisis. According to the PERF report nearly one-third of people involved in use-of-force incidents had at least one mental health indicator present. By VPD's own calculation, nearly a quarter of use-of-force incidents (22.7%) in 2019 involved individuals exhibiting symptoms of mental illness. This increased to 36.4% (more than a third of use-of-force incidents) in 2020.

C. VPD AND CCSO ENGAGE IN DISCRIMINATORY POLICING THAT FAVORS KNOWN, LOCAL AND REGIONAL, WHITE SUPREMACIST EXTREMIST GROUPS

A number of recent incidents show the disparate treatment of Black and Brown communities by VPD and the CCSO, compared to white supremacist extremist groups and their members. Clark County residents have provided evidence of disparate treatment, supported by photos, videos, social media, and news media, and corroborated by VPD and CCSO materials and communications obtained through Public Records Act requests (i.e., law enforcement operations plans, reports, email communications, correspondence from concerned community members about demonstrations, etc.). In general, VPD and CCSO treat Black demonstrators as threats from whom the community needs protection. In contrast, armed white supremacist extremist demonstrators are treated as though they are exercising their First Amendment right to free speech and in need of protection from other groups including Black Lives Matter (BLM), even though there is a well-documented pattern of the white supremacist extremist groups inciting and committing violence at demonstrations both nationally and locally.

Washington state is a hotspot for violent extremist groups dedicated to advancing white supremacy through violence. Four groups are active in Vancouver and Clark County: Patriot Prayer, Proud Boys, Community of Police Supporters Northwest (COPS NW), and Washington Three Percenters (WA3%). Together, these groups are part of a vast network that spans the Washington/Oregon border. Their members are active in Vancouver and Clark County and in nearby Portland, Oregon, often promoting and attending each other's events. They also participate in extremist rallies around the US.

On October 30, 2020, the day after Kevin Peterson Jr. was killed by CCSO deputies, members of Mr. Peterson's family and other community members gathered for a peaceful vigil. Community members at this solemn gathering reported being confronted by an armed, hostile group of white supremacist extremists whose members verbally harassed and physically assaulted the mourning family and supporters with bear mace, paintballs, and other threats of violence, including driving trucks in the direction of vigil attendees. These groups were later determined to be Patriot Prayer supporters, as well as members of Proud Boys, Sons of Liberty (a Proud Boys splinter group), and COPS NW. CCSO failed to respond, allowing the members of these white supremacist extremist groups to terrorize peaceful mourners, many who required medical assistance, for hours.

Disparate treatment is also evident in VPD events, operations plans, and communications. VPD designated Patriot Prayer events as "expressive speech" and spoke publicly about the need to protect

those protestors. By contrast, VPD failed to designate BLM events or similar events protesting police violence in the same manner and in internal communications speak dismissively about protestors. Notably, the VPD focus regarding protestor violence is directed toward those organizing and attending BLM events as opposed to counterprotestors like Patriot Prayer, which have a well-documented history by hate watch groups of disrupting BLM demonstrations to antagonize protesters and instigate violence.

D. THE PHYSICAL, EMOTIONAL AND PSYCHOLOGICAL IMPACTS OF POLICE BRUTALITY

The disparate treatment of people of color by the VPD, CCSO, and the Task Force significantly impacts the local community emotionally, psychologically, and physically. Police brutality is a social determinant of a community's overall health. Police brutality is more than just physical, excessive use of force; it also constitutes emotional violence, psychological intimidation, and verbal assault. Such brutality is dehumanizing, particularly to Black residents, who are significantly more likely to experience police brutality than whites. The experience of communities of color — who are subjected to harassment, routine unwarranted searches, and deaths — “send[s] a message” that “their bodies are police property, disposable, and undeserving of dignity and justice.” By repeatedly and continuously experiencing and witnessing police brutality, communities of color face increased physical, emotional, and psychological stress.

Disparate treatment of communities of color by law enforcement also exacerbates mistrust among these communities toward law enforcement. Excessive use of force by law enforcement results in fear and distrust from communities whom the police are sworn to protect. Law enforcement's failure to protect their constituents' rights constitutes an abuse of authority and a breach of trust, and is likely to have an even more harmful, emotional, and psychological effect on the aggrieved citizen than that resulting from the tortious conduct of a private citizen.

The increased distrust of law enforcement can significantly decrease the likelihood that individuals seek assistance from law enforcement when they are victims of a crime. The recent October 17, 2021, CCSO shooting where deputies fired numerous shots into occupied homes, terrifying community members, has only added to the trauma.

II. LEGAL AUTHORITY

The above-described patterns of civil rights violations by VPD, CCSO, and the Task Force, including use of excessive force, disparate treatment harming communities of color and others, and disparate treatment favoring white supremacist extremist groups, warrant Department of Justice investigation. As a result, we are asking DOJ to investigate:

1. Excessive force allegations under the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. 14141 (“Section 14141”), which authorizes the United States Attorney General to conduct investigations to eliminate a pattern or practice of conduct by law enforcement officers ... that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States.
2. Disparate and discriminatory policing against communities of color under Section 14141, which authorizes the DOJ to investigate a pattern or practice of conduct by law enforcement officers that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, including and especially disparate or biased policing.

3. Disparate and discriminatory policing that favors white supremacist extremist groups consistent with the May 4, 2021, call to action by Attorney General Merrick Garland.

III. CONCLUSION

All residents of Vancouver and Clark County, Washington, deserve equal and professional treatment by police officers. But the above-described incidents show a pattern of disparate force and enforcement against people of color and other marginalized people in Vancouver and Clark County, warranting investigation regarding violation of federal civil rights laws. These incidents erode already strained relationships between the community and local law enforcement, who are charged with the duty to protect and serve. We request that the Civil Rights Division of the Department of Justice promptly investigate whether the VPD, CCSO, and the Task Force have engaged in a pattern or practice of violations of civil rights by using unnecessary and excessive force against the residents of Vancouver and Clark County in violation of federal law; by engaging in disparate treatment along racial, disability, and economic lines; and/or by displaying favoritism to known white supremacist extremist groups. The DOJ has the authority and tools to investigate these tragic incidents; to evaluate VPD and CCSO's policies, practices, training and supervision; and to enter agreements with the City of Vancouver and Clark County. Through such an investigation, DOJ can improve equality, fairness, and public safety throughout Vancouver and Clark County.

Sincerely,

Vancouver NAACP
ACLU of Washington