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SENT VIA ELECTRONIC MAIL

Kristen Clarke

Assistant Attorney General

United States Department of Justice Civil Rights Division

950 Pennsylvania Avenue NW

Washington D.C. 20530

c/o Shaylyn.Cochran@usdoj.gov

Steven Rosenbaum

Assistant Attorney General

United States Department of Justice Civil Rights Division,

Special Litigation Section

950 Pennsylvania Avenue NW

Washington D.C. 20530

c/o Shaylyn.Cochran@usdoj.gov

Honorable Nicholas W. Brown

United States Attorney for the Western District of Washington

700 Stewart Street, Suite 5220

Seattle, WA 98101

c/o Emily.Langlie@usdoj.gov

RE: Request to Investigate Pattern and Practice of Civil Rights
Violations by Vancouver Police Department, Clark County Sheriff's
Office, and Vancouver-Clark County Joint Drug Task Force

Dear Ms. Clarke, Mr. Rosenbaum, and US Attorney Brown:

The American Civil Liberties Union of Washington and the community organizations listed below request that 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 law enforcement 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 excessive force and disparate treatment of community residents who are Black, Pacific Islander, Indigenous, persons of color, experiencing homelessness and/or experiencing mental illness. We appreciate your immediate attention to this exigent matter; another Clark County family is grieving the loss of a family member at the hands of police as we write this letter.



P.O. Box 2728
Seattle, WA 98111-2728
(206) 624-2184
aclu-wa.org

Michele Storms
Executive Director

I. FACTS WARRANTING INVESTIGATION

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

We believe a DOJ investigation is now warranted into the repeated use of excessive force by VPD, CCSO, and the Task Force. Over a 2.5-year period, there have been eight police-involved killings at the hands of Vancouver police officers, Clark County sheriff's office deputies, and drug task force agents. This is one of the largest concentrations 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, 63% of the people killed were people of color, including three Black men and two Pacific Islanders, despite the fact that Black people and Pacific Islanders together account for no more than 3% of the Clark County population.¹ This pattern of police killings make Clark County have the highest percentage of Black people killed, and the second highest percentage of people of color killed since I-940 went into effect.² These disparities combined with the active white supremacist extremism in the County, raise the urgency of this request.

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, many of the cases lack non-law enforcement corroborating witnesses, body camera footage, or dash camera footage to verify these claims. Officers also killed people in crisis or who were suicidal. Many of these incidents make clear that officers did not make efforts to de-escalate or use less lethal alternatives and instead, multiple officers pointed their firearms and eventually shot and killed people, including those identified immediately below.

On February 19, 2019, VPD officers shot and killed Clayton Joseph, a 16-year-old Pacific Islander-Chuukese boy from Evergreen High School.³ Multiple officers arrived at his apartment complex following reports of a fight involving two other youth. Officers alleged that Joseph was holding a knife and that they ordered him to drop it.⁴ Officers claim that he refused and instead brandished the knife at them,⁵ however witnesses report that Joseph was on the scene, trying to defuse the fight and stop someone from attacking his friend's girlfriend.⁶

¹ *QuickFacts Clark County, Washington*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/clarkcountywashington>.

² Next Steps Washington, *Homicides by Police in Clark County WA: A comparative analysis* (Nov. 11, 2021), <https://rpubs.com/moxbox/clarkCoAnalysis>.

³ Kellee Azar, *Friends Remember 16-Year-Old Killed by Police in Vancouver*, KATU (Feb. 20, 2019), <https://katu.com/news/local/friends-remember-16-year-old-killed-by-police-in-vancouver>.

⁴ Meerah Powell & Molly Solomon, *16-Year-Old with Knife Shot by Vancouver Police, Dies from Injuries*, OPB (Feb. 20, 2019), <https://www.opb.org/news/article/vancouver-washington-police-shooting-fatal-teenager/>.

⁵ *Id.*

⁶ Jerzy Shedlock & Jack Heffernan, *Teen Shot by Vancouver Police Officer Was from Micronesia*, THE COLUMBIAN (Feb. 20, 2019), <https://www.columbian.com/news/2019/feb/20/vancouver-police-officer-shoots-man-during-disturbance-investigation/>.

Without attempting less lethal alternatives, officers fired one round at Joseph, killing him.⁷

On February 28, 2019, two VPD officers shot and killed Michael Eugene Pierce, a 29-year-old white man experiencing homelessness and mental illness. Police claim that Pierce, who was living with paranoid schizophrenia, was waving and pointing two brightly colored pellet guns – firearm replicas – at himself and passersby.⁸ Several witnesses expressed that Pierce was experiencing a mental health crisis.⁹ Additionally, a witness noted that they overheard Pierce make suicidal comments and pointed the guns at his own head.¹⁰ When VPD arrived at the scene, officers armed themselves with .223 caliber rifles before approaching.¹¹ Officers claimed they ordered Pierce to drop the firearm replicas and that he refused; without trying to deescalate, two VPD officers then fired five rounds from their rifles at Pierce, killing him.¹²

On March 7, 2019, two VPD officers killed Carlos Hunter, a 43-year-old Black man, who was on the way to pick up his son from elementary school.¹³ VPD was relying on an informant who mischaracterized Hunter as being involved in the drug trade. Though Hunter was alleged to have been involved in gang activity as a 13-year-old, he was felony free for over 18 years.¹⁴ In the meantime, he had rehabilitated himself and transformed his life, motivated by a desire to support and provide for his children, one of whom was born after he was killed. Officers in the regional drug task force obtained a search warrant naming Hunter, and pulled him over in a traffic stop.¹⁵ Officers claim that Hunter was uncooperative.¹⁶ While he remained seat belted in his car, multiple VPD officers excessively shot Hunter in the torso over 16 times, killing him.¹⁷ Officers found no evidence of a crime in Hunter’s car or home during the failed drug sting operation.¹⁸ Hunter was the third Vancouver, Washington, resident killed in a three-week stretch.

On April 28, 2020, three VPD officers shot and killed William Abbe, a 50-year-old white man experiencing homelessness and mental illness. Officers responded to reports of a fight between Abbe and another person. Video footage of the encounter shows him in crisis, pacing while six VPD officers surrounded him, rifles drawn, cornering him on a sidewalk next to busy oncoming traffic.¹⁹ Officers had previously encountered Abbe, who suffered from a

⁷ Meerah Powell & Molly Solomon, *16-Year-Old with Knife Shot by Vancouver Police, Dies from Injuries*, OPB (Feb. 20, 2019), <https://www.opb.org/news/article/vancouver-washington-police-shooting-fatal-teenager/>.

⁸ Jerzy Shedlock, *Family: Man Shot, Killed by Vancouver Police Had Schizophrenia*, *Columbian* (Mar. 1, 2019), <https://www.columbian.com/news/2019/mar/01/family-man-shot-killed-by-vancouver-police-had-schizophrenia/>.

⁹ Jerzy Shedlock, *Prosecutor: Vancouver Officers’ Use of Deadly Force on Homeless Man Justified*, *Columbian* (July 24, 2019), <https://www.columbian.com/news/2019/jul/24/prosecutor-vancouver-officers-deadly-force-on-homeless-man-justified/>.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ Troy Brynson, *Washington Changed Police Shooting Investigations, But Trust Remains in Low Supply*, OPB (Nov. 24, 2020), <https://www.opb.org/article/2020/11/24/washington-state-police-shooting-investigations/>.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Christopher Irwin, *Vancouver Police Department Murder On Tape.*, YOUTUBE (Apr. 28, 2020), <https://www.youtube.com/watch?app=desktop&v=Ta-qqu44c7c>.

schizophrenia crisis.²⁰ Officers claimed that Abbe asked police to kill him.²¹ As he is seen either taking a step towards one of the officers or away from them,²² three officers fired at Abbe, and killed him.²³

On October 4, 2020, two VPD officers killed Andrew Williams, a 41-year-old white man experiencing homelessness and mental illness. Officers responded to a call about an alleged fight between Williams and someone he'd been in a relationship with.²⁴ Williams had agreed to leave the fight and was walking away from the apartment home when VPD officers arrived.²⁵ One VPD officer chased after Williams and fired her taser at him but missed. Officers allege Williams had a screwdriver and that they ordered him to drop it.²⁶ Officers claim that he refused and instead said "shoot me."²⁷ Two officers fired their pistols at Williams, striking him in the abdomen and hip and killing him.²⁸

On October 29, 2020, three Clark County sheriff's deputies shot and killed Kevin Peterson Jr., a 21-year-old Black man, during a drug sting operation, driven by an informant and a Snapchat message from a few hours earlier.²⁹ Peterson was sitting in his parked car when officers boxed his car in with two unmarked vehicles.³⁰ Peterson, startled, ran when approached by officers. He called the mother of his child, Olivia Selto, who remained on the phone with him and reported that he sounded "terrified" as he ran for his life.³¹ In about three minutes,³² multiple officers chased Peterson and fired 34 shots, hitting him in the back and killing him as he ran

²⁰ Troy Brynerson & Brandon Roberts, *Analysis Shows Most Shot by Vancouver Police Had Unaddressed Mental Health Needs*, OPB (Feb. 4, 2021), <https://www.opb.org/article/2021/02/04/analysis-shows-most-shot-by-vancouver-police-had-unaddressed-mental-health-needs/>.

²¹ *Id.*

²² Christopher Irwin, *Vancouver Police Department Murder On Tape.*, YOUTUBE (Apr. 28, 2020), <https://www.youtube.com/watch?app=desktop&v=Ta-qqu44c7c>.

²³ Troy Brynerson & Brandon Roberts, *Analysis Shows Most Shot by Vancouver Police Had Unaddressed Mental Health Needs*, OPB (Feb. 4, 2021), <https://www.opb.org/article/2021/02/04/analysis-shows-most-shot-by-vancouver-police-had-unaddressed-mental-health-needs/>.

²⁴ Jerzy Shedlock, *Documents Detail Fatal Vancouver Police Shooting in October*, COLUMBIAN (Jan. 21, 2021), <https://www.columbian.com/news/2021/jan/21/documents-detail-fatal-vancouver-police-shooting-in-october/>.

²⁵ *Id.*

²⁶ Troy Brynerson & Brandon Roberts, *Analysis Shows Most Shot by Vancouver Police Had Unaddressed Mental Health Needs*, OPB (Feb. 4, 2021), <https://www.opb.org/article/2021/02/04/analysis-shows-most-shot-by-vancouver-police-had-unaddressed-mental-health-needs/>.

²⁷ *Id.*

²⁸ Jerzy Shedlock, *Documents Detail Fatal Vancouver Police Shooting in October*, THE COLUMBIAN (Jan. 21, 2021), <https://www.columbian.com/news/2021/jan/21/documents-detail-fatal-vancouver-police-shooting-in-october/>.

²⁹ Troy Brynerson, *Family of Kevin Peterson Jr. Announces Plan to Sue Over His Killing by Police*, OPB (Mar. 18, 2021), <https://www.opb.org/article/2021/03/18/kevin-peterson-fatal-shooting-police-lawsuit/>.

³⁰ Troy Brynerson, *Investigators Release Footage, New Details in Kevin Peterson Jr. Shooting*, OPB (Nov. 25, 2020), <https://www.opb.org/article/2020/11/25/kevin-peterson-jr-clark-county-police-shooting-footage/>.

³¹ Troy Brynerson, *Prosecutors Find Fatal Police Shooting of Kevin Peterson Jr. Justified*, OPB (Aug. 16, 2021), <https://www.opb.org/article/2021/08/16/prosecutors-rule-fatal-police-shooting-of-kevin-peterson-jr-justified/>.

³² Troy Brynerson, *Kevin Peterson Jr. 's Partner Says Peterson Feared Lifetime Jail Sentence in Final Phone Call*, OPB (Dec. 18, 2020), <https://www.opb.org/article/2020/12/18/kevin-peterson-jr-shooting-clark-county-sheriffs-office/>.

away.³³ After the shooting, the VPD and CCSO claimed Peterson was armed with a firearm and fired at officers several times.³⁴ However, the investigation did not find evidence supporting the account but in fact found that Peterson was running away from officers when he was shot and killed.³⁵ Following the shooting, officers surrounded Peterson's body with barricades and refused to allow his body to be identified by family members for nearly 12 hours.³⁶

On February 4, 2021, a Clark County Sheriff's deputy fatally shot Jenoah D. Donald, a 30-year-old Black man, during a pretextual traffic stop after hearing about a drug house in the area.³⁷ Instead of issuing a traffic ticket for a broken taillight, three officers confronted him.³⁸ Officers ordered Donald to exit the car, without explaining why, and threatened him with police dogs if he did not exit.³⁹ Rather than try to deescalate the situation, an officer punched him in the face and attempted to forcefully remove Donald from his car.⁴⁰ Officers claimed that Donald's car began to move.⁴¹ One of the deputies then shot Donald twice at close range.⁴² Donald, who was unarmed, died from his injuries in the hospital eight days later.⁴³

On October 17, 2021, Clark County Sheriff's deputies shot and killed Kfin Karuo, a 28-year-old Pacific Islander-Chuukese man.⁴⁴ News reports indicate CCSO deputies attempted to stop

³³ Troy Brynson, *Family of Kevin Peterson Jr. Announces Plan to Sue Over His Killing by Police*, OPB (Mar. 18, 2021), <https://www.opb.org/article/2021/03/18/kevin-peterson-fatal-shooting-police-lawsuit/>.

³⁴ Kelly Moyer, *Camas Police Detective to Lead Peterson Shooting-Death Investigation*, CAMAS-WASHOUGAL POST-REC. (Nov. 5, 2020), <https://www.camaspostrecord.com/news/2020/nov/05/camas-police-detective-to-lead-peterson-shooting-death-investigation/>.

³⁵ Troy Brynson, *Family of Kevin Peterson Jr. Announces Plan to Sue Over His Killing by Police*, OPB (Mar. 18, 2021), <https://www.opb.org/article/2021/03/18/kevin-peterson-fatal-shooting-police-lawsuit/>.

³⁶ Kelly Moyer, *Camas Police Detective to Lead Peterson Shooting-Death Investigation*, CAMAS-WASHOUGAL POST-REC. (Nov. 5, 2020), <https://www.camaspostrecord.com/news/2020/nov/05/camas-police-detective-to-lead-peterson-shooting-death-investigation/>.

³⁷ Troy Brynson, *Prosecutors Rule Fatal Police Shooting of Jenoah Donald Justified*, OPB (July 13, 2021), <https://www.opb.org/article/2021/07/13/prosecutors-rule-fatal-police-shooting-of-jenoah-donald-justified/>.

³⁸ Troy Brynson, *Jenoah Donald, 30-Year-Old Black Man Shot by Clark County Deputies, Has Died*, OPB (Feb. 12, 2021), <https://www.opb.org/article/2021/02/12/jenoah-donald-clark-county-sheriffs-office-shooting-death/>.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

⁴⁴ Troy Brynson, *'We're absolutely at a loss:' Family members identify Kfin Karuo as man shot and killed by Clark County deputies*, OPB (Oct. 19, 2021), <https://www.opb.org/article/2021/10/19/clark-county-sheriffs-deputies-shooting-kfin-karuo-death/?outputType=amp>; see also Becca Robbins, *East Vancouver residents shaken by fatal shooting involving sheriff's deputies*, COLUMBIAN (Oct. 18, 2021), <https://www.columbian.com/news/2021/oct/18/east-vancouver-residents-shaken-by-fatal-shooting-involving-sheriffs-deputies/>; Maxine Bernstein, *Clark County sheriff deputies shoot and kill armed man after car chase; multiple bullets pierce mobile homes*, OREGONIAN (Oct. 17, 2021), <https://www.oregonlive.com/crime/2021/10/clark-county-sheriff-deputies-shoot-and-kill-armed-man-after-car-chase-multiple-bullets-pierce-mobile-homes.html>; KGW Staff, *Clark Co. Sheriff's Deputies fired first in Sunday morning shooting with man wanted for assault with a gun*, KGW8 (Oct. 19, 2021), <https://www.kgw.com/article/news/crime/clark-sheriff-sunday-morning-shootout/283-de2d0560-d5d8-47ea-9fad-6850bb488901>; @TroyWB, TWITTER (Oct. 17, 2021, 10:07 AM), <https://twitter.com/TroyWB/status/1450508921131601924>; Becca Robbins, *Investigators: Suspect pointed gun at Clark County deputies before fatal shooting*, COLUMBIAN (Oct. 19, 2021), <https://clbn.us/maDpw>.

Karuo's car, and police say he "failed to comply." Police allege Karuo pointed a gun at them, but it's unclear "if there were any witnesses to the shooting or if any footage captured the encounter. The Clark County Sheriff's Office does not use body or dashboard cameras."⁴⁵ Police claim they had probable cause to arrest Karuo for first degree assault but have provided no details about that claim. This was the third fatal shooting by CCSO deputies in a year, and all three were people of color. At the time of this shooting, CCSO deputies also terrified a significant number of community members of color by the deputies' "bursts of rapid-fire gunshots" "tearing through [the community members'] houses." The deputies shot into multiple homes in the early morning hours, causing children and elders and others awakened by the shots to be in shock and no longer feel safe in their homes. One home had 10 or more bullet holes in it. "Another neighbor whose home was struck described hearing a bullet ricochet around her kitchen, into her dining room and then into her laundry room." A young woman in one of the homes was nearly struck by the police bullets. The community members whose homes were riddled with police bullet holes also stated that police left Karuo's body lying in the community members' driveway for hours after the shooting. Family members report that Karuo's father died shortly after learning of his son's death.⁴⁶

In addition to the above incidents where community members lost their lives at the hands of police violence, in November 2020 VPD shot another person of color, Irving Diaz Rodriguez, age 23 and diagnosed with schizophrenia, leaving him paralyzed.⁴⁷ A mobile crisis team was able to calm Rodriguez down, but VPD officers insisted on entering the scene to arrest him. VPD officers claim he waved a bat at them. The officers shot at him and severely injured him. In contrast, in an October 2019 Vancouver incident involving a white man who had shot and killed one person and shot two others, with no indication of mental illness, law enforcement did not fire their weapons during the incident.⁴⁸

Throughout the 2.5-year period of incidents described above, each officer-involved shooting incident resulted in death or severe injury – officers were shooting to kill. This deadly blanket response to a range of circumstances and subjects reflects a lack of care or regard for the vulnerabilities and needs of the person that police encounter (e.g., someone with a mental health disorder in the case of Abbe and Pierce or a youth, in the case of Joseph), and the context. In addition to the lack of a more tailored approach, it is striking that, except for the Peterson and Abbe cases, nearly all these cases involve multiple officers and no bystander witnesses. There is no body camera or dash camera footage in these cases, so the only account we have of what happened in these incidents is based on the word of the officers. In each case, police justified the use of lethal force with the same narrative – that the person resisted arrest (e.g., in the case of Joseph, a 16-year-old raising a knife as if to stab multiple officers), but there is no one other than officers to confirm that. Civilian witnesses and video, when available

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ Troy Brynson & Brandon Roberts, *Analysis Shows Most Shot by Vancouver Police Had Unaddressed Mental Health Needs*, OPB (Feb. 4, 2021), <https://www.opb.org/article/2021/02/04/analysis-shows-most-shot-by-vancouver-police-had-unaddressed-mental-health-needs/>.

⁴⁸ Jessica Prokop & Calley Hair, *One Dead in Shooting at Smith Tower in Vancouver; Suspect in Custody*, COLUMBIAN (Oct. 3, 2019), <https://www.columbian.com/news/2019/oct/03/shots-fired-at-smith-tower-in-vancouver/>; Jonathan Levinson, *Accused Vancouver Apartment Shooter Held Without Bail*, OPB (Oct. 4, 2019), <https://www.opb.org/news/article/accused-vancouver-shooter-held-without-bail/>.

(as in the Peterson case), contradict, rather than corroborate, police statements.

This fact pattern across these cases suggests a culture of corroborating and silencing around police misconduct, an informal norm commonly referred to as the blue wall of silence.⁴⁹ The blue wall of silence, or code of silence, is a harmful, entrenched part of law enforcement culture which poses a formidable barrier to accountability. Moreover, the fact that we only have the officers' accounts (which they have days to prepare between an event and their interview) to go on is troubling, particularly given the evidence that police make false claims about the people they kill (e.g., that they were armed and/or didn't comply with orders), and that this problem is systemic.⁵⁰

In response to a growing number of officer-involved shootings, 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 culture, policies, and practices around the use of force.⁵¹ 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.⁵² PERF made several findings requiring change and lists 84 separate recommendations.⁵³ Of the 84 total recommendations, 10 were identified as needing immediate action, including:

- Prohibition of any type of neck restraint, or shooting at or from a moving vehicle;⁵⁴
- Training and requirements that lieutenants who conduct reviews of critical incidents consider the event in its entirety, which should include looking for ways to improve communications, tactics, policy, training, and use of equipment;⁵⁵
- Ensuring use of force reports are reviewed by each level of the police department's command, up to the assistant chief;⁵⁶
- Meeting with community members to discuss changes and police reform.⁵⁷

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."⁵⁸ 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

⁴⁹ See Thomas Nolan, *Behind the Blue Wall of Silence*, 12 MEN & MASCULINITIES 250 (2009), available at <https://journals.sagepub.com/doi/pdf/10.1177/1097184X09334700>.

⁵⁰ Sam Levin, *'They Kill the Person Twice': Police Spread Falsehoods After Using Deadly Force, Analysis Finds*, GUARDIAN (May 19, 2021), available at <https://www.theguardian.com/us-news/2021/may/19/us-police-shootings-george-floyd-press-releases-reports>.

⁵¹ POLICE EXEC. RSCH. F., REVIEW OF THE VANCOUVER, WA POLICE DEPARTMENT 14 (2020), https://www.cityofvancouver.us/sites/default/files/fileattachments/police_vpd/page/42481/vancouver_pd_final_report_june_2020.pdf.

⁵² *Id.* at 15.

⁵³ See generally *id.*

⁵⁴ *Id.* at 6.

⁵⁵ *Id.* at 21.

⁵⁶ *Id.* at 12.

⁵⁷ *Id.* at 90.

⁵⁸ *Id.* at 5.

policies and procedures.⁵⁹

B. VPD & CCSO ENGAGE IN DISCRIMINATORY POLICING ALONG RACIAL, MENTAL HEALTH DISABILITY, AND ECONOMIC LINES, INFLICTING GREAT HARM ON COMMUNITY MEMBERS

1. VPD & CCSO's Discriminatory Policing is Demonstrated Through Racial Disparities in Use of Force and Officer Involved Shootings (OIS)

In addition to the disturbing incidents of fatal police violence described above, other data show VPD and CCSO officers operate with disproportionately high rates of aggression toward Black, Pacific Islander, 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).⁶⁰ Yet three of the eight people recently killed in Clark County were Black, and two were Pacific Islanders – representing **62.5% of the killings**.

Data discussed in more detail below shows that relative to Vancouver City demographics, a Black person is significantly more likely than a white person to be the subject of police use of force. Community members pointed out after the police violence that took Jenoah Donald's life, that it was the second killing of a Black man by local law enforcement in fewer than four months. Also notable, Clayton Joseph and Kfin Karuo, who were Micronesian, were two of the eight people police killed - even though the Pacific Islander population in Vancouver is 1.5% and in Clark County it is less than 1%.⁶¹

Additionally, it is very likely the data under reports disparate treatment along racial lines: the PERF report found that VPD's use of force reporting form allows officers themselves to enter data regarding the ethnicity of subjects, including reporting "unknown" ethnicity, and found that approximately 50% of use of force incidents were reported with an "unknown" ethnicity subject.⁶² But even with that caveat, of the use of force incidents where ethnicity was reported, PERF still found that between 2017 and 2019, 11.6% of use of force incidents involved Black community members despite Black residents making up only 2.3% of Vancouver's population.⁶³

By comparison, the PERF report indicates that 75.1% of VPD's use of force incidents over the three-year period involved white people, with white residents making up 80.1% of

⁵⁹ Eric J. Holmes & James McElvain, *PERF Use of Force Report*, CITY OF VANCOUVER WASH. (Oct. 23, 2020), <https://www.cityofvancouver.us/police/page/perf-use-force-report>.

⁶⁰ United States Census Bureau, *Quick Facts*, <https://www.census.gov/quickfacts/vancouvercitywashington> & <https://www.census.gov/quickfacts/clarkcountywashington>.

⁶¹ *Id.*

⁶² POLICE EXEC. RSCH. F., REVIEW OF THE VANCOUVER, WA POLICE DEPARTMENT 14 (2020), https://www.cityofvancouver.us/sites/default/files/fileattachments/police_vpd/page/42481/vancouver_pd_final_report_june_2020.pdf.

⁶³ *Id.* at 14, 56; *QuickFacts Vancouver City, Washington*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/vancouvercitywashington>.

Vancouver's population.⁶⁴ Use of force against white Vancouver residents is slightly less than their representation in the population, *whereas use of force against Black Vancouver community members occurs at a rate five times higher than their representation in the population.*⁶⁵

Our analysis of VPD's use of force data from 2019⁶⁶ and 2020⁶⁷ 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 based on population data for 2019.⁶⁸ Native Hawaiians and Pacific Islanders made up 2.3% of use of force incidents in 2019 and 2.8% in 2020 but are only 1.5% of the Vancouver population.⁶⁹ Even more glaring, Black residents made up 13.4% of use of force incidents in 2019 and 17.1% in 2020 but, are only 2.3% of the Vancouver population.⁷⁰ Black people continue to be overrepresented in force incidents in the first half of 2021 compared to their proportion in the population.⁷¹ Between January 1, 2021, and June 30, 2021, Black people made up 10.4% of use of force incidents.⁷² In contrast, white

⁶⁴ POLICE EXEC. RSCH. F., REVIEW OF THE VANCOUVER, WA POLICE DEPARTMENT 14, 56 (2020), https://www.cityofvancouver.us/sites/default/files/fileattachments/police_vpd/page/42481/vancouver_pd_final_report_june_2020.pdf; *QuickFacts Vancouver City, Washington*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/vancouvercitywashington>.

⁶⁵ *Id.*

⁶⁶ *See generally Vancouver Police Department Use of Force Report (2019)*, CITY OF VANCOUVER, WASH., https://www.cityofvancouver.us/sites/default/files/fileattachments/police_vpd/page/42431/use_of_force_2019.pdf.

⁶⁷ *See generally Vancouver Police Department Use of Force Report (2020)*, CITY OF VANCOUVER, WASH., https://www.cityofvancouver.us/sites/default/files/fileattachments/police_vpd/page/42431/use_of_force_2020_q1-4.pdf.

⁶⁸ *QuickFacts Clark County, Washington*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/vancouvercitywashington>. *See generally Vancouver Police Department Use of Force Report (2019)*, CITY OF VANCOUVER, https://www.cityofvancouver.us/sites/default/files/fileattachments/police_vpd/page/42431/use_of_force_2019.pdf; *Vancouver Police Department Use of Force Report (2020)*, CITY OF VANCOUVER, https://www.cityofvancouver.us/sites/default/files/fileattachments/police_vpd/page/42431/use_of_force_2020_q1-4.pdf.

⁶⁹ *QuickFacts Clark County, Washington*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/vancouvercitywashington>. *See generally Vancouver Police Department Use of Force Report (2019)*, CITY OF VANCOUVER, https://www.cityofvancouver.us/sites/default/files/fileattachments/police_vpd/page/42431/use_of_force_2019.pdf; *Vancouver Police Department Use of Force Report (2020)*, CITY OF VANCOUVER, https://www.cityofvancouver.us/sites/default/files/fileattachments/police_vpd/page/42431/use_of_force_2020_q1-4.pdf.

⁷⁰ *QuickFacts Clark County, Washington*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/vancouvercitywashington>. *See generally Vancouver Police Department Use of Force Report (2019)*, CITY OF VANCOUVER, https://www.cityofvancouver.us/sites/default/files/fileattachments/police_vpd/page/42431/use_of_force_2019.pdf; *Vancouver Police Department Use of Force Report (2020)*, CITY OF VANCOUVER, https://www.cityofvancouver.us/sites/default/files/fileattachments/police_vpd/page/42431/use_of_force_2020_q1-4.pdf.

⁷¹ *See Vancouver Police Department Use of Force (2021 Q1-Q2)*, CITY OF VANCOUVER, https://www.cityofvancouver.us/sites/default/files/fileattachments/police_vpd/page/42431/use_of_force_2021q2_ytd.pdf.

⁷² *See id.*

people constituted 64.8% of force incidents even though they make up 80.1% of the Vancouver population.⁷³

The share of VPD use of force incidents against Black people increased markedly between 2019 and 2020, from 13.4% to 17.1%.⁷⁴ For Native Hawaiians and Pacific Islanders, it increased as well, from 2.3% of use of force incidents to 2.8%.⁷⁵ In contrast, it decreased significantly for whites/Caucasians, from 77% to 70.4%.⁷⁶ It is noteworthy that in 2019, the race of the subject was listed as “unknown” in 3% of use of force incidents.⁷⁷ These numbers increased in 2020 to 6.6% of subjects being listed in use of force incidents as “unknown” and 17.6% of subjects being listed as “unknown” in use of force incidents in the first half of 2021.⁷⁸

Overall, Black and Pacific Islander people together constituted 15.7% of VPD use of force incidents in 2019; 19.9% of VPD use of force incidents in 2020; and 14.4% of VPD use of force incidents in the first half of 2021⁷⁹ - even though they constitute a mere 3.8% of the Vancouver population.⁸⁰ In other words, the representation of these groups in 2019 use-of-force incidents is 4.1 times their proportion in the overall population, and 5.3 times their proportion in the overall population for 2020. And in light of the growing number of use of

⁷³ See *id.*; *QuickFacts Clark County, Washington*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/vancouvercitywashington>.

⁷⁴ See *Vancouver Police Department Use of Force Report (2019)*, CITY OF VANCOUVER, https://www.cityofvancouver.us/sites/default/files/fileattachments/police_vpd/page/42431/use_of_force_2019.pdf; *Vancouver Police Department Use of Force Report (2020)*, CITY OF VANCOUVER, https://www.cityofvancouver.us/sites/default/files/fileattachments/police_vpd/page/42431/use_of_force_2020_q1-4.pdf.

⁷⁵ See *Vancouver Police Department Use of Force Report (2019)*, CITY OF VANCOUVER, https://www.cityofvancouver.us/sites/default/files/fileattachments/police_vpd/page/42431/use_of_force_2019.pdf; *Vancouver Police Department Use of Force Report (2020)*, CITY OF VANCOUVER, https://www.cityofvancouver.us/sites/default/files/fileattachments/police_vpd/page/42431/use_of_force_2020_q1-4.pdf.

⁷⁶ See *Vancouver Police Department Use of Force Report (2019)*, CITY OF VANCOUVER, https://www.cityofvancouver.us/sites/default/files/fileattachments/police_vpd/page/42431/use_of_force_2019.pdf; *Vancouver Police Department Use of Force Report (2020)*, CITY OF VANCOUVER, https://www.cityofvancouver.us/sites/default/files/fileattachments/police_vpd/page/42431/use_of_force_2020_q1-4.pdf.

⁷⁷ *Vancouver Police Department Use of Force Report (2019)*, CITY OF VANCOUVER, https://www.cityofvancouver.us/sites/default/files/fileattachments/police_vpd/page/42431/use_of_force_2019.pdf.

⁷⁸ See *Vancouver Police Department Use of Force Report (2020)*, CITY OF VANCOUVER, https://www.cityofvancouver.us/sites/default/files/fileattachments/police_vpd/page/42431/use_of_force_2020_q1-4.pdf; *Vancouver Police Department Use of Force (2021 Q1-Q2)*, CITY OF VANCOUVER, https://www.cityofvancouver.us/sites/default/files/fileattachments/police_vpd/page/42431/use_of_force_2021q2_ytd.pdf.

⁷⁹ See *Vancouver Police Department Use of Force Report (2019)*, CITY OF VANCOUVER, https://www.cityofvancouver.us/sites/default/files/fileattachments/police_vpd/page/42431/use_of_force_2019.pdf; *Vancouver Police Department Use of Force Report (2020)*, CITY OF VANCOUVER, https://www.cityofvancouver.us/sites/default/files/fileattachments/police_vpd/page/42431/use_of_force_2020_q1-4.pdf; *Vancouver Police Department Use of Force (2021 Q1-Q2)*, CITY OF VANCOUVER, https://www.cityofvancouver.us/sites/default/files/fileattachments/police_vpd/page/42431/use_of_force_2021q2_ytd.pdf. The category “American Indian/Alaska Native” is not included in the 2021 data like it was for 2019 and 2020. No explanation is provided.

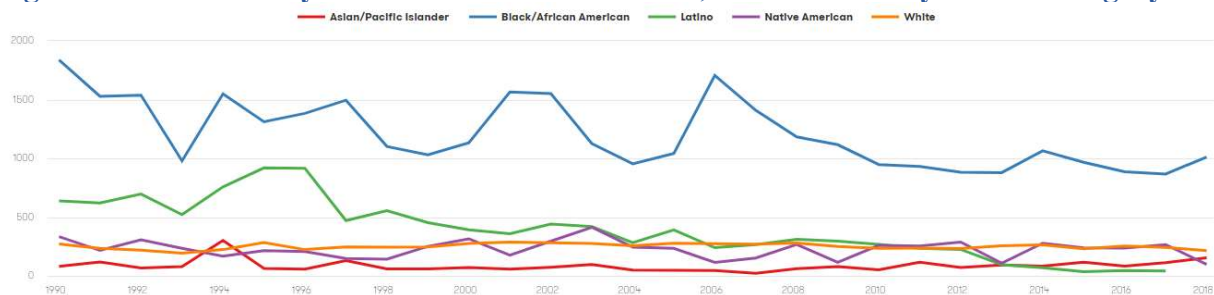
⁸⁰ See *QuickFacts Vancouver city, Washington*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/vancouvercitywashington>.

force incidents that characterize a subject's race as "unknown," it is reasonable to assume these grossly disproportionate numbers are even greater in reality.

2. VPD & CCSO's Discriminatory Policing is Demonstrated Through Racial Disparities in Jail Detentions and Traffic Stops

Jail detention rates also tell a story of disparate treatment of Black people and people of color in Clark County. Data from the Vera Institute⁸¹ shows that in Clark County between 1990 and 2018, Black people were jailed at rates dramatically higher than that of all other racial groups (see Figure 1, below). In 2018, the most recent year for which data is available, Black people were jailed at a rate of 1,011 people per 100,000 residents aged 15-64 (i.e., about 1%). In contrast, white people were jailed at a rate of 214 people per 100,000 residents (i.e., about 0.2%). ***In other words, Black people were jailed at a rate approximately five times higher than that of white people.*** According to 2019 census data, Black people constitute only 2.4% of the Clark County population, while white people make up 86.1% of the population, i.e., the population of white people is 35 times larger than that of Black people.⁸² This staggering difference in the rate at which Black people versus white people are jailed may reflect disparities in policing that lead Black people to be arrested at much higher rates. An analysis of arrest data for VPD and CCSO would help tell us more.

Figure 1: Clark County Jail Detention Rate Per 100,000 Residents by Racial Category⁸³



Overall, between 1990 and 2015, the rate of jail detention for Black people in Clark County is higher than that of other racial categories even when you compare it to the state average incarceration rate for Black people, which is also disproportionately high. In 2015, the most recent year state data available, Black people in Clark County were jailed at nearly twice the average state rate of jail detention for that population.⁸⁴ The average state rate of jail detention of Black/African American people was 492 per 100,000 residents aged 15-64 (nearly 0.5%), versus Clark County's rate, which was 967 per 100,000 residents aged 15-64 (nearly 1%) (see Figure 2, below). The jail detention rate for Black people in Clark County in 2015 is also

⁸¹ *Incarceration Trends Clark County, WA*, VERA INSTITUTE OF JUSTICE, <http://trends.vera.org/rates/clark-county-wa> (last visited Sept. 30, 2021).

⁸² *Quick Facts Clark County, WA*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/clarkcountywashington>.

⁸³ *Incarceration Trends Clark County, WA*, VERA, <http://trends.vera.org/rates/clark-county-wa> (last visited Oct. 29, 2021).

⁸⁴ *Incarceration Trends Clark County, WA*, VERA, <http://trends.vera.org/rates/clark-county-wa> (last visited Oct. 29, 2021).

slightly higher than the national average rate of incarceration for Black people.⁸⁵ The average national rate of jail detention of Black/African American people was 847 per 100,000 residents aged 15-64 (about 0.8%), versus Clark County's rate, which was 967 per 100,000 residents aged 15-64 (about 1%)—about 1.1 times higher (*see* Figure 3, below).

Figure 2 Clark County Jail Detention Rate per 100,000 Residents by Racial Category Compared to State Average⁸⁶

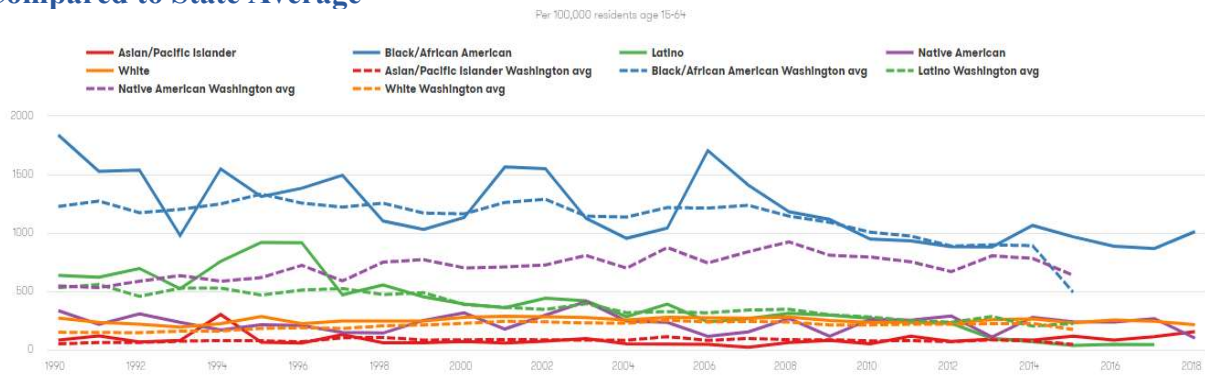
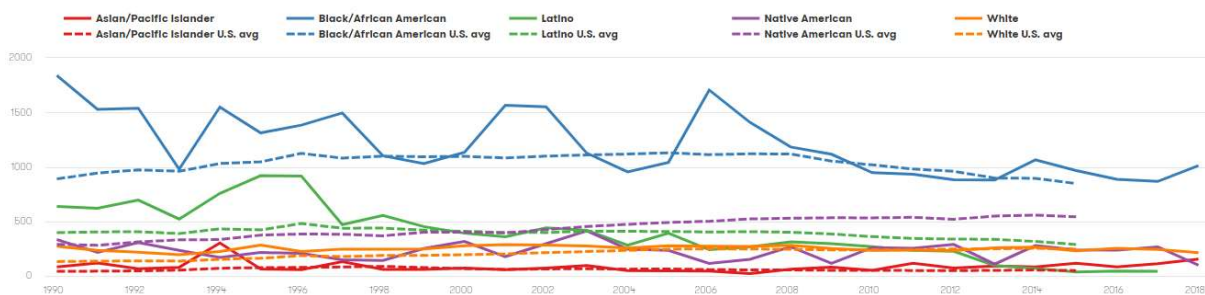


Figure 3 Clark County Jail Detention Rate per 100,000 Residents by Racial Category Compared to U.S. Average⁸⁷



Similar to jail detention rates, an analysis of traffic stop data from the VPD reveals yet further evidence of disparate policing. The data, obtained via a public records request, spans traffic stops made by the VPD between January 28, 2020, and June 15, 2021, and shows that Black/African American drivers and Hispanic drivers are stopped at 2.3 times the rate at which white drivers are.⁸⁸ The rate is even higher for Pacific Islander drivers, who are stopped at 2.8 times the rate of white drivers but make up only 0.9% of the population.⁸⁹ In contrast, white people make up 80.1% of the population.

An important caveat here is that the demographics of Clark County drivers likely differ from

⁸⁵ *Incarceration Trends Clark County, WA*, VERA, <http://trends.vera.org/rates/clark-county-wa> (last visited Oct. 29, 2021).

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ Vancouver Police Department Traffic Stop Data 1/20/20-6/15/21, (on file with author).

⁸⁹ *Id.*

overall Clark County demographics. Washington State data on car access by racial group support the fact that the driver population in Clark County is whiter than the overall County population,⁹⁰ which would make the disparities described here even more severe.

3. VPD & CCSO's Discriminatory Policing & Excessive Force is Demonstrated Through Use of Force/OIS Against People Experiencing Homelessness and/or Mental Illness

A related pattern and practice warranting DOJ investigation is that people with mental illness are also overrepresented in use of force incidents involving Vancouver and Clark County law enforcement agencies. All three of the previously mentioned white men killed by VPD were experiencing homelessness and were in a mental health crisis. According to the PERF report nearly one-third of individuals involved in use of force incidents had at least one mental health indicator present.⁹¹ By VPD's own calculation, nearly a quarter (22.7%) of use of force incidents 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. In the first half of 2021, 32% of force incidents involved subjects "exhibiting symptoms of mental illness."⁹²

While the data alone is disturbing, evidence regarding the Abbe and Williams deaths further demonstrates the need for a civil rights investigation. A review of public records (i.e., audio of 911 calls, police reports, police dispatch audio, transcripts of police interviews with witnesses, etc.) shows there is little police consideration or understanding for how a subject with mental illness should inform police contact. Equally disconcerting, there are startling similarities in the circumstances leading to the killings which further underscore the problem.

Records show police officers responding to the scenes were aware that Abbe and Williams both suffered with mental illness and had responded to calls about them in the past. Even with that knowledge from previous contacts with Abbe and Williams, VPD escalated the crises when they showed up on each scene in masse, including the presence of a K-9. As one of the witnesses to Mr. Abbe's shooting noted, "[t]he whole police department was over there." Similarly, a witness to Mr. Williams' shooting said, "[t]his whole street was nothin' but police cars." This account was confirmed by VPD Officer Musser, who stated that her entire shift followed her to the scene of Williams' shooting (PDR OIS WILLIAMS 000075). In fact, so many officers showed up at the Williams scene that some were redundantly assigned tasks already assigned to others, e.g., stringing crime scene tape or keeping a log of people with access to the scene. This huge showing of armed, uniformed officers, their K-9s, and their cars with lights shining and sirens blaring was an overwhelming display of force for anyone, let alone people that are in the throes of decompensation.

⁹⁰ *Car Access Washington*, NAT'L EQUITY ATLAS, https://nationalequityatlas.org/indicators/Car_access#/?geo=02000000000053000.

⁹¹ POLICE EXEC. RSCH. F., REVIEW OF THE VANCOUVER, WA POLICE DEPARTMENT 14 (2020), at 15, https://www.cityofvancouver.us/sites/default/files/fileattachments/police_vpd/page/42481/vancouver_pd_final_report_june_2020.pdf.

⁹² *Vancouver Police Department Use of Force Report*, CITY OF VANCOUVER (2021), https://www.cityofvancouver.us/sites/default/files/fileattachments/police_vpd/page/42431/use_of_force_2021q2_ytd.pdf.

When you couple the described show of force with the fact that during the encounter with police, Abbe and Williams both told the police to shoot them and both were in fact shot and killed by the police no more than 10 minutes within contact, it is evident police made no meaningful effort to adapt their approach to better address someone in a mental health crisis through de-escalation. Relevant public records support this conclusion and tell a story of very little, if any, reliance on de-escalation techniques. VPD's go-tos in both cases were tasing, barking commands, and then firing on Abbe and Williams. Strikingly, interviews with police also reveal that only one VPD officer can carry a less lethal weapon, and that they do not carry batons, pepper spray, or shields which would allow for less lethal interventions. The tasers they use are largely unreliable. As a result, VPD is a police force that has failed to prioritize de-escalation.

C. VPD & 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 community members by the Vancouver Police Department and the Clark County Sheriff's Office, compared to violent white supremacist extremist groups and their members. Clark County residents have provided evidence of disparate treatment which are supported by photos, videos, social media, and news media; and corroborated by VPD and CCSO organizational materials and communications obtained through Public Records Act requests (i.e., law enforcement operation plans, reports, email communications, correspondence from concerned community members about demonstrations, etc.). These together show disparity in the way VPD and CCSO respond to demonstrations by Black people and people of color against police violence (of which they are often the target), compared to the way they respond to demonstrations by white supremacist groups.

In general, VPD and CCSO treat Black demonstrators as threats from whom the community needs protection. In contrast, acts of violence by armed white supremacist extremists are treated as exercising protected free speech and are viewed by police as in need of protection from others, including those in support of Black Lives Matter (BLM), even though there is a well-documented pattern of these white supremacist hate groups harming people demonstrating against police violence both nationally and locally. When supremacist groups disrupt demonstrations against police violence, and harass and violently attack Black demonstrators, VPD and CCSO refuse to intervene to protect Black and other community members under active assault. And despite multiple requests by impacted community members for law enforcement to investigate and protect residents from threats of and doxing and physical violence by white supremacist groups, VPD and CCSO routinely appear to treat embedded domestic extremist groups' adverse conduct leniently, in contrast to the documented disparate treatment of communities of color described above.

Washington state is a hotspot for violent extremist groups dedicated to advancing white supremacy. According to the most recent analysis from Southern Poverty Law Center (SPLC),

there are 22 hate groups in Washington State, eight statewide.⁹³ The focus of this letter is four groups that have been 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, and some of them plan and participate in extremist rallies around the US. There is evidence that these groups - particularly Patriot Prayer and COPS NW - have friendly ties with local law enforcement, which may explain the favoritism toward these groups and their followers.

1. Disparate Deployment of Law Enforcement Resources and Failure to Protect Black and Brown Protestors: Justice for Kevin Peterson Jr. Vigil—October 30, 2020

On October 30, 2020 - the day after the killing of Kevin Peterson Jr. by a CCSO sheriff's deputy, members of Mr. Peterson's family, supportive friends, and other community members gathered for a peaceful vigil to mourn and grieve. Community members at this solemn gathering reported being confronted by an armed, hostile group of white supremacist extremists whose members verbally harassed and physically attacked the mourning family and supporters with bear mace paintballs, and other threats of violence.⁹⁴ Trucks were driven by white supremacist extremists at vigil attendees, and the family of another victim of police violence (Hunter) was violently attacked with fists and bear mace. Many of those attacked required medical assistance, including a Black woman driving by in her car with her husband and two young children who had their car shot with paintballs and bear mace sprayed into their car.⁹⁵ White supremacists drove oversized trucks violently through the vigil area and caused property damage, prompting the closure of a Fred Meyer store across the street. In the face of this violent conduct, there was no law enforcement intervention or presence (1) to stop the white supremacist groups from further terrorizing the community or (2) to protect the Black and other community members being threatened, harassed and attacked. CCSO failed to respond, allowing the members of the supremacist groups to terrorize peaceful mourners at a vigil. The white supremacist groups present were later determined to be Patriot Prayer supporters,⁹⁶ and members of the Proud Boys, Sons of Liberty (Proud Boys splinter group), and COPS NW.⁹⁷

2. Disparate Law Enforcement Designations of "Expressive Speech": Patriot Prayer Memorial—September 30, 2020

Disparate treatment is also evident in VPD events operation plans and communications and designations of which events are designated "expressive speech" versus those that are not. VPD designated Patriot Prayer events "expressive speech" but did not designate BLM events

⁹³ *In 2020, 22 Hate Groups Were Tracked in Washington*, SPLC S. POVERTY L. CTR., <https://www.splcenter.org/states/washington>.

⁹⁴ https://twitter.com/IGD_News/status/1322460951732494351.

⁹⁵ @Claudio_Report, TWITTER (Oct. 31, 2020, 10:43 AM), https://twitter.com/Claudio_Report/status/1322595125319532544.

⁹⁶ @RoseCityAntifa, TWITTER (Oct. 31, 2020, 12:24 AM), <https://twitter.com/RoseCityAntifa/status/1322439172762738691>.

⁹⁷ @MrOlmos, TWITTER (Oct. 30, 2020, 9:04 PM), <https://twitter.com/MrOlmos/status/1322388946349744128>.

or similar events protesting police violence in the same manner. For example, in the case of the Kevin Peterson Jr. vigil, the VPD operations plan did not include this designation, but VPD did make such a designation for a September 30, 2020 memorial organized by Patriot Prayer for a supporter who was killed during a protest in Portland.⁹⁸ The expressive speech designation for that event reads, “[e]xpressive speech is a protected class of activities, the sole purpose of which is to exercise the right of free speech. VPD and VFD are aware of expressive speech events organized in the City of Vancouver and monitor the events as needed for public safety.”⁹⁹ On the other hand, two other anti-racism/anti-police violence events happening that same week, according to email communications, were disallowed the free speech events designation. This corroborates the Vancouver and Clark County community member’s experiences of the disparate treatment by VPD and CCSO at the October 30, 2020 vigil for Kevin Peterson Jr.

3. Disparate Treatment in Uses of Law Enforcement Resources and Protection: Patriot Prayer/WA3% Clark County Courthouse Demonstration for Kelly Carroll & Demonstrations in front of City Attorney’s Home June 2020

Patriot Prayer received similar favorable treatment at a protest organized with WA3% and others in front of the Clark County Courthouse for Kelly Carroll, a local business owner who was facing criminal charges.¹⁰⁰ VPD’s operational plan indicates that the department designated this event as an expressive speech event, and VPD went out of its way to create a welcoming environment for these groups to express their views:

The Vancouver Police Department is committed to supporting the First Amendment Rights of all citizens and will endeavor to create a safe environment for this to take place. We will not have a large police presence at the courthouse. Supervisors will make an initial introduction, encourage the safety of those present and then clear. The event will be monitored by plain clothes personnel and information relayed to the Incident Commander if visible police presence is needed. VPD will coordinate with CCSO personnel if they require assistance in protecting their facility behind the Courthouse or the Courthouse itself. Vancouver Police Traffic officers will be present for traffic safety, respond to calls for service and patrol the surrounding areas. All previous protests to this point have been peaceful...¹⁰¹

Two days later, Gibson and members of WA3% assembled again, to demand that CCSO Sheriff David Atkin shield Carroll from legal consequences for intentionally breaking the law. During the protest, Sheriff Atkins met with the protestors by phone and “agreed to hold a

⁹⁸ Conrad Wilson, *Slain Portland Protester Supported Right-Wing Group Patriot Prayer*, NPR (Sept. 1, 2020), <https://www.npr.org/2020/09/01/908222877/slain-portland-protester-supported-right-wing-group-patriot-prayer>.

⁹⁹ Vancouver Police Department Operational Plan: Patriot Prayer Memorial, (August 2, 2020), (on file with author).

¹⁰⁰ Chuck Tanner, *Three Percenters, Patriot Prayer Protest Clark County Sheriff, City Prosecutor*, IREHR (June 23, 2020), <https://www.irehr.org/2020/06/23/three-percenters-patriot-prayer-protest-clark-county-sheriff-city-prosecutor/>.

¹⁰¹ Vancouver Police Department Operational Plan, (June 20, 2020), (on file with author).

meeting with Kelly Carroll.”¹⁰² The group then marched to the home of city attorney Kevin McClure, where they protested out front in an effort to pressure McClure to drop the charges against Carroll.¹⁰³ McClure’s home address was shared via a video posted publicly by WA3%.¹⁰⁴ This protest in front of McClure’s home, during which there was no police intervention, was a precursor to the nearly nine-hour long protest in front of McClure and his counterpart City Attorney Jonathan Young’s homes several days later, on June 28, 2021. This latter protest and lack of VPD intervention is detailed below.

4. White Supremacist Extremist Groups and Their Ties to Each Other and Local Law Enforcement

a. Patriot Prayer

The white supremacist groups who engaged in violence at the October 30, 2020 Peterson vigil were mobilized by Patriot Prayer, its founder Joey Gibson and others. Gibson is the founder and leader of Patriot Prayer who, according to Western States Center (WSC) is a bridge between the various white supremacist extremist groups in Washington and Oregon. Ahead of the Kevin Peterson Jr. vigil, Gibson put out a call to his large following, inciting them to show up at the vigil.¹⁰⁵

Gibson founded Patriot Prayer in Clark County in 2016. Patriot Prayer relies on inciting violence to antagonize and intimidate counter-protestors. These were the same tactics used on mourners at the Kevin Peterson Jr. vigil. Patriot Prayer often organizes with the white supremacist group Proud Boys at events where, according to the SPLC: “[e]ach time, the goal...has been the same: to incite violent confrontations with counter-protesters, blame any resulting violence on the left, and press for further repression and retaliation against those they consider their political adversaries.”¹⁰⁶ In 2019, Gibson was charged by Multnomah County [Oregon] with felony riot after he and fellow Patriot Prayer members instigated a brawl with members of Antifa outside of a pub.¹⁰⁷ Court documents describe how Gibson and other Patriot Prayer members used threats and taunts “in an effort to clearly provoke a physical altercation.”¹⁰⁸

¹⁰² Chuck Tanner, *Three Percenters, Patriot Prayer Protest Clark County Sheriff, City Prosecutor*, IREHR (June 23, 2020), <https://www.irehr.org/2020/06/23/three-percenters-patriot-prayer-protest-clark-county-sheriff-city-prosecutor/>.

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ Video is no longer available. Here is a link to the screenshot of the YouTube video Gibson made, titled “Call2Action: Portland Antifa coming to Vancouver, WA tonight.” <https://twtext.com/article/1322298850531373059>.

¹⁰⁶ *SPLC Statement on Proud Boys Rally in Portland, Ore*, SPLC S. POVERTY L. CTR., <https://www.splcenter.org/presscenter/splc-statement-proud-boys-rally-portland-ore>.

¹⁰⁷ Katie Shepherd, *Patriot Prayer Leader Joey Gibson Will Face Criminal Charges in May Day Riot, His Lawyer Says*, WILLAMETTE WEEK (Aug. 15, 2019), <https://www.wweek.com/news/courts/2019/08/15/patriot-prayer-leader-joey-gibson-will-face-criminal-charges-in-may-day-riot-his-lawyer-says/>.

¹⁰⁸ Affidavit in Support of Arrest Warrant for Violation at 2, *Oregon v. Gibson*, No. 19CR53042 (Cir. Ct. Or. Aug. 12, 2019); *see also Documents Detail Joey Gibson’s Felony Riot Charge*, KOIN (Sept. 5, 2019), <https://www.koin.com/news/crime/documents-detail-joey-gibsons-felony-riot-charge/>.

Patriot Prayer and Gibson promote the events of other white supremacist terror groups on his platform. As discussed below, despite Patriot Prayer's history of violence and targeting Black people, Gibson and Patriot Prayer benefit from a deferential, if not friendly, relationship with VPD, and specifically with the lead of the VPD intelligence unit, Sergeant Patrick Moore. This translates into disparities in the way VPD polices Patriot Prayer and Gibson, versus Gibson's adversaries.

For the event at the city attorneys' homes on June 2, created by Gibson, a couple of public officials decided to move their families out of town to an undisclosed location "because they were growing more concerned for their safety."¹⁰⁹ In spite of these concerns and evidence that city attorneys McClure and Young were being harassed and intimidated, Officer Long's report states CCSO "had made them aware they would not be responding to terminate the protest in front of McClure's residence unless there was an emergency."¹¹⁰ In other words, law enforcement did not intervene in the protest or arrest anyone.

Similarly, VPD Sergeant Moore's supplemental report depicts Gibson and WA3% as law-abiding and respectful during the protests, essentially erasing any concern that public officials had about the protests by these white supremacist extremists:

In summary, organizer Kelli Steward [sic] of the People's Rights of Washington, along with Joey Gibson from the group Patriot Prayer, held an organized protest out front of Assistant City Attorney's Kevin McClure's residence...During all these events, organizers Kelli Stewart and Joey Gibson both reminded individuals attending to not commit any crimes, do not trespass, do not threaten or intimidate, do not violate the VMC noise ordinance and to make sure they clean up after themselves when they leave the area."¹¹¹

In October 2020, VPD launched an investigation into comments Moore made in an interview with a defense attorney about the police response to the Patriot Prayer demonstration in front of the city attorneys' homes.¹¹² According to city attorney Jonathan Young, who was present for the interview and lodged the complaint, in the interview, Moore said Gibson is "not the problem" at protests and that he "attracts an unwelcome crowd, specifically antifa and Black Lives Matter."¹¹³

Moore's bias towards Patriot Prayer and Gibson is also evident in a June 2020 email communication to "City VPD Command" about efforts to plan for upcoming events and

¹⁰⁹ Affidavit in Support of Arrest Warrant for Violation at 2, *Oregon v. Gibson*, No. 19CR53042 (Cir. Ct. Or. Aug. 12, 2019) at p. 7.

¹¹⁰ *Id.* at p. 8.

¹¹¹ *Id.* at p. 41.

¹¹² Jerzy Shedlock, *Vancouver Police Department Investigates Sergeant's Comments on Patriot Prayer*, *BLM*, *THE COLUMBIAN* (Oct. 14, 2020), <https://www.columbian.com/news/2020/oct/14/vancouver-police-department-investigates-sergeants-comments-on-patriot-prayer-blm/>.

¹¹³ *Id.*

protests relating to the police murder of George Floyd.¹¹⁴ Moore wrote:

I called and spoke with Joey Gibson There is a lot of misinformation being sent out on social media by a [sic] various groups. Joey has been pretty vocal and typically posts all his events and appearances on social media. During our conversation, I asked Joey about his upcoming events. Joey stated he doesn't have current events planned, nor did he plan on attending other events planned by other organizations. However, he mentioned if there were an event planned by Black Lives Matter, 'there would be people there to monitor the event.' Joey was cooperative and stated I could call him at any time for information¹¹⁵

Moore's portrayal of Gibson as helpful, trustworthy, and transparent, shows favorable bias toward Gibson and Patriot Prayer over other "various groups" that according to Moore, sow misinformation.¹¹⁶ He depicts Gibson as someone who stays out of the fray and who is a helpful resource to the police.¹¹⁷ In the email, he states plainly and without reproach that Gibson plans to deploy "people" (presumably his supporters) to surveil any event planned by BLM.¹¹⁸ The fact that Moore makes this statement without acknowledging how concerning this would be to Black and brown communities suggests that perhaps Moore sees Gibson and his followers as law enforcement allies. At the very least, it is representative of the larger trends, described in this letter, of white supremacist groups engaged in violent conduct acting with impunity from law enforcement.

The records described above, including VPD's email communications, police reports, and operational plans, corroborate the experience of the community with disparate policing, as described throughout this letter. As explained in detail above, Gibson and Patriot Prayer enjoy extreme deference from Moore and VPD. Moore's regard for Gibson and Patriot Prayer and his averseness to their adversaries like BLM belies the role that Gibson and his followers often play at events as instigators of violence against Black people and people of color, often in partnership with the Proud Boys.¹¹⁹ It also does not account for the significant community concern about Gibson and Patriot Prayer's presence in Vancouver and Clark County, which Moore is very much aware of. Public records show an abundance of emails to VPD from individual community members leading up to and in the aftermath of Patriot Prayer demonstrations, detailing fear and concerns about the group and Gibson specifically. One email in particular details the experience of a Black person being accosted by a Patriot Prayer follower.¹²⁰ Yet none of this is reflected in the way VPD (or CCSO) treat Gibson and Patriot Prayer.

¹¹⁴ Email from Pat Moore, Sergeant, Vancouver Police Dep't, to City VPD Command DL (June 3, 2020, 9:37 PM) (on file with author).

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ *SPLC Statement on Proud Boys Rally in Portland, Ore*, SPLC S. POVERTY L. CTR. (Sept. 25, 2020), <https://www.splcenter.org/presscenter/splc-statement-proud-boys-rally-portland-ore>.

¹²⁰ Email from Julia Berreth, Vancouver resident, to VANPD, (September 1, 2020, 11:11 AM), (on file with author).

b. Proud Boys and ties with Patriot Prayer

Patriot Prayer and Gibson “attract[] many who are openly racist, and white supremacists have praised the group.”¹²¹ According to Randy Blazak, a sociology professor at the University of Oregon who has studied hate crimes and hate groups for 25 years, although Gibson and others claim to hold events in support of, among other things, free speech, “they often don’t really care about the free speech of, say, Muslims or Black Lives Matter.”¹²² Patriot Prayer and the Proud Boys regularly team up at violent rallies and are a common fixture at protests in both Vancouver and Portland.¹²³ The Proud Boys have been described by various U.S. counter-terrorism/law enforcement agencies and hate watchdog groups as a dangerous white supremacist group or gang.¹²⁴ Accordingly, SPLC designates them as a hate group and “one of a handful of far-right groups instrumental in instigating violence and unrest in the Pacific Northwest,” although their reach goes much farther than this region.¹²⁵

An internal affairs report from the CCSO describes the recruiting activities of the Proud Boys in the Southwest Washington and Oregon areas and their engagement in the escalation of violence at political rallies.¹²⁶ The report notes that in 2018, the FBI included the Washington-Oregon Proud Boys during a presentation to the CCSO on “domestically inspired acts of violence.”¹²⁷ It also details that a CCSO deputy sheriff was fired for discriminatory and harassing conduct after her connections to the Proud Boys group became publicly known.¹²⁸ Clark County Deputy Erin Willey was placed on leave and ultimately terminated for posting multiple photos of herself in “Proud Boys Girls” apparel and admitting to participating in a Proud Boys initiation ritual by videotaping a physical, violent attack as a means of gaining membership.¹²⁹ A journalist brought Willey’s membership with the Proud Boys to light.¹³⁰ In

¹²¹ Daniel Politi, *What Is Patriot Prayer?*, SLATE (Aug. 30, 2020), <https://slate.com/news-and-politics/2020/08/what-is-patriot-prayer-far-right-group-confrontations-portland.html>.

¹²² Lilly Fowler, *Patriot Prayer Leader Dislikes Racists, But They Seem to Hear a Whistle*, CROSSCUT (Aug. 24, 2017), <https://crosscut.com/2017/08/patriot-prayer-joe-gibson-white-supremacists-rally>.

¹²³ *What We Know About Patriot Prayer*, SPLC S. POVERTY L. CTR., (Aug. 31, 2020), <https://www.splcenter.org/hatewatch/2020/08/31/what-we-know-about-patriot-prayer>.

¹²⁴ Jason Wilson, *Proud Boys Are a Dangerous ‘White Supremacist’ Group Say US Agencies*, THE GUARDIAN (Oct. 1, 2020), <https://www.theguardian.com/world/2020/oct/01/proud-boys-white-supremacist-group-law-enforcement-agencies>.

¹²⁵ For example, members of the Proud Boys were participants in the Unite the Right Rally in Charlottesville, Virginia in 2017, which was organized by a former Proud Boys member. *Proud Boys*, SPLC S. POVERTY L. CTR., <https://www.splcenter.org/fighting-hate/extremist-files/group/proud-boys>. Moreover, so far 30 individuals with alleged connections to the Proud Boys have been charged in the January 6, 2021 Capitol Riot. Tim Mak, *Some Proud Boys Are Moving to Local Politics as Scrutiny of Far-Right Group Ramps Up*, NPR (June 28, 2021), <https://www.npr.org/2021/06/28/1010328631/some-proud-boys-are-moving-to-local-politics-as-scrutiny-of-far-right-group-ramp>.

¹²⁶ Conrad Wilson, *Clark County Report Says FBI Classifies Proud Boys as Extremist Group*, OPB (Nov. 19, 2018), <https://www.opb.org/news/article/fbi-proud-boys-extremist-group-white-nationalism/>.

¹²⁷ Amelia Templeton & Conrad Wilson, *Portland FBI Head Clarifies Statement on Proud Boys*, OPB (Dec. 4, 2018), <https://www.opb.org/news/article/portland-fbi-proud-boys-clarifies-statement/>.

¹²⁸ Andy Matarrese, *Deputy Fired Over Proud Boys Sweatshirt*, COLUMBIAN (July 20, 2018), <https://www.columbian.com/news/2018/jul/20/clark-county-sheriffs-deputy-fired-proud-boys-sweatshirt/>.

¹²⁹ Brandy Zadrozny & Corky Siemaszko, *The Boys and Girls of White Nationalism: ‘Proud’ Groups Labeled ‘Extremist’ in Newly Revealed FBI Files*, NBC NEWS (Nov. 20, 2018), <https://www.nbcnews.com/news/us-news/boy-girls-white-nationalism-proud-groups-labeled-extremist-newly-revealed-n938546>.

¹³⁰ *Id.*

2020, she joined the Napavine Police Department and now patrols a community just about an hour north of Clark County.¹³¹

Although this deputy was terminated, community members have reason to believe there remain close ties between extremist groups and law enforcement officers in the area, for the reasons discussed below. The past known infiltration of extremists and ongoing evidence of line officers' tolerance of extremist crime suggests DOJ investigation into these ties is warranted.

c. COPS NW

Like Patriot Prayer and Gibson, COPS NW and its founder and leader Audra Price, enjoy friendly ties with local law enforcement in Clark County and Portland, Oregon. She and COPS NW are responsible for inciting violence against the Kevin Peterson Jr. vigil-goers by amplifying the event on her platform. Those who have been observing and documenting the proliferation of extremist groups note the increasing cross-pollination between these arguably ideologically fringe groups and the more mainstream groups.¹³² The rise of COPS NW and its association with the Proud Boys, Patriot Prayer, and other extremist groups is emblematic of this trend. COPS NW describes itself as a "Back the Blue" group supporting the police in the Southwest Washington and Portland areas.¹³³ Price has carefully cultivated an image of COPS NW as a group that opposes BLM and has self-deputized the white supremacist extremist group as there to lend support to local law enforcement as they battle with these groups to protect cities from danger and destruction.¹³⁴ This is a narrative that Price, the daughter of a retired deputy, spreads via various media.¹³⁵

For example, COPS NW's public facing Instagram (which belongs to Price)¹³⁶ features groups of adults and children dressed in blue, holding up pro-law enforcement signs and waving American "Thin Blue Line" flags at street corners. Some of the adults are armed.¹³⁷ Price also appeared on the Lars Larson Show in August 2020 where, through lies lacking any reality, she described BLM protestors as violent rioters who are "now moving into residential areas...and they are attacking residential areas, people that are in their own homes, and we're scared to death and... we don't know what to do....We're trying to hold onto our cities."¹³⁸ She and the show's host indicate that BLM protestors do these things with impunity because the "hands of police" are tied and there isn't political will to arrest and hold accountable supporters of this

¹³¹ Jackson Gardner, *Napavine Police Department Hired Woman Fired from Clark County Sheriff's Office for Affiliation with Proud Boys*, THE CHRONICLE (July 27, 2020), <https://www.chronline.com/stories/napavine-police-department-hired-woman-fired-from-clark-county-sheriffs-office-for-affiliation,2277>.

¹³² Jason Wilson, *Proud Boys Are a Dangerous 'White Supremacist' Group Say US Agencies*, THE GUARDIAN (Oct. 1, 2020), <https://www.theguardian.com/world/2020/oct/01/proud-boys-white-supremacist-group-law-enforcement-agencies>.

¹³³ Hannah Ray Lambert, *Back the Blue: Police Supporters Rally Outside Justice Center*, KOIN (July 6, 2020), <https://www.koin.com/news/special-reports/back-the-blue-police-supporters-rally-outside-justice-center/>.

¹³⁴ *Id.*

¹³⁵ *Id.*

¹³⁶ Audra Price (@copsnw), INSTAGRAM, <https://www.instagram.com/copsnw/?hl=en> (last visited Sept. 30, 2021).

¹³⁷ *See id.*

¹³⁸ *Portland's "Peaceful Protesters" Have Shown That They Are Everything But Peaceful*, LARS LARSON SHOW (Aug. 11, 2020), <https://www.larslarson.com/portlands-peaceful-protesters-have-shown-that-they-are-everything-but-peaceful/>.

movement. Along with other COPS NW members Shelby Walman and Sally Hill, Audra is quoted in a July 2020 article that promotes this narrative.¹³⁹

The narrative Price has crafted belies more nefarious activities that her group engages in with Patriot Prayer, the Proud Boys, and individually known Neo-Nazis. Under the guise of being pro-police and pro-community safety, Price provides venues, both online (via her private COPS NW Facebook page) and in person (e.g., through innocuous sounding “flag waves”), for these groups to fraternize and foment hate and violence against Black community members and those in support of BLM.

Like Patriot Prayer, COPS NW amplified the counter-protest for the Peterson vigil. More specifically, Price wrote on the private COPS NW Facebook page:

Antifa will show up, but we don’t need to be afraid. It’s time we start standing up in larger numbers. They WILL move into our neighborhoods if we don’t take a stand...If you think you are safe at home, you are not. It’s time to take a stand for our families and for our country.¹⁴⁰

There is also evidence that COPS NW, Price and others made unsupported statements on Facebook that there was rioting the night before and that city infrastructure was being targeted with explosives, as a tactic for motivating people.¹⁴¹ In another post she wrote, “Vancouver meeting place for flagwave [sic] tonight is Fred Meyer in hazel dell. I updated the event.”¹⁴² One of the commenters on the posts attempts to dissuade Price and her followers from attending the event, citing “Our Patriots/Protectors are going to have their hands full tonight and they shouldn’t need to worry about another group of people to protect or look after...I’m sure Vancouver police feel the same.”¹⁴³ In response, Price wrote “I was asked to make the flagwave [sic] there by patriot.”¹⁴⁴ When asked who the “patriot” is, Price wrote, “with respect, that should not be openly discussed...”¹⁴⁵ Although it is not clear who “patriot” is, Price has often been a mouthpiece for Gibson and Patriot Prayer.

There are additional indications that local law enforcement is in communication with members of COPS NW ahead of protests. In one direct message, for example, a law enforcement officer in Vancouver allegedly wrote that “patriots” and “pro law enforcement supporters” are “NEEDED to help protect the city.”¹⁴⁶ A screenshot of this message was pasted to the COPS

¹³⁹ Hannah Ray Lambert, *Back the Blue: Police Supporters Rally Outside Justice Center*, KOIN (July 6, 2020), <https://www.koin.com/news/special-reports/back-the-blue-police-supporters-rally-outside-justice-center/>; Jason Wilson, *Breadth of Rightwing Portland Protest Network Reveals Energized Trump Base*, THE GUARDIAN (Sept. 3, 2020), <https://www.theguardian.com/us-news/2020/sep/03/how-the-rightwing-portland-protest-organizers-represent>.

¹⁴⁰ John – Full Rev Media, TWTEXT.COM, <https://twtext.com/article/1322298850531373059>.

¹⁴¹ John – Full Rev Media, TWTEXT.COM, <https://twtext.com/article/1322298850531373059>.

¹⁴² @RoseCityAntifa, TWITTER (Nov. 3, 2020, 3:31 PM), <https://twitter.com/RoseCityAntifa/status/1323769802083627009/photo/1>.

¹⁴³ *Id.*

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*

¹⁴⁶ @Johnnthelefty, TWITTER (Nov. 1, 2020, 6:31 PM), <https://twitter.com/Johnnthelefty/status/1323090389289504770/photo/1>.

NW Facebook page, along with the following message from Price: “Needing patriots again tonight in Vancouver. We have been asked for assistance by our LEOs, so please invite everyone you know. This is it guys. This is where the rubber meets the road. They need us and we need to be there for them every night if that’s what it takes.”¹⁴⁷

d. WA3%

In addition to the Proud Boys, Patriot Prayer has attracted extremist groups like Oath Keepers and the Three Percenters (WA3%), founded by Matt Marshall.¹⁴⁸ WA3% is a militia organization and a sub-group to the national Three Percenters, “anti-government extremists who are part of the militia movement.”¹⁴⁹

Under Marshall’s leadership, WA3% “allied its cause” with the Proud Boys and Patriot Prayer.¹⁵⁰ Although Marshall’s role changed recently, he remains in leadership. In his words, “I still 100% support [WA3%’s] cause and mission.”¹⁵¹ In March 2021, as part of a training on Extremist Organizations and Activities, the US Department of Defense and Joint Base Lewis-McChord designated WA 3% as an antigovernmental militia¹⁵² and included them on an extremist list that includes two dozen other extremist groups including the Proud Boys.¹⁵³

In an email from Marshall to WA3% members and followers, titled “JBLM [Joint Base Lewis-McChord] Spreading Political Propaganda,” Marshall objects to being classified as an “antigovernmental/criminal gang” because WA3% “has had communications/interactions about our events for pre-planning” with a host of law enforcement entities, including Capitol Police, Washington State Patrol, Washington State Sheriff’s association, Seattle Police, Tacoma Police, Olympia Police, and the FBI Seattle Field Office.”¹⁵⁴ In the email, Marshall also states he was invited to speak at the Washington State Sheriff’s Association quarterly meeting in 2020.¹⁵⁵

This information suggests that WA3% and Marshall have close, friendly ties with local law enforcement throughout Washington state. This friendliness was reflected in the way VPD treated WA3% protestors at the Carroll event described above, and at the Patriot Prayer demonstration in front of City Attorneys’ homes on June 28, 2020.

¹⁴⁷ *Id.* at <https://twitter.com/Johnnthelefty/status/1323090389289504770/photo/2>.

¹⁴⁸ Jane Coaston, *The Pro-Trump, Anti-Left Patriot Prayer Group, Explained*, VOX (Sept. 8, 2020), <https://www.vox.com/2020/9/8/21417403/patriot-prayer-explained-portland>.

¹⁴⁹ *Three Percenters*, ADL, <https://www.adl.org/resources/backgrounders/three-percenters> (last visited Sept. 30, 2021).

¹⁵⁰ Chuck Tanner & Devin Burghart, *Far-Right, Militia to Press Clark County Sheriff to Join Reopen Cause*, IREHR (June 22, 2020), https://www.irehr.org/2020/06/22/far-right-militia-to-press-clark-county-sheriff-to-join-reopen-cause/#_ftnref13.

¹⁵¹ *Id.*

¹⁵² Joel Moreno, *Washington Three Percenters Say Defense Department Is Wrong to Label Them Extremists*, KOMONEWS (Mar. 22, 2021), <https://komonews.com/news/local/washington-three-percenters-say-defense-department-is-wrong-to-label-them-extremists>.

¹⁵³ *Id.*

¹⁵⁴ E-mail from Matt Marshall, Founder/Pub. Rels. Wash. 3%, to Wash. 3% (Mar. 20, 2021, 12:03 AM) (on file with author).

¹⁵⁵ *Id.*

5. White supremacist extremist groups in Clark County WA and Multnomah County OR coordinate and act regionally with each other and local law enforcement: Supremacist groups and ties to Portland Law Enforcement

Patriot Prayer is very active in violent demonstrations in Portland, Oregon, where Gibson has close personal ties with Lieutenant Jeff Niiya, the head of the Portland Police Bureau Rapid Response Team, which patrols political rallies.¹⁵⁶ In 2019 Niiya came under fire after a local paper revealed hundreds of text messages from 2017 and 2018 between him and Gibson.¹⁵⁷ Despite Niiya's official role as a commanding officer tasked with communicating with protest organizers, the text messages revealed a friendly and cooperative relationship between Patriot Prayer, Gibson and the lieutenant that go beyond event planning.

Texts between Niiya and Gibson indicate law enforcement coordinated with white supremacist extremist groups by providing Gibson legal and tactical information, including notice of the movements of counter-protestors during demonstrations and "warned Gibson to tell Patriot Prayer members with active warrants to keep a low profile at demonstrations so as not to draw police attention."¹⁵⁸ Niiya even offered wishes of congratulations to Gibson on his plans to run for Senate, expressing concern for the safety of his family: "I want you to know you can trust me. Don't want to burn that."¹⁵⁹ In another text exchange, Gibson apologized to Niiya for making a public announcement that "Portland police has our back," writing that "It slipped."¹⁶⁰ Corroborating those texts is a video from Gibson's livestream at a violent rally in Portland on June 3, 2018, which shows Portland police officers essentially making a deal with members of Patriot Prayer to avoid their arrest, in spite of probable cause to arrest them.¹⁶¹ According to the officers in the video, the deal was authorized by Lieutenant Niiya.¹⁶² This deal, however, was not extended to counter-protesters. Nevertheless, an investigation by the Independent Police Review, a division of the City Auditor's Office, cleared him of wrongdoing.¹⁶³

This is not the first time a member of law enforcement coordinated with Patriot Prayer and Gibson over counter-protestors. In 2019, Thurston County resident Joseph Robinson filed a

¹⁵⁶ Jason Wilson, *Portland Police and Far-Right Leader Had Friendly Relationship, Texts Reveal*, THE GUARDIAN (Feb. 15, 2019), <https://www.theguardian.com/world/2019/feb/15/joey-gibson-portland-police-relationship-cooperation-text-messages>.

¹⁵⁷ *Text Conversations*, POLICE BUREAU, <https://www.portlandoregon.gov/police/78708>.

¹⁵⁸ *Text Messages Between Patriot Prayer Leader, Portland Cop Spur Calls for Investigation*, OREGONLIVE (Feb. 15, 2019), <https://www.oregonlive.com/portland/2019/02/text-messages-between-patriot-prayer-leader-portland-cop-spur-calls-for-investigation.html>.

¹⁵⁹ Jason Wilson, *Portland Police and Far-Right Leader Had Friendly Relationship, Texts Reveal*, THE GUARDIAN (Feb. 15, 2019), <https://www.theguardian.com/world/2019/feb/15/joey-gibson-portland-police-relationship-cooperation-text-messages>.

¹⁶⁰ Alex Zielinski, *Texts Show Protective Relationship Between Portland Cops and Patriot Prayer*, PORTLAND MERCURY (Feb. 14, 2019), <https://www.portlandmercury.com/blogtown/2019/02/14/25885836/texts-show-protective-relationship-between-portland-cops-and-patriot-prayer>.

¹⁶¹ Jason Wilson, *Exclusive: Video Shows Portland Officers Made Deal with Far-Right Group Leader*, THE GUARDIAN (Mar. 1, 2019), <https://amp.theguardian.com/us-news/2019/mar/01/exclusive-video-shows-portland-officers-made-deal-with-far-right-group-leader>.

¹⁶² *Id.*

¹⁶³ *Independent Police Review*, (May 22, 2019), <https://www.portlandoregon.gov/ipr/article/741821>.

civil lawsuit against Gibson, other members of Patriot Prayer, and three Washington State Patrol officers, alleging these parties violated his civil rights in 2017 at a protest at Evergreen State College that turned violent.¹⁶⁴ According to Robinson's lawyer, Gibson and members of Patriot Prayer "grabbed [Robinson], threw him to the ground, searched him and dragged him over to officers and said, 'Arrest him,'" - which is what they did.¹⁶⁵ Charges against Robinson were dropped but not before a year had passed.

More recently, in August 2021, it was documented that the Portland Police Bureau (PPB) officially chose to "stand back" and let the Proud Boys violently attack protesters, resulting in an exchange of gunfire on a downtown street.¹⁶⁶ And in October 2021, it was reported that "dozens" of Oregon law enforcement officers, including those currently at PPB, have joined the Oath Keepers extremist group since 2009; several members of the group have been charged with crimes in connection with the January 6 insurrection at the US Capitol.¹⁶⁷

In October 2020, COPS NW, Price and another organized a GoFundMe on behalf of COPS NW to benefit the Portland Police Bureau's Rapid Response Team (RRT), the same entity helmed by Lieutenant Niiya who shared friendly texts with Patriot Prayer's Gibson.¹⁶⁸ They sought to support the RRT for spending "140 plus days responding to violent attacks from Antifa and BLM."¹⁶⁹ An update from December 2020, featuring a photo of Price with the RRT after raising \$5,480 in gift cards and gifts,¹⁷⁰ suggests that COPS NW is currying favor with law enforcement, both by villainizing and attacking BLM and through the use of expensive gifts, which do not appear to have been rejected by RRT. Undoubtedly, COPS NW and Price are relying on the notion that they have the support and backing of Portland law enforcement to encourage followers to show up to peaceful demonstrations with the sole purpose of sowing violence.

D. THE PROBLEM OF SYSTEMIC RACISM IN CLARK COUNTY/VANCOUVER CONNECTED TO POLICE CIVIL RIGHTS VIOLATIONS

Institutional bias and racism against Black and brown people in Clark County and Vancouver extend well beyond policing and is a systemic problem that is often initiated through policing. It is pervasive in the jail system, the court system, and in its main lawmaking body.

¹⁶⁴ Jonathan Levinson, *Civil Rights Lawsuit Filed Against Joey Gibson and Washington Police Officers*, OPB (Nov. 5, 2019), <https://www.opb.org/news/article/washington-police-officers-joey-gibson-civil-rights-lawsuit-patriot-prayer/>.

¹⁶⁵ *Id.*

¹⁶⁶ Robert Mackey, *Portland's Bizarre Experiment With Note Policing Proud Boys Rampage Ends in Gunfire*, INTERCEPT (Aug. 23, 2021), <https://theintercept.com/2021/08/23/portland-police-proud-boys-protest/>.

¹⁶⁷ Jonathan Levinson, *Dozens of Oregon Law Enforcement Officers Have Been Members of the Far-Right Oath Keepers Militia*, OPB (Oct. 15, 2021), <https://www.opb.org/article/2021/10/15/dozens-of-oregon-law-enforcement-officers-joined-far-right-oath-keepers-militia/>.

¹⁶⁸ Chri Sta & Audra Price, *Christmas Gift Baskets for Portland RRT*, GOFUNDME (Dec. 20, 2020), <https://www.gofundme.com/f/christmas-gift-baskets-for-portland-rrt>.

¹⁶⁹ *Id.*

¹⁷⁰ *Id.*

1. Clark County Jail Violates the Rights of People of Color

In May 2019, Washington State passed the Keep Washington Working Act (KWW), which prohibits information sharing and collaboration between local law enforcement and federal immigration agencies. Since then, the ACLU-WA has obtained emails between Clark County and ICE, through a Public Records Act request by the University of Washington Center for Human Rights (UWCHR), which show evidence of systematic information sharing in violation of KWW. This includes Clark County jail staff responding to ICE requests for information, flagging specific inmates for ICE based on the inmate's nationality.¹⁷¹ These "almost daily" actions to share information with immigration authorities target the Latinx community,¹⁷² despite only being 10.2% of the population.¹⁷³ In April 2020, where jail staff facilitated the immigration detention of a Mexican citizen, despite the state law prohibition on doing so, the detainee's brother said, "I think that you should not be judged by the color of your skin. ... Just because your name is not John Smith," he said, "you get to be treated differently."¹⁷⁴ Clark County's repeated violations of state law meant to protect immigrants and their communities is further evidence of the disparate treatment by local law enforcement of its residents who are people of color and is indicative of a problem that is widespread and systemic.

2. Clark County Courts Have Documented Evidence of Blatant Racism

Similar to Clark County jail, racism has also been documented within the Clark County court system. Transcripts from a recent conversation between Clark County District Court Judge Darvin Zimmerman and another recently revealed that anti-Blackness is present throughout the legal system, including in the courts. Speaking to a County Commissioner in a courtroom about the death of Kevin Peterson Jr., Judge Zimmerman described Peterson as, "[t]he Black guy they were trying to make an angel out of," and said he believed Peterson had a "death wish" and referred to Peterson as "so dumb."¹⁷⁵ Further describing Peterson's family member, Judge Zimmerman commented, "[t]he next day, he wakes up with dollar signs in his eyes and George Floyd's attorneys had already contacted him," and that the family's GoFundMe page was "like getting money under false pretenses."¹⁷⁶ Following the release of the transcript, community members reported feeling unable to trust judges such as Judge Zimmerman to rule without prejudice when they know them to have such anti-Black bias.¹⁷⁷

¹⁷¹ See UWCHR's August 2020 report detailing these systemic violations. *Protecting Immigrant Rights: Is Washington's Law Working?*, THE HENRY M. JACKSON SCHOOL INT'L STUDIES (Aug. 11, 2021), <https://jsis.washington.edu/humanrights/2021/08/11/protecting-immigrant-rights-is-washingtons-law-working/>.

¹⁷² Troy Brynerson, *Clark County Jail's Communications with ICE Raise Legal Questions*, OPB (July 1, 2021), <https://www.opb.org/article/2021/07/01/clark-county-jail-communications-with-ice-raise-legal-questions/>.

¹⁷³ *Quick Facts Clark County, Washington*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/clarkcountywashington>.

¹⁷⁴ Troy Brynerson, *Clark County Jail's Communications with ICE Raise Legal Questions*, OPB (July 1, 2021), <https://www.opb.org/article/2021/07/01/clark-county-jail-communications-with-ice-raise-legal-questions/>.

¹⁷⁵ Fox 12 Staff, *Clark Co. Judge Caught Making Comments about Black Man Killed by Police Plans to Retire*, Fox 12 Oregon (Jun. 3, 2021), https://www.kptv.com/news/clark-co-judge-caught-making-comments-about-black-man-killed-by-police-plans-to-retire/article_75bcf736-c4ac-11eb-ac82-db46673aa504.html.

¹⁷⁶ *Id.*

¹⁷⁷ Jerzy Shedlock & Jessica Prokop, *Clark County Judge Faces Condemnation, Call for Resignation After Comments*, COLUMBIAN (Mar. 15, 2021), <https://www.columbian.com/news/2021/mar/15/clark-county-judge-faces-condemnation-call-for-resignation-after-comments/>.

3. Clark County Council Has Documented Evidence of Racial Bias

At a series of listening sessions in mid-2020 in front of the Clark County Councilors, speakers from the NAACP of Vancouver, the YWCA, the Southwest Washington League of United Latin American Citizens, and the Clark County Volunteer Lawyers Program outlined systemic racism in the county. One member of the NAACP Vancouver Legal Redress Committee noted that “systemic racism in Clark County is alive and well today.”¹⁷⁸ The NAACP Vancouver Vice President explained that systemic racism is a longstanding problem in Clark County that can be traced back to a tight connection between the Ku Klux Klan and county leadership in the 1920s and 1930s.¹⁷⁹

At least one member of the Clark County Council, Chair Eileen Quiring, publicly declared during a council meeting that she does not believe Clark County has any systemic racism.¹⁸⁰ Following her remarks, the NAACP Vancouver and the League of United Latin American Citizens (LULAC) called for her resignation.¹⁸¹ In NAACP’s letter to Chair Quiring, community members expressed they were “deeply concerned by [her] denial of the systemic racism that exists in Clark County.”¹⁸² Similarly, the LULAC letter stated, “[t]hrough her expressive racist statement, Quiring has demonstrated a callous disregard for Black and brown people living in Clark County. In our community, racial inequities are visible in the law, as well as in thoughts, actions and inactions.”¹⁸³

In response to repeated outcries from affected community members and organizations, the Clark County Council, which doubles as the county’s health board, passed a resolution declaring systemic racism in Clark County a public health crisis.¹⁸⁴

E. THE HARM INFLICTED BY POLICE ON THE VANCOUVER/CLARK COUNTY COMMUNITIES OF COLOR CAUSES PHYSICAL, EMOTIONAL, AND PSYCHOLOGICAL HARMS

The disparate treatment of the VPD, CCSO, and the Task Force toward people of color 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 or deadly use of force—it also constitutes emotional violence,

¹⁷⁸ Chris Brown, Clark County Organizations Detail Systemic Racism in First of Three Listening Sessions, Clark County Today (Aug. 4, 2020), <https://www.clarkcountytoday.com/news/clark-county-organizations-detail-systemic-racism-in-first-of-three-listening-sessions/>.

¹⁷⁹ *Id.*

¹⁸⁰ Jack Heffernan, *Ethics Complaint Filed Against Quiring Over Systemic Racism Discussion*, THE COLUMBIAN (July 3, 2020), <https://www.columbian.com/news/2020/jul/03/ethics-complaint-filed-against-quiring-over-systemic-racism-talks/>.

¹⁸¹ Jessica Prokop, *NAACP, LULAC Call for Clark County Council Chair Quiring to Step Down Over Remarks*, COLUMBIAN (June 27, 2020), <https://www.columbian.com/news/2020/jun/27/naACP-lulac-call-for-clark-county-council-chair-quiring-to-step-down-over-remarks/>.

¹⁸² *Id.*

¹⁸³ *Id.*

¹⁸⁴ John Notarianni, *Clark County Declares Racism a Public Health Crisis*, OPB (Dec. 7, 2020), <https://www.opb.org/article/2020/12/07/clark-county-declares-racism-public-health-crisis/>.

psychological intimidation and verbal assault.¹⁸⁵ Such brutality is dehumanizing, particularly to Black residents, who are significantly more likely to experience police brutality than whites.¹⁸⁶

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.”¹⁸⁷ By repeatedly and continuously experiencing and witnessing police brutality, communities of color face increased physical, emotional and psychological stress. Communities of color should not disparately be subjected to these harms.

1. The Mental Health Impact of Police Brutality on Communities of Color

Disparate treatment of communities of color by law enforcement exacerbates mistrust towards law enforcement.¹⁸⁸ Excessive use of force by law enforcement results in fear and distrust from communities whom the police are sworn to protect.¹⁸⁹ Law enforcement 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.”¹⁹⁰

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.¹⁹¹ Thus, there is a growing concern regarding community mistrust among people of color in Vancouver towards VPD, CCSO, and the Task Force, which further alienates potential allies in crime prevention.

“While the Vancouver Police Department targets Black and brown residents with disproportionate harassment, arrests, shootings and killings, it continues to look the other way as armed White militants and vigilantes disrupt and endanger peaceful gatherings,” said Shareefah Hoover from the Clark County Justice Group. “This disparate treatment must stop. Until the Vancouver Police Department demonstrates the same commitment to safeguarding the lives and rights of Black and brown people as it does to right-wing terrorists, we will continue to see a decline in trust between community members and law enforcement officers.”

It is also both disturbing and unsurprising that the disproportionate use of police force on

¹⁸⁵ Sirry Alang, et al., *Police Brutality and Black Health: Setting the Agenda for Public Health Scholars*, Am J Public Health. 107(5), 662–65 (May 2017).

¹⁸⁶ *Id.*

¹⁸⁷ *Id.*

¹⁸⁸ *Investigation of the Baltimore City Police Department*, U.S. DEP’T OF JUST., 4, 7 (Aug. 10, 2016), <https://www.justice.gov/crt/file/883296/download> (stating that there is profound lack of trust among African American residents as a result of targeting policing disproportionately harming African-American residents).

¹⁸⁹ *Id.* at 23; see also *Glob. Neigh. v. Respect Wash.*, 7 Wn. App. 2d 354, 402, 434 P.3d 1024, 1049-50 (2019) (quoting *Parada v. Anoka Cty.*, 332 F. Supp. 3d 1229, 1235 (D. Minn. 2018)) (recognizing that Latinos are less likely to report crimes, even when they are victims, to law enforcement due to fear that the police will inquire about immigration status); see also *Binette v. Sabo*, 244 Conn. 23, 43–44, 710 A.2d 688, 698 (1998).

¹⁹⁰ *Binette v. Sabo*, 244 Conn. 23, 44, 710 A.2d 688, 698 (1998).

¹⁹¹ *Investigation of the Ferguson Police Department*, U.S. DEP’T OF JUST., 79 (Mar. 4, 2015), https://www.justice.gov/sites/default/files/crt/legacy/2015/03/04/ferguson_findings_3-4-15.pdf.

communities of color is associated with poor mental health. Trauma, hopelessness, anxiety, and fear are all stressors experienced by people of color.¹⁹² Police violence is associated with greater odds for distress and suicide attempts among people of color.¹⁹³ People of color experience “trauma, anxiety, hopelessness, and fear about future police encounters.”¹⁹⁴ Indeed, studies show that individuals who report more contact with the police also report “more trauma and anxiety symptoms.”¹⁹⁵ In 2018, a study found that police killings of unarmed Black people were associated with increased mental health problems for Black individuals living in that state over the following three months.¹⁹⁶ This is a significant public health issue since there are, on average, roughly 1,000 police killings in the US annually, and Black Americans comprise a disproportionate 25%-30% of those killings.¹⁹⁷

This study also found that police brutality negatively impacts the mental health of Black individuals, even when there is no direct connection to those who have been killed by the police.¹⁹⁸ In contrast, police killings of unarmed white Americans had no effect on the mental health of white Americans.¹⁹⁹ Thus, there is a causal link between perceived racism among Black people and depression, anxiety, increased substance use, feelings of hopelessness, and

¹⁹² Ana Sandoui, *Police Violence: Physical and Mental Health Impacts on Black Americans*, MED. NEWS TODAY (June 22, 2020), <https://www.medicalnewstoday.com/articles/police-violence-physical-and-mental-health-impacts-on-black-americans#Consequences-for-mental-health>.

¹⁹³ Univ. of Michigan, *Study Identifies How Police Violence Contributes to Mental Health Woes*, VICE PRESIDENT FOR COMM’NS MICH. NEWS UNIV. OF MICH. (Oct. 1, 2020), <https://news.umich.edu/study-identifies-how-police-violence-contributes-to-mental-health-woes/>.

¹⁹⁴ Ana Sandoui, *Police Violence: Physical and Mental Health Impacts on Black Americans*, MED. NEWS TODAY (June 22, 2020), <https://www.medicalnewstoday.com/articles/police-violence-physical-and-mental-health-impacts-on-black-americans#Consequences-for-mental-health>.

¹⁹⁵ Ana Sandoui, *Police Violence: Physical and Mental Health Impacts on Black Americans*, MED. NEWS TODAY (June 22, 2020), <https://www.medicalnewstoday.com/articles/police-violence-physical-and-mental-health-impacts-on-black-americans#Consequences-for-mental-health>.

¹⁹⁶ Christina Pazzanese, *How Unjust Police Killings Damage the Mental Health of Black Americans*, HARVARD GAZETTE (May 13, 2021), <https://news.harvard.edu/gazette/story/2021/05/how-unjust-police-killings-damage-the-mental-health-of-black-americans/>; see also Jacob Bor, Atheendar S Venkataramani, David R Williams, & Alexander C Tsai, *Police Killings and their Spillover Effects on the Mental Health of Black Americans*, 392 LANCET 302, 306–307 (2018); see also David R. Williams, Jourdyn Lawrence, & Brigitte Davis, *Racism and Health: Evidence and Needed Research*, 40 Ann. Rev. of Pub. Health 105, 115 (2019); Lisa H. Thureau & Johanna Wald, *Police Killings, Brutality Damaging Mental Health of Black Community*, USA TODAY (Sept. 15, 2018), <https://www.usatoday.com/story/opinion/policing/spotlight/2018/09/14/police-brutality-damaging-black-communitys-mental-health/1218566002/> (stating that failure to treat police killings of unarmed black Americans as a public health issue produces the following mental health problems: “heightened perceptions of threat and vulnerability, lack of fairness, lower social status, lower beliefs about one own worth, activation of prior traumas, and identification with the deceased.”).

¹⁹⁷ Christina Pazzanese, *How Unjust Police Killings Damage the Mental Health of Black Americans*, HARVARD GAZETTE (May 13, 2021), <https://news.harvard.edu/gazette/story/2021/05/how-unjust-police-killings-damage-the-mental-health-of-black-americans/>.

¹⁹⁸ Lisa H. Thureau & Johanna Wald, *Police Killings, Brutality Damaging Mental Health of Black Community*, USA TODAY (Sept. 15, 2018), <https://www.usatoday.com/story/opinion/policing/spotlight/2018/09/14/police-brutality-damaging-black-communitys-mental-health/1218566002/>.

¹⁹⁹ Jacob Bor, Atheendar S Venkataramani, David R Williams, & Alexander C Tsai, *Police Killings and their Spillover Effects on the Mental Health of Black Americans*, 392 LANCET 302, 306–307 (2018).

suicidal ideation in Black adults and youth.²⁰⁰

“The pain of losing my brother is compounded by police doing nothing when white supremacists and right-wing terrorists harass and attack us while we’re out trying to support other families who’ve lost loved ones to police violence,” said Nickeia Hunter, whose brother Carlos Hunter was shot and killed by Vancouver police in 2019. Members of her family were attacked with bear spray by white supremacist extremists while attending a vigil for Kevin Peterson Jr. in October 2020. “We come together to mourn and we’re attacked. We come together to protest inequality and we’re attacked. The stress and anxiety caused by knowing there’s nowhere to go and no way to stay safe wears on you.”

Across the country, Black men are roughly 2.5 times more likely to be killed by police than are white men, and Black women are roughly 1.4 times more likely to be killed by police than white women.²⁰¹ Police use of force is a leading cause of death among young Black men.²⁰² A 2018 study examined the mental health of 38,993 Black adults who had exposure to one or more police killings of unarmed Black individuals. This study found that Black adults with exposure to police killings reported more “poor mental health days.”²⁰³ Police brutality impacts the mental health of communities of color.

2. The Physical Toll of Police Brutality on Communities of Color

Systemic racism and police brutality are public health issues which disproportionately affect communities of color. When faced with a threat, the human body “produces hormones and other signals that turn on the systems that are necessary for survival in the short term.”²⁰⁴ This leads to increased respiratory rate and increased heart rate.²⁰⁵ However, when the threat “becomes reoccurring and persistent,” the stress results in “rapid wear and tear on organs and

²⁰⁰ Erin Streatan, *Student Notebook: Police Brutality and Mental Health in the African American Community*, ASS’N FOR PSYCH. SCI. (Aug. 28, 2020), <https://www.psychologicalscience.org/observer/police-brutality-mental-health>.

²⁰¹ Ana Sandoui, *Police Violence: Physical and Mental Health Impacts on Black Americans*, MED. NEWS TODAY (June 22, 2020), <https://www.medicalnewstoday.com/articles/police-violence-physical-and-mental-health-impacts-on-black-americans#Consequences-for-mental-health>; see also Frank Edwards, Hedwig Lee & Michael Esposito, *Risk of Being Killed by Police Use of Force in the United States by Age, Race-Ethnicity, and Sex*, PROC. OF THE NAT’L ACAD. OF SCIS. OF THE U.S. OF AM., 116(34) (Aug. 20, 2019), <https://www.pnas.org/content/116/34/16793>.

²⁰² Ana Sandoui, *Police Violence: Physical and Mental Health Impacts on Black Americans*, MED. NEWS TODAY (June 22, 2020), <https://www.medicalnewstoday.com/articles/police-violence-physical-and-mental-health-impacts-on-black-americans#Consequences-for-mental-health>.

²⁰³ Ana Sandoui, *Police Violence: Physical and Mental Health Impacts on Black Americans*, MED. NEWS TODAY (June 22, 2020), <https://www.medicalnewstoday.com/articles/police-violence-physical-and-mental-health-impacts-on-black-americans#Consequences-for-mental-health> (citing Jacob Bor, et al., *Police Killings and Their Spillover Effects on the Mental Health of Black Americans: A Population-Based, Quasi-Experimental Study*, 392 LANCET 10144 (June 21, 2018), [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(18\)31130-9/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(18)31130-9/fulltext)).

²⁰⁴ Sirry Alang, et al., *Police Brutality and Black Health: Setting the Agenda for Public Health Scholars*, Am J Public Health. 107(5), 662–65 (May 2017).

²⁰⁵ *Id.*

elevated allostatic load.”²⁰⁶ Chronic stress can lead to diabetes, stroke, ulcers, cognitive impairment, autoimmune disorders, accelerated aging, and death.²⁰⁷ The “deterioration of organs and systems caused by increased allostatic load occurs more frequently in Black populations”²⁰⁸ because Black people are significantly more likely to be subject to police violence in their lifetimes than white people.²⁰⁹

There is a “higher risk of diabetes and obesity” for those “living in minority communities with a high concentration of use of force by police.”²¹⁰ In communities with “large racial differences in police use of force” there is also “an increased risk of poor/fair self-rated health [and] high blood pressure.”²¹¹

In addition to the physical conditions and diseases associated with police brutality, communities of color also suffer “years of life lost” at a significantly higher rate than white communities. A 2018 report estimated that years of life lost (YLLs), which “estimate the number of years a person could have lived had they not died prematurely,” is a key metric “for comparing the burden of diseases and injuries across different populations.”²¹² The study found that people of color, who make up only 38.5% of the population, represent 51.5% of YLLs.²¹³

The physical toll police brutality takes on people of color is extremely alarming. Even public reactions to police brutality can exacerbate the physical stress felt by communities of color. The routine justification of police killings, the scrutiny of Black people’s reactions to police brutality, the negative assessments of the way people protest, and racist public reactions to violence – such as victim blaming – all contribute to the disproportionate amount of chronic stress endured by communities of color.

“Listening to Judge Zimmerman’s casual disregard for Kevin Peterson Jr.’s life felt like a physical blow,” said Jasmine Tolbert, Vancouver NAACP President. “Not only did the judge fail to take Mr. Peterson’s killing by police seriously, he mocked and insulted the family’s efforts to seek justice. When people who hold positions of public trust react to a Black man’s killing like that, it sends a message that our lives are not valued and takes a toll on the community—physically and emotionally.”

²⁰⁶ *Id.* Allostatic load is the cumulative burden of chronic stress on the human body. *See also* Duru OK, et al., *Allostatic Load Burden and Racial Disparities in Mortality*, J Natl Med Assoc. Jan-Feb; 104(1-2), 89–95 (2012).

²⁰⁷ Sirry Alang, et al., *Police Brutality and Black Health: Setting the Agenda for Public Health Scholars*, Am J Public Health. 107(5), 662–65 (May 2017).

²⁰⁸ *Id.*

²⁰⁹ Frank Edwards, Hedwig Lee & Michael Esposito, *Risk of Being Killed by Police Use of Force in the United States by Age, Race-Ethnicity, and Sex*, PROC. OF THE NAT’L ACAD. OF SCIS. OF THE U.S. OF AM., 116(34) (Aug. 20, 2019), <https://www.pnas.org/content/116/34/16793>.

²¹⁰ Ana Sandoui, *Police Violence: Physical and Mental Health Impacts on Black Americans*, MED. NEWS TODAY (June 22, 2020), <https://www.medicalnewstoday.com/articles/police-violence-physical-and-mental-health-impacts-on-black-americans#Consequences-for-mental-health>.

²¹¹ *Id.*

²¹² *Id.*

²¹³ *Id.*

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 violent white supremacist extremist groups, warrant Department of Justice investigation. As a result, we are asking DOJ to investigate:

A. INVESTIGATION REQUEST #1: EXCESSIVE FORCE

The Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. 14141 (“Section 14141”), 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.” The DOJ’s website explains that it investigates “use of excessive force, unlawful stops, searches, or arrests; and discriminatory policing.”²¹⁴

Incorporating the abovementioned facts, the signers of this letter ask that DOJ initiate an investigation under this statute because the disturbing incidents of excessive force inflicted on residents of Vancouver and Clark County, and especially on persons of color and those experiencing homelessness and mental illness, have continued, including in recent days, despite actions and statements from City and County leadership. There is enough evidence to investigate whether the pattern of inflicting injury and death involves force that is excessive and/or biased, particularly since so many deaths occurred in such a short period of time, with police escalating the confrontations and shooting to kill. Moreover, there appears to be a culture of silence and troubling indications that multiple officers involved in a shooting repeat the same justification without or in contradiction to external evidence. Distrust of the police by communities of color continues to grow, and it becomes harder for Vancouver and Clark County law enforcement to keep everyone safe.

The DOJ is well-equipped to investigate the causes of these repeated incidents. The DOJ also has authority to conduct an investigation of multiple agencies or task forces. DOJ’s investigation should determine why the VPD, CCSO, and Task Force officers initiated or escalated the confrontations; whether and why the officers perceived a threat from certain individuals; whether officers view the use of force differently when they are confronting a Black person or another person of color; why the officers chose not to use de-escalation tactics in responding to perceived minor law violations in order to avoid the use of violence; whether VPD, CCSO, and Task Force employees and officers who witness excessive force promptly reported it, remained silent, or covered for each other; whether VPD, CCSO, and Task Force supervisors promptly and properly gathered the evidence and fully investigated the allegation of use of force; and where relevant, what caused contradictions between the initial statements of the officers involved and other evidence.

²¹⁴ *Conduct of Law Enforcement Agencies*, U.S. DEP’T OF JUST. (Apr. 21, 2021), <https://www.justice.gov/crt/conduct-law-enforcement-agencies>.

**B. INVESTIGATION REQUEST #2: DISPARATE OR DISCRIMINATORY POLICING
HARMING COMMUNITIES OF COLOR AND OTHERS**

Here too, Section 14141 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. The above incidents of excessive force, combined with the use of force data demonstrating a disproportionately high use of force against Black, Pacific Islander, and other people of color, plus evidence from other sources demonstrating disparate treatment in police handling of particular incidents, provide strong evidence that investigation of bias in Clark County and Vancouver law enforcement is needed. Such disparate treatment that robs residents of protection by police officers – and sometimes of life – warrants DOJ investigation.

**C. INVESTIGATION REQUEST #3: DISPARATE OR DISCRIMINATORY POLICING
INVOLVING LAW ENFORCEMENT FAVORITISM TO WHITE SUPREMACIST
EXTREMISTS**

Finally, the DOJ is equipped to investigate any and all discriminatory favoritism between Vancouver and Clark County law enforcement and white supremacist extremists. As recently as May 4, 2021, Attorney General Merrick Garland has prioritized investigation and prosecution of domestic terrorism²¹⁵.

Extremist groups' infiltration of law enforcement agencies poses numerous legal and policy problems warranting DOJ investigation. It perpetuates racial bias in a government function funded by taxpayer dollars, discriminates in policing services in ways that inflict great harm on Black, Pacific Islander, Indigenous, and communities of color, and allows the extremist groups to gain "inside knowledge" about law enforcement, knowledge used to further empower and facilitate the crimes of the extremist groups. See, e.g., the Clark County deputy sheriff fired for conduct supporting the Proud Boy Girls, where the deputy had access to sensitive and confidential law enforcement information while belonging to an extremist group engaged in criminal activity.²¹⁶ The cross-state-lines activity of white supremacist groups and their interactions with law enforcement in the Vancouver/Clark County area also support a DOJ civil rights investigation.

III. CONCLUSION

All residents of Vancouver and Clark County deserve equal and professional treatment by police officers. There is a dire need to "bring to light" whether there is a persistent pattern of misconduct, and remedy any systemic deficiencies, as DOJ states on its website.²¹⁷ The incidents and evidence described here erode already strained relationships between the

²¹⁵ Matt Zapotosky, *Garland emphasizes need for funding on domestic terrorism and civil rights work*, WASHINGTON POST (May 4, 2021), https://www.washingtonpost.com/national-security/merrick-garland-hearing-justice-department-budget/2021/05/03/4024cb18-ac28-11eb-b476-c3b287e52a01_story.html.

²¹⁶ Andy Matarrese, *Deputy fired over Proud Boys sweatshirt*, COLUMBIAN (July 20, 2018), <https://www.columbian.com/news/2018/jul/20/clark-county-sheriffs-deputy-fired-proud-boys-sweatshirt/>.

²¹⁷ *How Department of Justice Civil Rights Division Conducts Pattern-or-Practice Investigation*, DEP'T OF JUST., <https://www.justice.gov/file/how-pp-investigations-work/download>.

community and local law enforcement. Together they also demonstrate a pattern of disparate policing.

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, the DOJ can improve equality, fairness, and public safety throughout Vancouver and Clark County.

Please direct any and all correspondence in response to the above to eherat@aclu-wa.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michele Storms', with a large, stylized loop at the end.

Michele Storms, Executive Director
ACLU of Washington

ACLU of Washington
ACLU of Oregon
Clark County Justice Group
Clark County Volunteer Lawyers Program
Disability Rights Washington
Faith Action Network
Indivisible Greater Vancouver
Loo Wit Sierra Club Regional Group
M.O.M.S.
NAACP Vancouver Branch 1139
NAMI SOUTHWEST WASHINGTON
Next Steps Washington
Odyssey World International Education Services
OneAmerica
Pacific Islander Community Association of WA
Ridgefield Community Group
SEIU Healthcare 1199NW
Southwest Washington League of United Latin American Citizens Council 47013
Statewide Poverty Action Network
Washington Coalition for Police Accountability
YWCA Clark County