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VIA CERTIFIED MAIL and EMAIL (Shaylyn.Cochran@usdoj.gov)

September 14, 2021

Kristen Clarke, Esq.
Assistant Attorney General for Civil Rights
United States Department of Justice
Civil Rights Division
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530

RE: Request for Investigation into the Death of Terence Crutcher and the
Tulsa Police Department's Patterns and Practices of Unconstitutional Policing

Dear Assistant Attorney General Clarke,

SolomonSimmonsLaw, PLLC represents the family of Mr. Terence Crutcher, Sr., a 40-year-old Black father of four who was shot and killed by former Tulsa Police Department ("TPD") Officer Betty Jo Shelby¹ on September 16, 2016. Terence was killed while he was unarmed with both hands in the air. We, along with the undersigned national civil rights organizations, local elected officials, and community activists and leaders that support our efforts, are writing to formally request that the United States Department of Justice ("DOJ" and "Department") Civil Rights Division re-open and evaluate its investigation into Shelby's shooting and killing of Terence Crutcher and to open a new investigation under 34 U.S.C. § 12601 into the patterns and practices of the Tulsa Police Department for its systemic unconstitutional conduct, including discriminatory policing against Black people.²

The Crutcher family's quest for justice began the moment Terence was killed. While Terence was driving home from a meeting with his professor at the local community college, his car stalled in the middle of North 36th Street, just West of North Lewis Avenue in North Tulsa. A stalled car should not lead to a man's death; but in America, and in Tulsa, that is not guaranteed if you are Black.

¹ Shelby is no longer an officer with the Tulsa Police Department. She resigned from the TPD after she was placed on desk-duty.

² See U.S. ATTY'S OFF. FOR THE N. DIST. OF OKLA., FEDERAL OFFICIALS CLOSE THE INVESTIGATION INTO THE DEATH OF TERENCE CRUTCHER (Mar. 1, 2019), available at <https://www.justice.gov/usao-ndok/pr/federal-officials-close-investigation-death-terence-crutcher> or attached as **Exhibit 1**.

Shelby was responding to a domestic violence call when she observed Terence's vehicle abandoned in the street. She stopped her patrol car behind it and walked over to investigate. At that point, she encountered Terence, who had exited his vehicle before Shelby arrived at the scene. Within mere minutes, after several additional officers arrived on scene to assist her, Shelby shot Terence—he was unarmed and not presenting any sort of threat—in the chest.

Videos of the fatal encounter show an unreasonable shooting. Shelby, a safe distance from Terence, held him at gunpoint throughout the encounter as he kept his hands raised high above his head. When Officer Tyler Turnbough arrived on the scene, he pulled out his Taser. Terence walked toward the driver's side of his vehicle and began to slowly turn towards it, apparently to place his hands on the top of his vehicle. Without warning or justification, Shelby shot Terence, and Officer Turnbough fired his Taser seconds later. Shelby's bullet entered below Terence's armpit, and he collapsed to the ground. As Terence lay on his back, arms sprawled out to each side, bleeding profusely, neither Shelby, who is a trained Emergency Medical Technician, nor any other TPD officer of the four (4) on the scene rendered aid to Terence for over two (2) minutes. Terence was later pronounced dead at St. John Hospital at 8:19 p.m.

In the days immediately following Terence's killing, the DOJ, under the Obama Administration, opened a civil rights investigation, and it continued the investigation under the Trump Administration beginning in 2017. On March 1, 2019, the DOJ announced that they would not file charges against Shelby in connection with the shooting, citing insufficient evidence that she willfully used objectively unreasonable force against Terence with the specific intent to violate his civil rights. Given the Trump Administration's pervasive apathy—and sometimes outright hostility—toward well-established civil rights, Terence's family has concerns regarding the breadth of the DOJ's review and the abrupt ending of its investigation.

We are hopeful that a second look by this Department will provide the family with comfort that a complete and diligent investigation can occur. We believe that the evidence in this case demonstrates Shelby's unlawful and objectively unreasonable use of deadly force, and that after a full and thorough investigation, the DOJ will arrive at the appropriate conclusion—that federal charges should be filed.

More broadly, we request that the DOJ investigate the patterns and practices of the Tulsa Police Department ("TPD") under 34 U.S.C. § 12601. The TPD repeatedly and disproportionately uses force against Black Tulsans leading to unnecessary and violent killings. We ask that the Department review the Tulsa Police Department to address their unwillingness to enact reforms that will protect Black Tulsans and hold their officers accountable for racially biased policing and the use of excessive force.

Terence Crutcher's unnecessary killing is one of multiple examples of TPD's use of excessive force against Black Tulsans. In 2014, TPD officers shot and killed Mr. Deandre Starks, an unarmed Black man who fled during the execution of a search warrant. It was later reported that the autopsy found that Deandre had been shot in the back.

In 2018, Mr. Joshua Harvey, a Black 25-year-old father who suffered from schizophrenia and drug addiction, was chased by four (4) TPD officers for walking in a downtown Tulsa street, half-clothed on a Friday morning. Although Joshua was unarmed, *and* four (4) officers were

subduing him, the officers tased Joshua a total of twenty-seven (27) times, exposing him to more than two and a half (2 ½) total minutes of electrical current. After tasing him, the officers held him down on the ground as he lay on his stomach and complained of being unable to breathe. As Joshua cried out for his mother and Jesus, the officers mocked Joshua and talked to him like a child until he fell unconscious. He was taken to the hospital shortly thereafter, where he died of cardiac arrest. Despite the entire incident being captured on the officers' body cameras, none of the officers on the scene were disciplined for their actions in connection with Mr. Harvey's death.

Racially-biased policing and the unnecessary and excessive use of force against Black Tulsans are corroborated by objective data, including research the City of Tulsa itself commissioned. In the summer of 2018, the City released a report summarizing data collected from several sources to examine the extent of inequality in Tulsa throughout various aspects of life. The report, titled the Tulsa Equality Indicators Annual Report 2018 (enclosed as Exhibit 2), provided data on race and use of force collected by the Tulsa Police Department in 2016—the year of Terence Crutcher's killing. The research found Black Tulsans were 2.6 times as likely as white Tulsans to be subjected to force when stopped by police.³

In another analysis conducted by Human Rights Watch, researchers found that “Oklahoma had the third highest rate of police killings of all states in 2016,” and of all the deadly force incidents involving TPD officers from 2016 through 2018, a Black person was killed in 29% of them, even though Black people make up only 17% of the overall population.⁴

The TPD's response to the data supports the claims of racially-biased policing. Major Travis Yates of the TPD stated in a YEAR radio interview that deadly force against Black Tulsans was used “less than we probably ought to be, based on the crimes being committed,”⁵ shamelessly advancing the age-old stereotype that Black people are violent and commit more crime. At the time of his statement, Major Yates was the division commander for TPD's Gilcrease Division, which encompasses all of North Tulsa, where over half of Tulsa's Black population lives.

According to the report released by Human Rights Watch, a veteran TPD officer, who spoke on the condition of anonymity, stated that he had witnessed multiple incidents wherein TPD officers would stop and question Black pedestrians for seemingly no reason at all, and that it happened particularly often in North Tulsa.⁶ The officer also told Human Rights Watch he had heard other TPD officers make racist remarks about North Tulsa, including that there are “no good black people,” and that those who lived in the area were “all maggots.”⁷

³ CITY OF TULSA, *ET AL.*, TULSA EQUALITY INDICATORS ANNUAL REPORT 26 (2018) (hereinafter “EQUALITY INDICATORS”), enclosed as **Exhibit 2**.

⁴ HUMAN RIGHTS WATCH, “GET ON THE GROUND!”: POLICING, POVERTY, AND RACIAL INEQUALITY IN TULSA, OKLAHOMA 60 (2019) (hereinafter “GET ON THE GROUND!”), available at <https://www.hrw.org/report/2019/09/12/get-ground-policing-poverty-and-racial-inequality-tulsa-oklahoma/case-study-us> (excerpts enclosed as **Exhibit 3**).

⁵ Chris Polansky, *TPD Major: Police Shoot Black Americans “Less Than We Probably Ought To”*, PUB. RADIO TULSA (Jun. 9, 2020), available at <https://www.publicradiotulsa.org/post/tpd-major-police-shoot-black-americans-less-we-probably-ought#stream/0> or enclosed as **Exhibit 4**.

⁶ “GET ON THE GROUND!”, at 84.

⁷ *Id.*

TPD officers are taught early in their careers that North Tulsa is a “high-crime area.”⁸ In an interview with CBS’s *60 Minutes*, Officer Shelby stated, “I work in a high-crime area where every day, we get calls of shots fired.” In truth, the idea that North Tulsa is a “high-crime area” is a myth, according to objective data. In 2015, local crime reporter Lori Fullbright reported:

*When gang violence makes the news like it has recently in north Tulsa, it might lead some to assume that crime in north Tulsa is high, even the highest in the entire city, but that assumption is wrong. The truth is, north Tulsa’s crime rate is the lowest in the city, and not just this year, but for the past seven years in a row[.]*⁹

Following the release of the Equality Indicators report, community organizers, with the help of the *NAACP Legal Defense and Education Fund*,¹⁰ pushed the City to hold public meetings to elicit the experiences of residents and statements from experts about race and policing. The hope was that after receiving these comments, the City Council would work to reform policing in Tulsa by implementing measures that would reduce disparities in officers’ stops, arrests, and uses of force, and hold officers more accountable. Notably, Terence Crutcher’s twin sister, Dr. Tiffany Crutcher, led the charge. Panelists at the public meetings noted that not only were Black people disproportionately arrested, some of the most common offenses with substantial disparities in arrests of Black Tulsans were for low-level offenses such as traffic violations and disorderly conduct.¹¹

Unfortunately, the City of Tulsa and TPD have not implemented substantive or significant reform measures following the meetings, and the racial biases and tendency to use unnecessary force among TPD officers persists. In 2019, officers assigned to TPD’s Gang Unit approached a group of Black teenagers who were hanging out in a parked car in the parking lot of a North Tulsa apartment complex. Despite having no reason to suspect the vehicle’s occupants were engaged in or about to engage in criminal activity, multiple officers approached and surrounded the car, demanding identification. For nearly twenty minutes, the officers harassed the teens, questioning them and making accusatory statements suggesting the officers believed the vehicle had been stolen. Just last year, two officers on patrol in North Tulsa were rightly criticized for arresting two Black juveniles and wrestling one to the ground—for alleged jaywalking.¹² These things simply

⁸ See KOKI, *TPD Rookies on Their Own by Sunday*, FOX23.COM (Nov. 11, 2011 8:32 A.M. C.S.T.), available at https://www.fox23.com/news/breaking-news/tpd-rookies-on-their-own-by-sunday_ndpc7/254310869/ or enclosed as **Exhibit 5**.

⁹ Lori Fullbright, *Numbers Show North Tulsa Crime Is Lowest in the City*, NEWSON6.COM (Jul. 21, 2015 7:03 P.M.), available at <http://www.newson6.com/story/5e361e512f69d76f620437f5/numbers-show-north-tulsa-crime-is-lowest-in-the-city> or enclosed as **Exhibit 6**.

¹⁰ Specifically, *NAACP Legal Defense Fund*’s President and Director-Counsel (“LDF”) Sherrilyn Ifill signed a letter along with over fifty local community, elected, and religious leaders sent a letter to City of Tulsa Mayor G.T. Bynum and the Tulsa City Council demanding reforms be immediately implemented. The letter stated, “it is simply unacceptable to acknowledge racial inequities in City report and do little to nothing to address them.” To date none of the reforms requested in the letter have been implemented. See, LDF letter enclosed as **Exhibit 7**.

¹¹ NAACP Legal Defense and Educational Fund, *We Are Not Lesser*, 12-13 (2021), available at https://www.naacpldf.org/wp-content/uploads/LDF_03292021_Tulsa-25.pdf or enclosed as **Exhibit 8**.

¹² Ben Kessler, *Tulsa Police Slammed After Video Shows Handcuffing of 2 Black Teens for Jaywalking*, NBC

do not happen in South Tulsa. The City and police department have made it clear through their actions that the racial disparities that plague policing in Tulsa are unlikely to change without pressure from outside forces. For example, Mayor G.T. Bynum, who has committed to no reforms to address the abysmal record of policing exposed by the City's own research, recently raised the salaries of officers and posted "#BacktheBlue."¹³ Chief Franklin has antagonized protestors seeking greater police accountability through his social media engagement.¹⁴

We believe that Terence Crutcher's family is owed an unbiased and objective investigation by the DOJ into the actions of Shelby. The evidence surrounding Terence's killing warrants a second look by your Department. Further, to prevent the killing of more Black Tulsans, like Terence, we ask that you scrutinize the Tulsa Police Department's pattern of racially biased and unconstitutional policing. Such a review is necessary to protect Black Tulsans from disproportionate harm. We ask that all Americans are treated equally by those who are sworn to protect them and that when law enforcement officers violate the law, they be held accountable. Accordingly, we respectfully ask that the DOJ to reopen its investigation into Terence's killing and to intervene and evaluate the actions of the TPD to protect all Black Tulsans.

If you have any questions or comments, I would be happy to discuss this matter further. You may contact me personally at 918-551-8999 or dss@solomonsimmons.com. Thank you for your consideration of this matter. I look forward to your response.

Sincerely,

/s/Damario Solomon-Simmons

Damario Solomon-Simmons, Esq., M.Ed.
Managing Partner
Lead Counsel for the Crutcher Family

Rev. Joey Crutcher
Father of Terence Crutcher, Sr.

Dr. Tiffany Crutcher
Twin Sister of Terence Crutcher, Sr. and Founder and Executive Director
Terence Crutcher Foundation

Sherrilyn Ifill

NEWS (June 11, 2020), available at <https://www.nbcnews.com/news/us-news/tulsa-police-slammed-after-video-shows-handcuffing-2-black-teens-n1229806>, or enclosed as **Exhibit 9**.

¹³ G.T. Bynum, FACEBOOK.COM (August 11, 2021 5:30 P.M. C.D.T.), available at <https://www.facebook.com/gtbynumfortulsamayor/photos/a.1597023863959669/2893832544278788/> (screenshot enclosed as **Exhibit 10**).

¹⁴ Kevin Canfield, *Watch Now: Tulsa Police Chief Says His Tweet Accomplished Its Goal — Drawing Attention to Outbreak of Gun Violence*, TULSA WORLD (July 28, 2021), available at https://tulsaworld.com/news/local/govt-and-politics/watch-now-tulsa-police-chief-says-his-tweet-accomplished-its-goal-drawing-attention-to-outbreak/article_3a01e956-ef0c-11eb-97de-03c184d4a8ed.html or enclosed as **Exhibit 11**.

Page 6 of 6

President, Director
NAACP Legal Defense & Education Fund

Nicole Austin-Hillary
Human Rights Watch, U.S. Division

Councilwoman Vanessa Hall-Harper
Tulsa City Councilor, Chair

Rep. Regina Goodwin
Oklahoma State Representative, District 73

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Rep. Jason Lowe
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Rep. Mauree Turner
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Sen. George Young
Oklahoma State Senator, District 48

Anthony R. Douglas
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Enclosures as stated.