



June 20, 2019

Via First Class and Electronic Mail

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The Tulsa City Council
Tulsa City Hall Office
175 E. 2nd Street, 4th floor
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**RE: Written public comments on City Council hearings to explore and address
Tulsa Equality Indicators Reports**

Dear Tulsa City Councilors:

On behalf of the NAACP Legal Defense and Educational Fund (LDF),* we appreciate the opportunity to submit written comments on the series of hearings you will hold in the coming months to understand and address racial disparities in police arrests, use of force, and hiring practices in the city of Tulsa as detailed in the *Tulsa Equality Indicators Annual Reports for 2018 and 2019*.¹ As you are aware, Tulsa, like many cities across the country, has a long history of discrimination and violence against racial minorities, including the Tulsa Race Massacre of 1921 that left as many as 300 Black residents dead and destroyed by fire one of the wealthiest Black communities of its time.² But, Tulsa also is one of only a few cities that have made a commitment to create an Equality Indicators tool that measures and reports annually inequalities in multiple areas of public life – economic opportunities, education, housing, public health, services, and justice. LDF commends city leadership for engaging in this self-assessment and for unanimously approving the request made in a May 2018 letter from LDF and 50 Tulsa leaders for public hearings to understand and address racial disparities found in policing practices.³

* LDF is the nation's oldest civil rights legal organization and has been completely separate from the NAACP since 1957. Since its founding nearly eighty years ago, LDF has worked at the national, state, and local levels to pursue racial justice and eliminate structural barriers for Black Americans and other people of color in the areas of criminal justice, economic justice, education, and political participation. LDF has also forged longstanding partnerships with local advocates, activists, law enforcement executives and attorneys to challenge and reform unlawful and discriminatory policing across the country, including New York City, NY and Baltimore, MD.

On June 26, 2019, you appropriately will host the first hearing on the topic of racial disparities in youth arrests by Tulsa police officers – a practice that has worsened according to the most recent *Tulsa Equality Indicator* report.⁴ For next week’s and future hearings, we urge you to take three critical steps toward exploring and addressing racial disparities in policing practices:

- 1) Consider all available data to uncover potential reasons for these disparities. If additional data and policies are needed, then members of the City Council should request their collection from relevant agencies, institutions, and individuals. It will be impossible to address a problem that city leaders do not fully understand. For example, both *Tulsa Equality Indicator* reports relied on data from the Tulsa Police Department (TPD) to determine the equality score for youth arrests. But the Tulsa Public School Campus Police works closely with TPD and may contribute to youth arrests. Additional information from Tulsa school police would help City Councilors and members of the public understand racial disparities in youth arrests.
- 2) Solicit and carefully consider how racial biases in policing have, often tragically, impacted Tulsan families, particularly families of color; and
- 3) Solicit, study, create, and implement concrete, measurable, and lasting solutions that will eliminate inequities in police services. We offered several policy reform recommendations in our May 2018 letter, and we encourage the City Council to seek additional recommendations from the community during the public hearings.

Fortunately, as City Councilors collect information over the next several months, you will not begin from a blank slate. On March 7, 2019, LDF, the Terence Crutcher Foundation, ACLU of Oklahoma, and other local organizations and leaders hosted a community-led public hearing on the *Tulsa Equality Indicators Annual Report for 2018 (2018 Equality Indicators Report)*. Hundreds of people attended the forum and provided hours of testimony about racial discrimination and racial disparities in policing and how these practices have impacted their lives and their families.⁵ We also heard reasonable, thoughtful, and concrete recommendations for policing reforms. With this letter, we submit the transcript from the community-led hearing to the City Council for the record.⁶ Additionally, below, we highlight testimony about racial disparities in youth arrests and police use of force as well as the history of racial discrimination in policing that the Council should consider as it moves forward. Also, we offer several policy reform recommendations.

**RACIAL DISPARITIES IN YOUTH ARRESTS ARE A CONCERN OF TULSANS THAT
DESERVE CLOSE EXAMINATION**

According to the *2018 Equality Indicators Report*, Black youth are more than three times as likely to be arrested as White youth, while Native American and Asian young people had much lower arrest rates than both Black and White youth.⁷ Racial inequality in youth arrests worsened in 2019.⁸ These data do not show, however, the reasons for or outcomes of the arrests, or the utilization of any alternatives to arrests. For example, the TPD policy on “Juvenile Arrest and Detention” states that “[w]hen coming into contact with juvenile offenders, Tulsa Police Officers

shall use the least coercive among reasonable alternatives that are consistent with state and federal law[,]”⁹ including releasing a young person to a parent with no further action. During next week’s hearing, City Councilors should inquire about TPD’s use of alternatives to arrest and how this practice impacted racial disparities in youth arrests.

Additionally, during our March 7 hearing, community members voiced concerns about the impact that contact with the justice system has on children and youth. For example, one parent bemoaned the involvement of elementary and middle school students in the justice system. She noted that “when you drag a person’s child into the system, you drag the parent into the system ... the whole entire family into this vicious cycle.”¹⁰ It is critical for City Councilors to solicit information about any coordination between the Tulsa Public Schools Campus Police and TPD that may contribute to racial disparities in youth arrests.

RECENT INCIDENTS OF POLICE USE OF FORCE AGAINST BLACK TULSANS AND OTHER ACTS OF RACIAL DISCRIMINATION HAVE HAD A LASTING IMPACT ON FAMILIES

While data are critically important to understanding the causes of racial disparities in Tulsa, City Councilors must not lose sight of the fact that these disparities have had a profound effect on the lives of real people and families in Tulsa. At our March 7 community-led public hearing, we heard heartbreaking accounts from family members whose unarmed loved ones were killed by TPD officers.

For example, Roma Snowball-Presley, the mother of Joshua Wayne Harvey, spoke about her son’s tragic August 2018 death after Tulsa police officers struck him with a taser 27 times.¹¹ She described the callous and inhumane way Tulsa Police officers treated her son, who suffered from bipolar disorder and schizophrenia and “was terrified” throughout his encounter with the police.¹² Although Mr. Harvey was clearly in a mental health crisis, it appears from video footage of the incident¹³ that Tulsa police did not respond appropriately and empathetically – they “failed at every opportunity to de-escalate ...” and instead “aggressively aggravated the situation,”¹⁴ according to Ms. Snowball-Pressley. She explained that the officers violated the department’s policies on use of tasers,¹⁵ yet there has been no accountability. She stated that even though the officers who killed her son used excessive force and violated departmental policies, not one officer has been held accountable. After watching the video of Tulsa officers needlessly killing her son, she asked, “[w]hy did they treat him like a wild animal instead of a human being ...?”¹⁶ Finally, Ms. Snowball-Pressley reminded us that Mr. Harvey is not just a number – “he was so much more than a statistic. He was a son. He was a nephew. He was a father of a little boy ... He had compassion. He had love.”¹⁷

Participants also heard from Dr. Tiffany Crutcher, the twin sister of Terence Crutcher, who was shot and killed in 2016 by former Tulsa Police officer, Betty Shelby, just several hundred feet from where the community-led public hearing was held.¹⁸ She told us about the enduring impact of Terence’s brutal death and echoed Ms. Snowball-Pressley’s sentiments that Tulsa police treated her brother inhumanely.¹⁹

We heard about the need for ongoing, anti-bias training conducted by instructors with expertise in the subject matter and in training law enforcement officers.²⁰ As Ms. Snowball-Pressley eloquently explained, TPD needs a culture change to shift officers' focus to a culture of dignity and respect: "if dignity and respect come in their minds before using force, before their fear, before their prejudices -- if they think of this person as a human being first -- the likelihood of abuse and excessive force will be decreased tremendously."²¹

Additionally, at the community-led public hearing, we were reminded that these tragic stories and the racial biases reflected in the *Equality Indicators* reports are not new. The report's findings are well-known to residents and city officials, as previous research, litigation, and news reports have documented racial disparities in the practices of the TPD for decades.²² For example, attorney Damario Solomon-Simmons presented evidence of over twenty years of legal settlements and news reports about discriminatory policing and the excessive use of force by police in Tulsa. The evidence he presented included:

- A 1994 lawsuit filed by Black Tulsa police officers alleging racial discrimination in promotions and hiring, among other things. The case settled in 2002 and resulted in policy changes, such as banning retaliation against officers who file complaints.²³
- A 2016 Tulsa World investigative report showing that Black Tulsans were two to four times more likely to be subjected to the use of force by police when compared to White Tulsans.²⁴

Acknowledging and addressing the long history of racially biased policing in Tulsa must be a top priority for City Councilors during its hearings on the *Equality Indicators Reports*.

TULSANS HAVE ALREADY REQUESTED, AND CITY OFFICIALS HAVE ADOPTED, POLICY CHANGES, BUT MORE NEEDS TO BE DONE

Finally, in our May 2018 letter, LDF and Tulsans asked the City to adopt several policy reforms to address racial disparities in policing, including the creation and implementation of a de-escalation policy. We are encouraged to see that the TPD revised its policies in December 2018 by including a requirement that officers must utilize de-escalation techniques before using force.²⁵ But, officers' compliance with this policy is unknown. Accordingly, we reiterate below, several reforms we requested over a year ago with adjustments to capture changes the TPD has made and provide additional suggestions made by Tulsans during the March 7 community-led public hearing. During your Equality Indicators hearings in the coming months, we urge you to ask relevant panel experts their views about and commitments to the recommendations below.

1. **Revise or create TPD policies and training on de-escalation, alternatives to arrests, and bias-free policing.** Tulsa's *Findings and Recommendations of the Tulsa Commission on Community Policing* report (the Tulsa Commission recommendations) states that the TPD should continue scenario-based training, including instruction on de-escalation.²⁶ Now that the department has incorporated de-escalation into its use of force policy, it must ensure that officers are trained on and comply with it.

Additionally, while the Tulsa Commission report recommends implementing “least harm” resolutions, such as warnings and citations, in lieu of arrest for minor infractions, Commissioners did not specify what type of minor infractions are eligible for these resolutions. This information should be captured in a departmental policy.

The TPD’s decision to begin implicit-bias training of its officers last year was a step in the right direction.²⁷ However, there is little to no public information about the quality of the training or steps TPD is taking to ensure that officers are complying with the training. City Councilors should inquire about the quality and status of this training during its Equality Indicators public hearings.

2. **Create and implement policies and training on appropriate interactions with persons who have mental, emotional or behavioral disabilities.** The testimony of Ms. Roma Snowball Presley, mentioned above, underscores the need for TPD to develop policies on how to legally and responsibly interact with individuals who are experiencing a mental health crisis. Indeed, pillar four of the Tulsa Commission recommendations include proposals for the TPD to plan and implement strategies for responding to crisis situations, such as through crisis intervention teams of law enforcement and mental and behavioral health professionals trained to de-escalate crises and connecting persons to community services to address health needs. City Councilors should ask TPD whether it has adopted these recommendations and if not, why not?
3. **Develop and implement civilian oversight of law enforcement.** During the March 7 community-led public hearings, participants recommended the creation of a civilian oversight body with clearly defined goals and outcomes, access to data, and real authority, including the power to subpoena documents. One participant was clear that a community advisory board was not enough.²⁸
4. **Require external and independent investigations of police use-of-force incidents resulting in death or injury and in-custody deaths.** A police-involved shooting, particularly one that results in death, often leaves communities angry, confused and doubtful that the law enforcement agency can conduct an impartial investigation of fellow officers. In Oklahoma, the Sand Springs Police Department has attempted to address this problem by entering into a contract with a different agency, the Oklahoma State Bureau of Investigation, to conduct investigations of certain incidents.²⁹ In New York State, the governor issued an executive order authorizing the state attorney general to investigate and, when appropriate, prosecute officers involved in fatal shootings.³⁰ Additionally, law enforcement experts have recommended referring investigations to neighboring jurisdictions.³¹ There are several processes TPD may consider and adopt. The key is to select one that is truly independent and acceptable to residents and police.
5. **Partner with the International Association of Directors of Law Enforcement Standards and Training to contribute to its National Decertification Index that collects information about officers who have had their licenses or certifications**

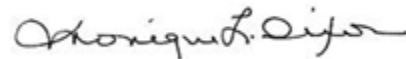
revoked.³² This will allow TPD to identify problem officers before they are hired. It appears that the Oklahoma Council on Law Enforcement Education and Training has submitted the names of decertified officers to the National Decertification Index in the past.³³ But, it is unclear whether TPD notifies this agency of its decertified officers. We urge TPD to do so.

Conclusion

When the City Council debated whether it should hold public hearings on the *Equality Indicators* reports, it considered a proposal detailing several goals for the hearings, including: building trust between residents of Tulsa and law enforcement; improving transparency in the city's justice system; and creating policy changes that will improve outcomes for Tulsans. Residents in Tulsa and nationwide are relying on City Councilors to play a leadership role in carrying out these goals and addressing racial disparities city officials uncovered in its own annual reports. LDF appreciates the opportunity to contribute to this historical policing reform effort in Tulsa.

If you have any questions or concerns, please do not hesitate to contact us at 202-682-1300.

Sincerely yours,



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Endnotes

¹ City of Tulsa, et al, *Tulsa Equality Indicators, Annual Report 2018*, 24-26 (Apr. 4, 2018), available at https://www.tulsaei.org/webdocs/Tulsa_Equality_Indicators_Annual_Report_2018_Web.pdf?utm_source=website&utm_medium=frontpage&utm_campaign=launch. [hereinafter “2018 Equality Indicators report”]; City of Tulsa, et al, *Tulsa Equality Indicators, Annual Report 2019*, 31 (May 2, 2019), available at https://www.tulsaei.org/wp-content/uploads/2019/05/Tulsa-Equality-Indicators-Report_2019.pdf. [hereinafter “2019 Equality Indicators report”].

² DeNeen L. Brown, *They Was Killing Black People*, The Washington Post, September 28, 2018, available at https://www.washingtonpost.com/news/local/wp/2018/09/28/feature/they-was-killing-black-people/?utm_term=.5e9a0d472b58.

³ Letter from Sherrilyn Ifill, President and Director Counsel, LDF, et al to Mayor G.T. Bynum and City Council Chairman David Patrick, May 31, 2018 available at: <https://www.naacpldf.org/wp-content/uploads/Coalition-Letter-to-Mayor-Bynum-and-Council-Chair-Patrick-FINAL-5.31.2018-2.pdf>. [hereinafter LDF May 2018 letter]

⁴ 2018 Equality Indicators report, *supra* note 1 at 25; 2019 Equality Indicators report, *supra* note 1 at 31.

⁵ Nate Morris, “We’re still here”: Hundreds fill event center to discuss policing reform and demand action from city leaders, The Black Wall Street Times, available at <https://theblackwallstreettimes.com/2019/03/08/tulsa-community-public-hearings/>.

⁶ NAACP Legal Defense Fund and the Terence Crutcher Foundation Public Hearing on Tulsa Equality Indicators Report and Racial Disparities in Policing Tr., March 7, 2019, [hereinafter “Community-led public hearing transcript”].

⁷ 2018 Equality Indicators report, *supra* note 1 at 25.

⁸ 2019 Equality Indicators report, *supra* note 1 at 31.

⁹ Tulsa Police Department Policies and Procedures, Procedure #31-121B: Juvenile Arrest and Detention (August 23, 2018), available at <https://www.tulsapolice.org/media/165446/Policy%20Manual2019.pdf>.

¹⁰ Community-led public hearing transcript, *supra* note 6 at 43-44.

¹¹ *Id.* at 44.

¹² *Id.* at 28-38.

¹³ Amy Slanchik, *TPD Releases Video Of Man Being Tased*, News on 6, Sep 2, 2018, available at <https://www.newson6.com/story/39011081/tpd-releases-video-of-man-being-tased>. See also, COPS 2.0, *August 24, 2018, Fatal Use of Force Incident, Tulsa Oklahoma, Joshua Harvey*, YouTube, available at <https://www.youtube.com/watch?v=8rgek03Bops>.

¹⁴ Community-led public hearing transcript, *supra* note 6 at 30.

¹⁵ *See, e.g.*, Tulsa Police Department Policies and Procedures, Procedure File No. 31-101E: Use of Conducted Electrical Weapons (“Officers shall not simultaneously deploy CEWs on one individual.”), available at <https://www.tulsapolice.org/media/165446/Policy%20Manual2019.pdf>.

¹⁶ Community-led public hearing transcript, *supra* note 6 at 31.

¹⁷ *Id.*

¹⁸ *Id.* at 98.

¹⁹ *Id.* (stating that TPD left Terence lying on the ground bleeding like roadkill).

²⁰ *See, e.g., id.* at 21 and 36-37.

²¹ *Id.* at 36.

²² *See, e.g.*, Ziva Branstetter, *Groups renew request for city probe of police*, Tulsa World, May 5, 2001 (describing a photo of two white Tulsa police officers holding a handcuffed arrestee around the neck with the words “say cheese” under the photo), available at: http://www.tulsaworld.com/archives/groups-renew-request-for-city-probe-of-police/article_10cac80e-7a06-5506-bd7b-00c825bd7e90.html; *see also*, Ian Ayres, SUPPLEMENTAL REPORT ON RACIAL DISPARITIES OF THE TULSA POLICE DEP’T, Tr. Doc. 318, *Johnson v. City of Tulsa*, Civil No. 94-CV-00039-TCK-FHM (N.D. OK July 2, 2001) (finding racial disparities in arrests and use-of-force by Tulsa police officers).

²³ Community-led public hearing transcript, *supra*, note 6 at 61. *See also*, Clayton Bellamy, *Tulsa settles 1994 police discrimination lawsuit*, The Oklahoman, April 7, 2002, available at <https://oklahoman.com/article/2788551/tulsa-settles-1994-police-discrimination-lawsuit>; and Order, *Johnson v. City of Tulsa*, Case No. 94-CV-39H(M), Docket No. 1026 (D. N.D. OK May, 12, 2003), available at <https://www.clearinghouse.net/chDocs/public/EE-OK-0049-0004.pdf>.

²⁴ Community-led public hearing transcript, *supra*, note 6 at 57. *See also*, Corey Jones and Curtis Killman, *Blacks in Tulsa more likely than whites to be subject to police use of force*, Tulsa World, Oct. 3, 2016, available at https://www.tulsaworld.com/news/local/crime-and-courts/blacks-in-tulsa-more-likely-than-whites-to-be-subject/article_84e775b4-73f5-51bc-a1b0-90c07220ecf5.html.

²⁵ LDF May 2018 letter, *supra*, note 3. *See also*, City of Tulsa, *Findings and Recommendations of the Tulsa Commission on Community Policing*, Executive Summary, March 10, 2017, available at <https://www.cityoftulsa.org/media/3637/community-policing-commission-executive-summary.pdf>.

²⁶ *Id.*

²⁷ City of Tulsa, *Tulsa Police to Begin Implicit Bias Training Within the Department*, March 27, 2018, <https://www.cityoftulsa.org/press-room/tulsa-police-to-begin-implicit-bias-training-within-the-department/>.

²⁸ Community-led public hearing transcript, *supra*, note 6 at 26-27, and 39.

²⁹ Sand Springs Police Department, *Policing Plan 2018*, available at <https://www.sandspringsok.org/DocumentCenter/View/3195/Policing-Plan-2018> (“The Sand Springs Police Department became the first department in the State of Oklahoma to formalize an agreement with the Oklahoma State Bureau of Investigation to conduct investigations into any officer involved shooting or in-custody death involving our officers.”).

³⁰ Governor Andrew Cuomo, *Governor Cuomo Signs Executive Order Appointing NYS Attorney General as Special Prosecutor in Cases Where Law Enforcement Officers Are Involved in Deaths of Civilians*, July 8, 2015, available at <https://www.governor.ny.gov/news/governor-cuomo-signs-executive-order-appointing-nys-attorney-general-special-prosecutor-cases>.

³¹ President’s Task Force on 21st Century Policing, *Final Report of the President’s Task Force on 21st Century Policing*, 21, U.S. Office of Community Oriented Policing Services, May 2015, available at https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf.

³² *Id.* at 29-30 (noting that “a national register would effectively treat ‘police professionals the way states’ licensing laws treat other professionals. If anything, the need for such a system is even more important for law enforcement, as officers have the power to make arrests, perform searches, and use deadly force.”),

³³ Council on Law Enforcement Education and Training, *Meeting Agenda*, 3, Jan. 29, 2014 (stating “names of individuals whose certification has been suspended or voluntarily surrendered since the last meeting... will be entered into the National Decertification Database), available at https://www.ok.gov/cleet/documents/CouncilAgenda_29Jan2014.pdf.