

January __, 2012

Thomas Perez
Assistant Attorney General
U.S. Department of Justice Civil Rights Division
Special Litigation Section
950 Pennsylvania Avenue N.W.
Washington, D.C. 20530

Mike Ormsby
U.S. Attorney for the Eastern District of Washington
P.O. Box 1494
Spokane, WA 99210-1494

Dear Mr. Perez and Mr. Ormsby:

We are writing in support of Spokane Mayor Mary Verner's request of the Justice Department to conduct a "Pattern or Practice Investigation" of the Spokane Police Department. The Mayor publicly announced her intent to request such an investigation on November 14th, twelve days after a federal jury convicted Spokane police officer Karl F. Thompson, Jr. of excessive force and making a false report in the fatal arrest of Otto Zehm in March 2006.

The available record in Spokane indicates that the Zehm case was not an isolated incident. In addition to the use of deadly force chronology provided in the appendix to this letter, there is also cause for concern that people of color are disproportionately subjected to tasers at the hands of Spokane Police.

The Office of Police Ombudsman has reported that, in 2009, of the 27 people tased by the Spokane Police Department, 36% were people of color, including 25% African American men and 11% Native American men. In contrast, the census reports that African American men and women total 2.1% of Spokane County population and Native American men and women total 1.4% of Spokane County population (source: <http://www.communityindicators.ewu.edu/graph.cfm?id=5>). Thus, these statistics are clearly indicative of a pattern of taser use by Spokane police that appears to target African American and Native American men.

In addition to the suspicious instances of the use of deadly force, taser use, and alleged police abuse, there are deeply troubling questions about the culture of Spokane area law enforcement and questions as to whether Spokane police are properly trained to protect themselves and the public without unnecessarily escalating situations with the use of lethal and non-lethal force.

Based on what federal prosecutors told the jury, we can now be certain that during the investigation and trial of officer Thompson for excessive force and making a false report that federal officers found ample evidence pointing toward abuse of authority and obstruction of justice by others with the SPD.

For example, federal investigators concluded that officer Thompson's false report about his encounter with Mr. Zehm was produced because Thompson “counted on his department to whitewash the incident.” [<http://www.spokesman.com/stories/2011/nov/01/thompson-case-goes-to-jurors/>]. Thompson’s trial not only provided clear evidence of the extent to which the officers’ colleagues—in clear violations of their oaths to uphold the law—conducted the “whitewash” in order to protect one of their own. This included the perjury committed by Spokane police officer Tim Moses who, testifying with immunity at Thompson’s trial, flatly contradicted his earlier grand jury testimony on several points. Moses holds a leadership position in the Spokane Police Guild [<http://www.spokesman.com/blogs/sirens/2011/nov/17/tim-moses-resigns-police-spokesman/>].

In an interview with the Spokesman-Review, the forewoman of the jury that delivered the guilty verdict in the Thompson trial told the reporter that it was Moses’s testimony that helped persuade the jury that Thompson’s false reports occurred within the context of a broad “police cover up.” [<http://www.spokesman.com/stories/2011/nov/15/thompson-juror-case-decided-evidence/>]

Other strong indications of obstruction of justice in connection with the Zehm case include:

- 1) Evidence of the Spokane City Attorney’s office being used as an instrument to undermine the federal investigation of Thompson and other members of the Spokane Police Department. Specifically, this information

is included in the U.S. Attorney's Memo in Support of Motion to Stay Civil Case 9/15/11, wherein the Justice Department states, among other things:

“On information and belief and based on a review of the Criminal Chiefs in the U.S. Attorney's Office in the Eastern District of Washington for the past approximate 25 years, this is the first time that the target of a federal criminal investigation has been provided direct access, through a fellow law enforcement agency's 'civil legal counsel,' to the normally confidential investigation activities and proceedings held before the Grand Jury.”

2) Evidence of out-dated and poor training techniques/practices. A clear indication of this comes in the testimony of Spokane police officer Terry Preuninger who teaches patrol tactics at the Spokane police training center. [<http://www.spokesman.com/stories/2011/oct/27/police-training-expert-defends-use-of-force/>]. As federal prosecutor's noted during Preuninger's cross-examination, it was extremely difficult, if not impossible, to discern from Officer Preuninger's testimony a circumstance in which an officer would not be justified in using force against a suspect. Preuninger's testimony is in sharp contrast to the declaration filed by Assistant Police Chief James E. Nicks last August. In the declaration—submitted to the court in the case against officer Thompson—Assistant Chief Nicks discloses that he has been regularly and directly involved “in developing, maintaining and implementing Spokane Police Department policies and procedures that comply with local, state and national law enforcement standards. This review includes, among others, the Department's defensive tactics and use of force policies.”

In his declaration, Assistant Chief Nicks points to a number of “contradictions” between what officer Thompson described about his encounter with Otto Zehm and what the store security video revealed. He also cited numerous violations in SPD policies in the way that officer Thompson used force in the encounter. To say the least, there are glaring inconsistencies between Officer Preuninger's testimony and that of Assistant Chief Nicks as regards the appropriate use of force.

3) Finally, there are a number of disquieting indications that the Spokane Police Guild has overzealously used its influence to resist police oversight reforms and efforts to reform the culture of the department. For starters, the Guild has repeatedly challenged and resisted the City's efforts to enact credible civilian police oversight. This includes the Guild's successful effort

this year to strip independent investigative and reporting powers from the city's Office of Police Ombudsman.

Moreover, Anne Kirkpatrick—the City's Chief of Police—has publicly questioned whether the Guild would cooperate in any federal investigation of the Spokane Police Department.

This is what she told a reporter for the Spokesman-Review in a November 14th story [<http://www.spokesman.com/stories/2011/nov/14/mayor-asks-feds-full-probe-spdc/>] about the Mayor's request for a DOJ review.

To the extent she can, Kirkpatrick said she will assist federal authorities and she expects a "majority" of her department's officers will, as well.

"But the current (Police Guild) leadership absolutely will not," she said. "The majority of the members of the guild are just honest, hard working cops who everybody wants to show up at their mother's home if they need help. The majority will be OK with it, because they are not threatened by it.

"But when you talk about guild leadership," she continued, "that's where you need to see the focus."

In her November 16th letter to Mr. Perez, then-Mayor Verner wrote: "I believe we need expert, outside help in examining how we do business and what steps we need to take to improve the way we police."

We wholeheartedly agree and commend the Mayor for her request. At a minimum, the evidence gathered by federal prosecutors and the grand jury in advance and during the Thompson trial offer a disturbing glimpse into the culture of the Spokane Police Department. As you know, it raises deep and troubling questions about whether there is institutional cover for police abuses, whether proper training is being administered, and whether an attitude prevails that abuse can occur with impunity.

For these reasons we support Mayor Verner's request for a Pattern and Practice Investigation.

Sincerely, signers

Appendix

Spokane Police Shootings Chronology

September 26, 2011, | James Edward Rogers shot and killed by Spokane police officers. The S-R reports that Rogers, a 45-year-old father of seven was distraught and suicidal and that he'd told family members he had taken his father's shotgun and planned to use it on himself. His family was rushing to the site of a standoff with police with "funfire interrupted Rogers' sister's phone call with police." "The fatal shots were fired at 8:24 p.m., nearly two house after police first encountered Rogers." Source: <http://www.spokesman.com/stories/2011/sep/27/man-shot-death-spokane-police-identified/>

January 16, 2011 | Kenneth Dennis shot and killed by Spokane police officers. The S-R reports that 26-year-old Kenneth Dennis was shot and killed by police in north Spokane. "The fatal shooting occurred inside the home during the initial contact with the man [Dennis], according to the State Patrol, but it's unclear what prompted the officers to open fire. WSP Trooper Troy Briggs said the preliminary investigation has determined that the man was armed with a knife." Source: <http://www.spokesman.com/stories/2011/jan/16/another-fatal-police-shooting-spokane/>

Dec. 4, 2010 | Jeremy Groom shot and killed by Spokane police officers

According to a Spokane County Sheriff's press release, two Spokane police officers, Zac Storment and Chris Douville, responded to reports of an armed man at the Special K tavern in Hillyard. When police arrived, they found Groom pointing the gun at his friend, Robert Thompson Jr. The *Spokesman* quotes witnesses — including Thompson — saying that police shot Groom too quickly after asking him to drop the gun. (Source: <http://www.inlander.com/spokane/article-15986-a-timeline-of-police-shootings.html>)

Nov. 12, 2010 | Ethan Corporon shot and killed by six Spokane

police officers

According to a Spokane sheriff's office press release, six police officers responded reports of multiple shotgun rounds being fired at a home on West Buckeye Avenue. Officers halted the pickup truck of Ethan Corporon, 29, near the Shari's restaurant at Monroe and Indiana. Corporon exited his truck while carrying a shotgun and refused to drop his weapon. When it looked like he was going to run into Shari's, the officers fired a total of 26 shots at him. He died at the scene, of two gunshot wounds. (Source: <http://www.inlander.com/spokane/article-15986-a-timeline-of-police-shootings.html>)

March 26, 2010 | Todd White shot and killed by a Spokane police officer

According to a Spokane sheriff's office press release, officers Trevor Nollmeyer and Dion Mason were called to a neighborhood by reports that White, a 46-year-old felon, was carrying a gun. White fired four shots at officers from a semi-automatic laser-sighted gun. Nollmeyer returned fire, shooting White twice. Source: <http://www.inlander.com/spokane/article-15986-a-timeline-of-police-shootings.html>

Area police shootings 2001 to May 2007

With the exception of a shooting by off-duty Spokane police Officer James "Jay" Olsen earlier this year and two recent cases under investigation, every shooting has been ruled justified by the Spokane County Prosecutor's Office.

Of the 11 times when Spokane Police Department officers fired their guns at suspects, four have resulted in fatalities. At least two of the six shootings involving Spokane County sheriff's officers resulted in deaths; details on the other incidents weren't available. Source: <http://www.spokesman.com/stories/2007/may/02/area-police-shootings-since-2001/>

Sources: <http://www.spokesman.com/stories/2007/may/02/area-police-shootings-since-2001/> & <http://www.inlander.com/spokane/article-15271-a-history-of-violence.html>

Spokane Police Department

2007

May 1: A Spokane police officer shot a man in the face during a struggle in north Spokane. Ryan L. Patterson, 26, is in critical condition at Deaconess Medical Center. The shooting is under investigation by the Spokane County Sheriff's Office.

March 24: Spokane police Sgt. Daniel Torok shot and killed 33-year-old Jerome Alford during a struggle near downtown Spokane. The Spokane County Sheriff's Office is investigating.

Feb. 26: Olsen shot Shonto K. Pete, wounding him once in the head. Olsen has been charged with first-degree assault and two counts of reckless endangerment. Pete is charged with felony auto theft. Olsen is on unpaid leave while the fate of his job is determined.

2005

Several Spokane police officers responded to a report of a suicidal man. The man answered the door with what appeared to be a semiautomatic weapon and pointed it at two officers standing in the street. Officer Ray Harding fired his gun at the man but missed. The man then threw the gun down; it was a BB gun designed to look like a Beretta.

2004

Spokane police Officer Karl Thompson responded to a report of a man threatening a relative with a gun in West Central. The man fled in a vehicle, but Thompson stopped the car. When the man pointed his gun at Thompson, the officer fired a shot through the car's windshield, wounding the man.

Spokane police Officer Paul Taylor responded to a report of a suicidal man near Corbin Park. The suspect, who police believed had hurt someone inside the home and was armed, fled the house toward the park. Harding first used his Taser then fired his gun at the man but missed.

2003

Spokane police Sgt. Troy Teigen and Officers Dan Lesser and Kevin Keller

fired their guns at a Lewis and Clark High School student after the teen pointed a gun at SWAT team members. The teen was shot in the arm, stomach and jaw but lived.

Officer Michelle Madsen shot and killed 15-year-old Eagle Michael after he pulled a Daisy BB gun made to look like a Colt .45 semiautomatic handgun and threatened to kill Madsen.

2002

Spokane police Sgt. John Wheelwright shot and killed 47-year-old Robert E. Shepard after Shepard pointed a gun at the officers during a robbery investigation at a North Side Safeway.

Several police officers, including Spokane police Officer Chris Lewis, were involved in a gun battle outside the Spokane Intermodal Center. Two men fired several shots from assault rifles at officers during a stolen car investigation; no one was killed.

2001

Spokane police Officers Gene Baldwin and Alan Edwards shot and killed Ira S. Buroker, 33, after the man pulled a handgun and fired a shot while the officers were wrestling with him in a parking lot.

In an armed standoff, Officers James Erickson and Shane Oien shot and killed 34-year-old Tyrone Thomas in the Peyton Building downtown.

Officer Christopher Lewis shot 35-year-old Steven Waddell during a confrontation at Waddell's home.