

May 19, 2022

The Honorable Merrick B. Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Dear Attorney General Garland:

On November 17, 2017, two United States Park Police (USPP) officers shot and killed Bijan Ghaisar, a twenty-five-year-old unarmed accountant who had just been rear-ended by an Uber driver. Nearly four and a half years later, the community is still crying out for answers.

Despite an extensive investigation by the Federal Bureau of Investigation (FBI) into the shooting, the Trump Administration refused to seriously explore the prosecution of the officers for their actions. The investigative file, which consisted of over 10,000 documents, was transmitted by the FBI to the Commonwealth's Attorney's Office in Fairfax County so that the Commonwealth's Attorney could decide whether there were any violations of state criminal law.

In October 2020, the Fairfax Commonwealth's Attorney convened a special grand jury in Fairfax County Circuit Court. The investigative grand jury heard evidence in the case and indicted both U.S. Park Police officers for involuntary manslaughter and reckless handling of a firearm.

However, given that the officers were federal agents at the time of the shooting, they removed the case to federal district court. On October 22, 2021, Judge C. Hilton granted the officers' motions to dismiss the case based upon Supremacy Clause immunity. He did so without citing a single law or case, and without citing a single fact from the record. The dismissal was based solely on Supremacy Clause immunity – the court never reached a decision on the merits of the case.

Commonwealth's Attorney Steve Descano collaborated with then Virginia Attorney General Mark Herring to appeal the decision to the United States Fourth Circuit Court of Appeals. However, after the current Virginia Attorney General took office in January 2022, he ceased all communication on the case with the Fairfax County Commonwealth's Attorney and the Ghaisar family. Behind the scenes, the new Virginia Attorney General consented to the filing of an amicus brief in support of the officers by William Barr and Edward Meese. In April 2022, only days after the amicus was filed, and without notice to the Ghaisar family or the Commonwealth's Attorney's Office, the Virginia Attorney General jointly moved, with counsel for the officers, to dismiss the appeal.

We write to urge the Department of Justice to give this case the full and fair consideration that it did not receive under the Trump Administration. A federal prosecution would not be subject to challenge under the Supremacy Clause. Moreover, this administration has expressed a genuine commitment to criminal justice reform, accountability, and racial equity. Few cases touch on these issues as squarely as this case does. We urge you to speak with the individuals who investigated this matter, consider the facts of the case, and act swiftly to take us a step closer to justice.

Thank you for your consideration. To follow up on this request or raise any questions, please contact Yasmine Taeb at yasminetaeb@gmail.com and Justin Mazzola of Amnesty International USA at jmazzola@aiusa.org.

Sincerely,

Amnesty International USA
American Muslim Empowerment Network (AMEN)
Avalan Institute
Bend the Arc: Jewish Action
Cameroon American Council
Center for Common Ground
Center for Victims of Torture
CommonDefense.us
Council on American-Islamic Relations
Defending Rights & Dissent
Engage Action
Fairfax County NAACP
Indivisible CA Green Team
Institute for Policy Studies New Internationalism Project
Iranian American Bar Association
LUPE
Mothers Against Police Brutality
MoveOn
MPower Change
National Council of Churches
National Iranian American Council
National Priorities Project at the Institute for Policy Studies
NETWORK Lobby for Catholic Social Justice
Network NOVA
Nonviolent Peaceforce

Our Revolution
Our Revolution Arlington
Our Revolution Falls Church
Our Revolution Virginia
Peace Action
Progressive Democrats of America
Progressive Democrats of America-Virginia
Project On Government Oversight
Public Affairs Alliance of Iranian Americans (PAAIA)
RootsAction.org
South Asian Americans Leading Together (SAALT)
Taeb Strategies LLC
US Council of Muslim Organizations (USCMO)
Virginia AFL-CIO
Virginia Coalition for Human Rights
Virginia Young Democrats
Wind of the Spirit Immigrant Resource Center
Women for Weapons Trade Transparency
Women's Action for New Directions (WAND)
Working Families Party