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July 13, 2015

The Honorable Loretta Lynch
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530-0001

**Re: Request for Federal Investigations of the North Charleston Police
Department and the Police-Involved Shooting Death of Walter Scott**

Dear Attorney General Lynch:

The NAACP Legal Defense and Educational Fund, Inc. (LDF),¹ in partnership with the North Charleston, South Carolina Branch of the NAACP and over two dozen organizations and individuals listed below, submits this letter in the wake of a tide of violent murders of African-American residents of the Charleston area. Specifically, on April 4, 2015, a bystander's video recorded a white North Charleston police officer, Michael Slager, fatally killing Walter Scott, an unarmed African-American male, who was shot five times in the back as he ran away.² Before North Charleston could adequately address the reality of Mr. Scott's death, a self-proclaimed white supremacist entered Charleston's historic Emanuel A.M.E. Church on June 17, 2015, and after spending one hour with the church's Wednesday night prayer circle, fatally shot nine members – including the church's Pastor, State Senator Clementa Pinckney. As we have mourned Mr. Scott and “the Emanuel Nine,” we have also grappled with the history of racial violence, segregation, and discrimination in these neighboring cities, and the sad reality that this history lingers into the present.

¹ LDF is the country's first civil and human rights law firm. Since its founding in 1940, it has been a pioneer in the struggle to achieve racial justice, equality, and an inclusive society. LDF has long worked to build a more equitable South Carolina. For example, it represented students from Clarendon County, South Carolina who fought for desegregated schools in the case of *Briggs v. Elliot*, 103 F. Supp. 920 (E.D. S.C. 1952), which was among the cases that led to the landmark U.S. Supreme Court decision of *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954). Most recently, in 2014, LDF supported efforts to create district-based voting in Beaufort, S.C., see, <http://www.naacpldf.org/press-release/citing-lack-black-representation-burton-dale-beaufort-branch-naacp-calls-beaufort-city>, and in 2012, it opposed South Carolina's discriminatory voter identification law in the case of *South Carolina v. United States, et al*, Civil Action 12-203 (D.C. 2012). See also, <http://www.naacpldf.org/press-release/federal-court-rejects-south-carolina%E2%80%99s-restrictive-voter-id-law-november-election>. LDF has been a separate entity from the NAACP, and its state branches, since 1957.

² See, Andrew Knapp, *North Charleston Officer Faces Murder Charge After Video Shows Him Shooting Man in Back*, The Post and Courier, Apr. 7, 2015, <http://www.postandcourier.com/article/20150407/PC16/150409468>.



Following both horrors, local law enforcement quickly apprehended, arrested, and charged the alleged perpetrators with murder. But these acts of violence and terror against African Americans in these cities, including at the hands of a police officer, are not isolated incidents. Rather, the fatal shooting of Mr. Scott exposed to this nation another example of a culture of racially-biased policing and excessive use of force that has long existed in North Charleston. Therefore, we respectfully ask that the U.S. Department of Justice (Justice Department) use its authority to open a federal investigation of racially discriminatory policing practices of the North Charleston Police Department,³ and a criminal civil rights investigation of former officer Slager for the shooting death of Mr. Scott.⁴

A Federal Investigation of the North Charleston Police Department is Warranted to Address a Pattern or Practice of Unconstitutional Policing

While African-American residents of Greater Charleston have reported misconduct by sworn officers of several law enforcement agencies, including Charleston County Sheriff's Office,⁵ the North Charleston Police Department has an especially egregious record of police misconduct and violence against civilians.

The North Charleston Police Department (NCPD) employs over 340 sworn police officers who serve a population of approximately 100,000 residents.⁶ Despite the racial and ethnic diversity of North Charleston – 47% of its population is African-American, 11% is Latino, and 42% is white – the police force is overwhelmingly white at 80%.⁷

³ Under the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C § 14141, the Attorney General has the authority to investigate and eliminate a pattern or practice of conduct by law enforcement officers who deprive persons of their rights, privileges, or immunities secured by the Constitution and federal law.

⁴ See 18 U.S.C. § 242 (“Whoever, under color of any law . . . willfully subjects any person . . . to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States [shall be guilty of a crime].”).

⁵ For example, in 2013 the South Carolina State Law Enforcement Division charged Charleston County Sheriff's deputy Christopher Davis with assault and battery in the third degree after a video recording showed him repeatedly punching 19-year-old Devante Pittman in the face after pulling him over for failure to use a turn signal. The assault reportedly caused injuries that required reconstructive surgery of Mr. Pittman's jaw. See Stacy Jacobson, *SLED Charges CCSO Deputy with Assault after Traffic Stop*, ABC News 4, Mar. 15, 2013, <http://www.abcnews4.com/story/21651527/sled-charges-ccso-deputy-with-assault-after-traffic-stop>.

⁶ See Adam Parker and Christina Elmore, *Police Force Diversity: Behind the Numbers*, The Post and Courier, Sept. 20, 2014, <http://www.postandcourier.com/article/20140920/PC16/140929990>.

⁷ See U.S. Census Bureau, *North Charleston, South Carolina People Quick Facts*, <http://quickfacts.census.gov/qfd/states/45/4550875.html>. See also, Adam Parker and Christina Elmore, *Police Force Diversity: Behind the Numbers*, The Post and Courier, Sept. 20, 2014, <http://www.postandcourier.com/article/20140920/PC16/140929990>.



A number of indicators reflect the NCPD's pattern or practice of unconstitutional policing against its majority-minority residents. *First*, vehicle stop data, buttressed by news reports, suggest that NCPD's predominately white police force has engaged in unconstitutional policing through racially-biased traffic stops. South Carolina law requires all law enforcement officers to report to the state's Department of Public Safety the age, gender, and race or ethnicity of the driver of every vehicle stopped where the driver is neither arrested nor given a citation.⁸ According to data from January 2011 to May 2015, North Charleston police officers have stopped 122,818 drivers and released them without arrest or citation.⁹ African-American drivers were overrepresented in these stops at 80,250, or 65%, of those stopped, while white drivers were underrepresented at 40,262 or 33% of those stopped. These troubling numbers paint a picture of a police department that routinely profiles and disproportionately stops African-American drivers, without justification, in violation of the U.S. Constitution.¹⁰

Anecdotal evidence from residents also indicates that North Charleston police officers often use a minor traffic violation such as a broken taillight – the reason for Mr. Scott's stop – as a pretext to stop African-American drivers. These stops are dehumanizing and demoralizing to the African-American community and serve to break down relationships between the police department and the community.

Second, according to news reports, North Charleston police officers have been involved in a disturbingly large number of allegations of excessive use of force in the past decade,¹¹ including:

- On May 28, 2013, North Charleston police officer Chris Talbott allegedly struck Peter Jenkins, an African-American man, with a Taser after Mr. Jenkins surrendered. That same officer was reportedly named in a federal suit for his

⁸ See S.C. Code Ann. § 56-5-6560 (2015).

⁹ South Carolina Department of Public Safety, *Public Contacts Where No Citation was Issued and No Arrest was Made*, http://www.scdps.gov/public_contacts_reports.asp (accessed 6/17/2015).

¹⁰ *Whren v. United States*, 517 U.S. 806, 813 (1996) (“We of course agree with petitioners that the Constitution prohibits selective enforcement of the law based on considerations such as race.”)

¹¹ Jeff Stein, *It Wasn't Just Walter Scott: The North Charleston Police Department Has a Shocking Record of Abuse Allegations*, Salon, Apr. 8, 2015, http://www.salon.com/2015/04/08/it_wasnt_just_walter_scott_the_north_charleston_police_department_has_a_shocking_record_of_abuse_allegations/.



involvement in a 2006 case in which he struck a mentally ill man with a Taser as many as ten times. The man later died.¹²

- On November 28, 2012, after a foot chase, North Charleston police officer Abraham Montes-Altamirano arrested a 22-year-old African-American man, James Cannon, who sustained multiple injuries during the arrest, including a crushed eye socket.¹³ The police department fired Montes-Altamirano less than a year later when the officer used excessive force against a white prisoner, dislocating his shoulder.¹⁴
- On July 17, 2012, North Charleston police officer Kenneth Ford detained a man, physically assaulted him, and drove him to a remote area. Before abandoning the detainee, Ford stated that “this is what happens when you disrespect police.” Ford was fired and pled guilty to a charge of misconduct.¹⁵
- On March 25, 2012, North Charleston police officer Anthony Dipaolo shot and injured Carlton Lamont Pringle, a 17-year-old African-American man, who allegedly possessed a gun, but did not point it at the officer, according to a surveillance video.¹⁶
- In November 2011, five North Charleston police officers were executing an arrest warrant when they entered the hotel room of Sheldon Williams, an African-

¹² Andrew Knapp, *Latest Suit Since Walter Scott Shooting Claims Police Misconduct Ignored*, The Post and Courier, Apr. 27, 2015, <http://www.postandcourier.com/article/20150427/PC16/150429615/latest-suit-since-walter-scott-shooting-claims-police-misconduct-ignored>. See also Complaint at 3-4, *Jenkins v. Shelton*, Civil Action No. 2:15-CV-2259-RMG-BM (D.S.C. June 5, 2015).

¹³ See Andrew Knapp, *Man in North Charleston police probe was hit ‘pretty hard’ attorney says*, The Post and Courier, Dec. 7, 2012, <http://www.postandcourier.com/article/20121207/PC16/121209516/1005/man-in-north-charleston-police-probe-was-hit-pretty-hard-attorney-says>.

¹⁴ Andrew Knapp, *Documents: North Charleston Police Officer Fired for Second Excessive-force Incident in Less Than a Year*, The Post and Courier, Sept. 4, 2013, <http://www.postandcourier.com/article/20130904/PC16/130909707/1009/documents-north-charleston-police-officer-fired-for-second-excessive-force-incident-in-less-than-year%26source%3DRSS>.

¹⁵ WCSC, *Former North Charleston Cop Fined \$750 for Misconduct in Office*, WMBF News, July 18, 2013, <http://www.wmbfnews.com/story/22873377/former-north-charleston-cop-fined-750-for-misconduct-in-office>.

¹⁶ Andrew Knapp, *Parents of 17-year-old Shot by North Charleston Police File Lawsuit Alleging Excessive Force*, The Post and Courier, Mar. 27, 2014, <http://www.postandcourier.com/article/20140326/PC16/140329406>. See also Complaint at 5-7, *Pringle v. Dipaolo*, C.A. No: 2014-CP-10-1908 (S.C. Ct. Cl. Mar. 21, 2014).



American man. The officers allegedly handcuffed him and stomped on his face multiple times resulting in facial fractures.¹⁷

- On December 27, 2008, a North Charleston police officer allegedly struck Brian Knight Yates, an African-American U.S. Army Sergeant, with a stun gun during a traffic stop.¹⁸
- In November 2003, a North Charleston police officer shot and killed Asberry Wylder, a man who possessed a knife, suffered from mental illness, and was suspected of shoplifting.¹⁹
- In October 2000, North Charleston police shot and killed Edward Snowden, an African-American man, after responding to an incident involving Mr. Snowden, who was being attacked by four white men. The officers were not criminally prosecuted, but the city settled a civil law suit brought by Snowden's family.²⁰

The data on racial profiling and the examples of excessive use of force span multiple years and involve multiple NCPD officers, reflecting not isolated incidents, but a police culture that disproportionately harms the African-American community in North Charleston. These practices have undermined the fabric of trust between the police department and the very community that the NCPD is responsible for protecting. In an effort to rid the NCPD of these unconstitutional and discriminatory practices, and, in turn, rebuild trust between the NCPD and the North Charleston community, the undersigned request that the Justice Department open an investigation of the NCPD, the fruits of which will allow the North Charleston community to begin to heal, and the police to effectively and constitutionally protect and serve city residents.

¹⁷See John Swaine, *Second officer in Walter Scott video sued over alleged attack on handcuffed man*, The Guardian, Apr. 9, 2015, <http://www.theguardian.com/us-news/2015/apr/09/second-officer-walter-scott-video-sued-stomping>. See also Complaint at 3, *Williams v. N. Charleston Police Dep't*, Civil Action No.: 2:14-CV-4453-DCN-BM (D.S.C. Nov. 18, 2014).

¹⁸ Natalie Caula Hauff, *Decorated soldier is suing the North Charleston Police Department, alleging assault during a traffic stop*, The Post and Courier, Sept. 13, 2012, <http://www.postandcourier.com/article/20120913/PC16/120919664>. See also Complaint at 3-4, *Yates v. Zumault*, Civil Action No.: 2-11-cv-2289-CWH (D.S.C. Aug. 26, 2011).

¹⁹ See Associated Press, *North Charleston mayor seeks federal probe in police shooting*, The Augusta Chronicle, Nov. 13, 2003, http://old.chronicle.augusta.com/stories/2003/11/12/met_390924.shtml. See also, Chris Rees, *SLED concludes investigation into fatal police shooting of N. Chas. Man*, 10WisTV, Dec. 11, 2003, <http://www.wistv.com/story/1559877/sled-concludes-investigation-into-fatal-police-shooting-of-nchas-man>.

²⁰ See, Andrew Knapp and Glenn Smith, *Shooting death of Walter Scott Deals blow to North Charleston's struggle to balance civil rights, public safety*, The Post and Courier, Apr. 8, 2015, <http://www.postandcourier.com/article/20150408/PC16/150409421>.



Former North Charleston Police Officer Michael Slager’s Shooting Death of Walter Scott Warrants a Federal Criminal Civil Rights Investigation

Some, but certainly not all, of the North Charleston police officers involved in the excessive use of force cases listed above have faced consequences for their actions—primarily by way of termination of their employment and/or criminal prosecution. But few officers have been convicted. And, at least one officer, who pled guilty to a criminal charge, merely paid a \$750 fine.²¹ Consequently, the NCPD leadership has permitted the culture of police violence within the NCPD to persist and thrive. Mr. Scott along with his family, friends, and neighbors is just the most recent unfortunate victim of the culture of police violence in North Charleston.

The Justice Department has the authority to open a criminal civil rights investigation of law enforcement officers who willfully deprive a person of a right or privilege protected by the U.S. Constitution or federal law.²² One such right is the U.S. Constitution’s Fourth Amendment right to be free from the unreasonable use of force by government officials.²³ While the police report provided by former officer Slager stated that he feared for his life because Mr. Scott took his Taser,²⁴ the video recording of the shooting showed that Slager shot Mr. Scott as he was running away. This inconsistency suggests that Slager *knew* that the use of lethal force was wrong and unreasonable. This brazen shooting is deserving of a federal criminal investigation. An investigation also would send a clear message to the NCPD (and other law enforcement bodies) that the federal government will prosecute acts of lethal force used against civilians, particularly African-American civilians, who have been historically abused by police in North Charleston and across the country, as the examples above illuminate.

Conclusion

In response to the murders of the Emanuel Nine, state officials have removed the Confederate flag from the state capitol grounds. While this is a welcome act, merely removing a flag, long recognized as a symbol of racial hatred and intolerance, will not eliminate racially-biased policies and practices that have permeated policing in North

²¹ See *supra* note 15 and accompanying text.

²² See 18 U.S.C. § 242.

²³ See *Graham v. Connor*, 490 U.S. 386, 396-97 (1989) (“The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.”)

²⁴ See 11Alive Staff, *Video of fatal SC police shooting differs from initial report*, 11Alive.com, Apr. 8, 2015, <http://www.11alive.com/story/news/nation-now/2015/04/08/sc-police-shooting-walter-scott/25466437/>.



Charleston. We believe that federal investigations of discriminatory policing by NCPD and the shooting death of Mr. Scott are two necessary steps toward changing the culture of policing in North Charleston.

We welcome the opportunity to meet with you to discuss further this request. If you have any questions or concerns, please do not hesitate to contact Monique Dixon, Senior Policy Counsel, LDF, at 202-682-1300 or me at 212-965-2200.

Sincerely yours,

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cc: Vanita Gupta, Principal Deputy Assistant Attorney General, Civil Rights
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