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February 10, 2015

VIA ELECTRONIC TRANSMISSION

Colonel Edwin C. Roessler Jr.
Chief of Police
Fairfax County Police Department
Fairfax, Virginia 22030

Dear Chief Roessler:

Thank you for your December 1, 2014 response to my November 13, 2014 letter concerning John Geer. On August 29, 2013, Geer was fatally shot by Officer Adam Torres of the Fairfax County Police Department (FCPD) while standing in his home with both hands raised up, according to four other FCPD officers who were also present at the scene.¹ These four officers' accounts of the shooting conflict with the account of Officer Torres. Officer Torres claimed that Geer "brought both of his hands down in a quick motion towards his waist" and "near his waist," where he may have had a gun.²

According to the Incident Report, you "responded to the shooting and then went to the [station] to meet with the officers . . . [and] noted that . . . [one of those officers, Officer Barnes] was not in agreement with Officer Torres' decision to shoot."³ On September 25, 2013, another of those officers – Officer Parker – stated to an FCPD detective, "It's not good. [Officer Torres] killed that guy and he didn't need to."⁴ Yet, in November 2013, and in January 2014, FCPD refused to provide the Commonwealth Attorney with Officer Torres' internal affairs file, which was deemed necessary to a proper investigation of the shooting.⁵ FCPD withheld this file despite the Commonwealth Attorney's attempts to address each of FCPD's legal concerns.⁶

This refusal to cooperate with the Commonwealth Attorney led to the transfer of the case to the U.S. Attorney's Office in January 2014,⁷ requiring the expenditure of limited federal

¹ Fairfax County, Virginia, *Documents Published in John Geer Case*, Jan. 30, 2015, <http://www.fairfaxcounty.gov/news/2015/geer-case-materials.htm>, [hereinafter Fairfax County Documents], at DEF 000273, 000622, 000661, 000780; *see also* Tom Jackman, "John B. Geer had hands up when shot by police, four officers say in documents," *The Washington Post*, January 31, 2015.

² Fairfax County Documents, at DEF 000167; DEF 008934 (page 27 of the Incident Report).

³ *Id.* at DEF 008947 (page 40 of the Incident Report); *see also* DEF 008967 (page 60 of the Incident Report).

⁴ *Id.* at DEF 008944 (page 37 of the Incident Report).

⁵ Letter from Raymond F. Morrogh, Commonwealth's Attorney for Fairfax County, to Sen. Charles E. Grassley, Ranking Member, Sen. Comm. on the Judiciary (December 19, 2014).

⁶ *Id.*

⁷ *Id.*

resources on an investigation that should have been handled at the state level. Even after the case was transferred to the federal authorities in January 2014, FCPD did not provide documents requested by them until ordered to do so by the court, after over two months of litigation.⁸

Incredibly, FCPD cited the ongoing federal investigation as the reason for failing to disclose even the most basic information about the shooting to the public, to Geer's family, and to this Committee.⁹ Yet, now we know that FCPD unnecessarily prolonged that investigation by its failure to cooperate.

On January 21, 2015, FCPD produced more than 11,000 documents under court order to Geer's family, including the above-mentioned Incident Report prepared by FCPD's Criminal Investigative Bureau (CIB).¹⁰ FCPD approved the majority of this 103-page report in December 2013, and virtually all of the report by March 2014, with the exception of the final two pages.¹¹ However, it appears that FCPD's Internal Affairs Bureau (IA) did not initiate its own internal investigation of the shooting until Geer's family filed a wrongful death suit in September 2014.¹²

On February 6, 2015, FCPD was ordered by a court to produce to Geer's family files from this ongoing IA investigation, but only the factual materials from that investigative file and not any material that would show internal deliberations.¹³ FCPD was also ordered to produce the entirety of its closed IA file regarding a separate incident in March 2013 in which Officer Torres cursed out a county prosecutor at a courthouse.¹⁴ This latter file was apparently part of the records that the Commonwealth Attorney had unsuccessfully sought in 2013 in order to assess whether Officer Torres had "anger issues."¹⁵

Questions about the use of deadly force should be handled in a manner that reinforces public confidence in law enforcement. Accordingly, please provide responses to the following questions by February 20, 2015:

1. According to FCPD's General Order 301, "[IA] [i]nvestigations should be completed within 60 days of receipt, unless circumstances develop which necessitate additional

⁸ Letter from Peter J. Kadzik, Assistant Attorney General, U.S. Department of Justice, to Sen. Charles E. Grassley, Ranking Member, Sen. Comm. on the Judiciary (November 21, 2014).

⁹ Letter from Col. Edwin Roessler, Chief of Police, Fairfax County Police Department, to Sen. Charles E. Grassley, Ranking Member, Sen. Comm. on the Judiciary (December 1, 2014).

¹⁰ Fairfax County Documents, at DEF 008908 – DEF 009010.

¹¹ *Id.*

¹² Tom Jackman, "Judge orders police to release files in John Geer case," *The Washington Post*, February 6, 2015, http://www.washingtonpost.com/local/crime/fairfax-judge/2015/02/06/ea1e8a26-ae3e-11e4-ad71-7b9eba0f87d6_story.html.

¹³ *Id.* See also Order on Plaintiff's Motion to Compel Production of Factual Materials from Current IA Investigative File, Motion to Compel Closed IA File of Officer Adam Torres, and Motion to Compel and Overrule Certain Relevancy and Other Objections, *Maura Harrington v. Colonel Edwin Roessler, et al.*, Circuit Court of Fairfax County, Case No. CL 2014-11477, February 6, 2015 [hereinafter February 6th Order].

¹⁴ *Id.*; see also February 6th Order and DEF 008947- DEF 008948 (pages 40 and 41 of the Incident Report).

¹⁵ *Id.*; see also note 5, *supra*.

- time to ensure a thorough investigation.”¹⁶ FCPD IA’s investigation of the Geer shooting has been ongoing since September 2014:
- a. What is the status of this investigation?
 - b. Why is it taking so long?
 - c. Has IA conducted interviews or obtained facts not already covered by CIB in its Incident Report? If not, what “circumstances [have] develop[ed] which necessitate additional time to ensure a thorough investigation?”
2. On what date did CIB complete its investigation of the Geer shooting?
 3. Why did IA wait until September 2014 to launch its own investigation?
 4. A number of FCPD officers other than Officer Torres witnessed the shooting in person. On what date did you first become aware that at least four of these officers provided accounts of the shooting that conflicted with that of Officer Torres?
 5. According to the Incident Report,¹⁷ on September 3, 2013, “[t]he Board of Supervisors was also requesting that they [be] briefed on the case.” Did FCPD ever brief the Fairfax County Board of Supervisors on this case? If so:
 - a. When?
 - b. What information did each briefing disclose?
 - c. Did the briefing(s) disclose the information referenced in Question 4?
 6. The February 6th ruling referenced above appears to have removed any legal grounds for withholding the subject IA files from the Commonwealth Attorney, who requested them in 2013.
 - a. Will you now provide the Commonwealth Attorney with the IA files he requested in 2013? If not, why not?
 - b. Did FCPD provide these IA files to the Justice Department?

Please number your responses according to their corresponding questions. If you have any questions, please contact Jay Lim of my Committee staff at (202) 224-5225. Thank you.

Sincerely,



Charles E. Grassley
Chairman

¹⁶ Fairfax County Police General Orders, <http://www.fairfaxcounty.gov/police/inside-fcpd/pdf/301.pdf>, at 28.

¹⁷ Fairfax County Documents, at DEF 008937 (page 30 of the Incident Report).