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November 14, 2022

**VIA UPS NEXT DAY**

Kristen Clarke

Assistant Attorney General for Civil Rights

U.S. Department of Justice

950 Pennsylvania Avenue, NW

Washington, DC 20530-0001

**RE: Request for an Investigation into Title VI and Civil Rights  
Violations Committed by the Spartanburg County and the  
Cherokee County, South Carolina Sheriff's Offices**

Dear Ms. Clark:

Our firm represents Shaw University ("Shaw"), a liberal arts university located in Raleigh, North Carolina. It was founded in 1865 and has a long history of advancing civil rights. In 1960, Shaw was the birthplace of the Student Nonviolent Coordinating Committee), a grassroots organization dedicated to ensuring that people of color had the freedom to exercise their full rights as citizens. During a recent encounter in South Carolina, a group of our students and their advisors were reminded that the fight for civil rights is not only a matter of pride, but an ongoing necessity. For that, and the reasons that follow, Shaw requests an expedited and independent review of the unfounded search of eighteen Shaw University students in October 2022, and an investigation of the Spartanburg County and Cherokee County Sheriff's Offices for civil rights violations.

**BACKGROUND**

On October 5, 2022, eighteen Shaw University students and two staff advisors were traveling by charter bus on Interstate 85 from Raleigh, North Carolina to Atlanta, Georgia to attend the Center for Financial Advancement Conference. South Carolina law enforcement officers stopped the bus in Spartanburg County under the pretext of a minor traffic violation. Video footage of the stop begins with one of the officers

(identified as Sgt. Painter) exiting his patrol vehicle.<sup>1</sup> We are not aware of any video, such as dashboard camera footage, that depicts the bus in operation. Likewise, we have not been made aware of any audio recordings that contemporaneously describe officers' observation of the bus as it traveled along the Interstate. Other than the officers' self-serving explanations, there simply is no evidence that supports the stop.

Immediately after the stop, Sgt. Painter stepped into the bus, blocking the exit. He informed the driver that the bus was "swerving real bad within the lanes and bumping the yellow line," and asked for the driver's license. After asking the driver and one of the staff advisors about the age of the passengers, where they were headed, and where they were from, the officer abruptly asked the students if they "had anything up underneath the bus or anything that's not supposed to be there." He then asked the driver if he minded opening the charter's luggage compartment for inspection. The driver complied with the officer's request. Notably, the bus passengers were Black and the driver was Hispanic. Although the passengers' windows were tinted, the driver's window was not.

The officer went to his vehicle and returned with a narcotics dog. The dog purportedly alerted on the open cargo compartment, entered the compartment, and appeared to focus on a black bag. After returning the dog to the patrol vehicle, Sgt. Painter came back to the bus. He then opened and searched the bag, where he found a box of doughnuts. He then searched three additional bags. In the final bag he found a bottle of cetirizine, an allergy medication. No contraband was found. Sgt. Painter then returned to his vehicle, filled out a written warning for improper lane use, and issued it to the driver.

During his press conference addressing the traffic stop<sup>2</sup>, Spartanburg County Sheriff Chuck Wright stated that his deputies were concerned about a possibly sleepy bus driver who was failing to maintain his lane. Sheriff Wright then explained that his officers decided to have a dog sniff the students' luggage because of the frequency with which officers seize drugs trafficked along I-85 on Greyhound buses.

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<sup>1</sup> "Video released of Shaw University traffic stop." *WRAL News*, October 1, 2022, <https://www.wral.com/video-released-of-shaw-university-traffic-stop/20547970/>.

<sup>2</sup> Brown, Maggie. "SC sheriff defends traffic stop of Shaw University students, says there's 'no truth' to claims of racial profiling." *WRAL News*, October 31, 2022. <https://www.wral.com/sc-sheriff-defends-traffic-stop-of-shaw-university-students-says-there-s-no-truth-to-claims-of-racial-profiling/20547566/>.

## COMPLAINT

Fortunately, there are no criminal charges to contest, no contraband was found, and there is no evidence to suppress. However, there are three aspects to this encounter that are troubling.

### I. Search and Seizure Under the Pretext of an Alleged Lane Violation

It is well-established that “[t]emporary detention of individuals during the stop of an automobile by the police, even if only for a brief period and for a limited purpose, constitutes a ‘seizure’ ” under the Fourth Amendment. *Whren v. United States*, 517 U.S. 806, 809–10, 116 S. Ct. 1769, 1772, 135 L. Ed. 2d 89 (1996); *see also* U.S. Const. amend. IV (protecting “against unreasonable searches and seizures...”). A traffic stop, therefore, must satisfy the Fourth Amendment's reasonableness limitation. *Whren*, 517 U.S. at 810, 116 S.Ct. 1769; *United States v. Arvizu*, 534 U.S. 266, 273, 122 S.Ct. 744, 151 L.Ed.2d 740 (2002) (stating that the guarantees under the Fourth Amendment extend to “brief investigatory stops of persons or vehicles”). In that regard, “[b]ecause a traffic stop is more akin to an investigative detention than a custodial arrest,” the courts apply the two-prong standard articulated in *Terry v. Ohio*, 392 U.S. 1, 88 S.Ct. 1868, 20 L.Ed.2d 889 (1968) in determining whether a stop is reasonable. *United States v. Williams*, 808 F.3d 238, 245 (4th Cir. 2015).

Pursuant to *Terry*, a traffic stop comports with the reasonableness standard of the Fourth Amendment where (1) the “stop [i]s legitimate at its inception” and (2) “the officer's actions during the seizure [are] reasonably related in scope to the basis for the traffic stop.” *Bowman*, 884 F.3d at 209 (internal quotation marks and citations omitted). An initial traffic stop is warranted where an officer has “probable cause to believe that a traffic violation has occurred.” *Whren*, 517 U.S. at 810, 116 S.Ct. 1769. Nonetheless, “a seizure that is lawful at its inception can violate the Fourth Amendment if its manner of execution unreasonably infringes interests protected by the Constitution.” *Illinois v. Caballes*, 543 U.S. 405, 407, 125 S.Ct. 834, 160 L.Ed.2d 842 (2005). For instance, “[a] seizure that is justified solely by the interest in issuing a warning ticket to the driver can become unlawful if it is prolonged beyond the time reasonably required to complete that mission.” *Id.*

The acceptable duration of a traffic stop “is determined by the seizure's mission—to address the traffic violation that warranted the stop and attend to related safety concerns.” *Rodriguez v. United States*, 575 U.S. 348, 354, 135 S.Ct. 1609, 1615, 191 L.Ed.2d 492 (2015) (internal quotation marks and citation omitted). Ordinary tasks related to a traffic stop include “checking the driver's license, determining whether there are outstanding warrants against the driver, and inspecting the automobile's registration and proof of insurance.” *Id.* at 349, 135 S.Ct. 1609, 1615. An officer may permissibly ask questions of the vehicle's occupants that are unrelated to the

violation, provided that doing so does not prolong the stop absent independent reasonable suspicion. *Id.* at 355, 135 S.Ct. 1609, 1615. In assessing the reasonableness of a stop, courts consider “what the police in fact do.” *Id.* at 357, 135 S.Ct. 1609, 1615. Thus, the “critical question” is not whether the unrelated investigation “occurs before or after the officer issues a ticket,” but whether conducting the unrelated investigation “prolongs—i.e., adds time to—the stop.” *Id.* (internal quotation marks omitted). A traffic stop becomes unlawful “when tasks tied to the traffic infraction are—or reasonably should have been—completed.” *Id.* at 354, 135 S.Ct. 1609, 1615.

Based upon their statements, the officers stopped the Shaw bus to address the alleged lane violation on their concern that the driver was sleepy. In the video, the officers appeared to be satisfied that, contrary to their concerns, the driver was not sleepy or otherwise presenting any safety concerns. Based on the video footage and the subsequent press conference, there was no indication that the driver was nervous. There were no items that would demonstrate potential criminal activity—such as evidence of contraband—before deciding to extend the stop. Neither the driver nor the passengers were evasive. The passengers identified themselves as scholars from Shaw University; the officers believed them to be a church group.

Inexplicably, the officers decided that a dog sniff was warranted because of the frequency with which officers seized drugs trafficked along Interstate 85 on Greyhound buses. Interstate I-85 may indeed be a known drug corridor, but innocent motorists also use it to travel. That interstate, after all, is a major thoroughfare spanning the eastern seaboard and South Carolina. The Fourth Circuit has previously observed that “the number of persons using the interstate highways as drug corridors pales in comparison to the number of innocent travelers on those roads.” *Williams*, 808 F.3d at 247. Thus, “[b]ecause there is nothing inherently suspicious about driving ... on an interstate highway,” the courts require officers to “link interstate-highway travel to more specific characteristics of narcotics trafficking.” *Id.* at 248. Without more specific characteristics, this appears to have been a drug stop masquerading as a traffic encounter.

## **II. Violation of the Passengers’ Reasonable Expectation of Privacy**

The Fourth Amendment provides that “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated...” A traveler's personal luggage is clearly an “effect” protected by the Amendment. See *United States v. Place*, 462 U.S. 696, 707, 103 S.Ct. 2637, 77 L.Ed.2d 110 (1983). Although the bus driver gave consent for a dog to sniff the luggage compartment, the passengers on the bus did not consent to the search of their individual luggage. Those passengers had a reasonable expectation of privacy for their personal luggage stored in the luggage compartment of the University’s charter

bus. Yet, the officers made no attempt to identify or locate the owners of any of the searched bags or to seek their consent before opening the bags and rifling through the personal belongings inside.

### III. Operation Rolling Thunder

The nature of the stop, coupled with the questionable measures taken to illegally search the luggage, again suggests that this was a drug stop masquerading as a traffic stop. The October 5 traffic stop was part of South Carolina's annual interstate interdiction program known as Operation Rolling Thunder. During the 2022 operation, the Spartanburg County Sheriff's Office reported 900 total traffic cases, stopping 315 white drivers, 308 black drivers, and 125 Hispanic drivers, and resulting in 32 arrests and 38 criminal cases<sup>3</sup>. Although Sheriff Wright presents these findings as proof of a lack of racial profiling, the numbers demonstrate that black drivers are disproportionately targeted. The majority of the traffic violations reported were improper lane changes, the same violation alleged to justify stopping Shaw's charter bus and to conduct a search through the luggage. While Operation Rolling Thunder is effective at seizing drugs and currency—more than \$968,600 in currency alone in 2022—it appears to create a perverse incentive for officers to trample the rights of innocent motorists in the pursuit of awards.<sup>4</sup>

When viewed in its entirety, Shaw's South Carolina encounter is troubling. As Dr. Paulette Dillard, Shaw's President and CEO, commented, this scene is reminiscent of the 1950s and 1960s—armed police interrogating innocent Black students, conducting searches without probable cause, and the use of police dogs. It is hard to imagine. Yet, it happened to the Shaw University community, and it is happening throughout this nation in alarming fashion. Shaw is not alone in complaining of racial profiling in interstate travel, nor is it alone in its concerns regarding South Carolina's institutionalized practice of using the thinnest of pretext to justify violations of the civil liberties of innocent Americans.<sup>5 6</sup>

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<sup>3</sup> "Spartanburg County Sheriff's Office releases results of Operation Rolling Thunder." *Fox Carolina*, October 7, 2022. <https://www.foxcarolina.com/2022/10/07/spartanburg-county-sheriffs-office-releases-results-operation-rolling-thunder/>.

<sup>4</sup> United States Commission on Civil Rights, "Memo on Civil Asset Forfeiture in South Carolina," May 2, 2022. <https://www.usccr.gov/reports/2022/memo-civil-asset-forfeiture-south-carolina>

<sup>5</sup> Koch, Alexandra. "You're in Aiken County now': Pattern of warrantless bus searches on I-20 emerges." *The Post and Courier*, May 22, 2022. [https://www.postandcourier.com/uncovered/you-re-in-aiken-county-now-pattern-of-warrantless-bus-searches-on-i-20-emerges/article\\_ab15ccc0-d5f2-11ec-b34e-fb1fe949bbb6.html](https://www.postandcourier.com/uncovered/you-re-in-aiken-county-now-pattern-of-warrantless-bus-searches-on-i-20-emerges/article_ab15ccc0-d5f2-11ec-b34e-fb1fe949bbb6.html)[https://www.postandcourier.com/uncovered/you-re-in-aiken-county-now-pattern-of-warrantless-bus-searches-on-i-20-emerges/article\\_ab15ccc0-d5f2-11ec-b34e-fb1fe949bbb6.html](https://www.postandcourier.com/uncovered/you-re-in-aiken-county-now-pattern-of-warrantless-bus-searches-on-i-20-emerges/article_ab15ccc0-d5f2-11ec-b34e-fb1fe949bbb6.html)

<sup>6</sup> Slade, David. "Federal law has South Carolina cops searching cars on interstates for drug money." *The Post and Courier*, June 11, 2017, updated October 31, 2022.

Shaw files this Civil Rights and Title VI Discrimination Complaint with the U.S. Department of Justice, asking the Department as an objective, external authority to initiate a formal investigation into the officers' conduct and into the Cherokee and Spartanburg County Sheriff's Offices' practices and procedures that encouraged, supported, or permitted these acts to occur.

Sincerely,

BLUE LLP

A handwritten signature in black ink, appearing to read "Daniel T. Blue, III", written over the printed name below.

Daniel T. Blue, III

cc: Adair Ford Boroughs, United States Attorney, District of South Carolina