

July 24, 2020

The Honorable David Vela
Acting Director
National Park Service
1849 C Street NW
Washington, D.C. 20240

Dear Acting Director Vela:

Thank you for the letter, sent June 3, 2020, which aimed to respond to a letter Senator Grassley and I sent to you on November 1, 2019, that raised serious questions regarding the National Park Service's (NPS) and United States Park Police's (USPP) handling of the Bijan Ghaisar case. While I appreciate that you responded, I am deeply disappointed in the lack of actual information provided in your letter, especially considering it took over seven months to receive a response to my original correspondence. The response and recent public comments made by the Department of the Interior raise some additional questions that require further clarification.

One specific aspect of NPS and USPP's handling of the Bijan Ghaisar case that has not been adequately explained is the status of an internal affairs investigation related to the Park Police officers involved in the incident. In response to my question regarding the status of a potential internal affairs investigation, you replied that "the National Park Service (NPS) does not typically comment on the substance or specific aspect of such reviews before they are complete," and "[w]e can confirm that the Department has begun evaluating next steps in the context of pending cases and possible criminal action by the Fairfax County Prosecutor's Office." However, on May 20, 2020, a representative for USPP commented, "no internal affairs investigation of this case will begin until after a decision is made by Fairfax on filing criminal charges."¹ While other questions remain surrounding the Department's handling of Bijan's shooting, I have a number of specific questions regarding the Department's position on a potential internal affairs investigation.

1. Is the Park Service and the Park Police relying on written guidance within the USPP Internal Affairs Unit or elsewhere within NPS when claiming it is the position of the agency that it does not pursue internal affairs investigations while criminal investigations are ongoing or could potentially be forthcoming? If such written guidance exists, I request that you provide my office with a copy of this policy. If no such written policy exists, I ask that you provide a fulsome explanation as to how this became the current

¹ <https://www.washingtonpost.com/crime-law/2020/05/20/citing-lack-information-bijan-ghaisar-killing-mark-warner-places-hold-interior-nominee/>

position of USPP and NPS, including the legal justification for the agency's position on this matter.

2. Are there previous examples where the USPP Internal Affairs Unit has conducted an internal affairs investigation regarding the use of force by Park Police officers while outside civil or criminal investigations were ongoing or potentially forthcoming? If there are such instances, I request that you provide my office with documentation regarding these investigations and an explanation of how they differ from the situation regarding Mr. Ghaisar.
3. In the updated USPP General Order on Use of Force policy (#3615), a section is included regarding the reporting of use of force incidents. In this section, it states that an officer "shall immediately report all uses of force beyond Cooperative or Contact controls to an immediate supervisor," and that "[t]he supervisor shall submit a copy of all reports within 24 hours to the Commander, Office of Professional Responsibility (OPR), and the appropriate Division Commander through the appropriate chain of command." It continues, "[t]he Commander, OPR, shall ensure all use of force incidents are properly investigated," and provides the OPR Commander authority to assign the Internal Affairs Unit to conduct a thorough investigation of an incident if deemed necessary.²

How do these new reporting requirements compare to the guidelines in place at the time of the Bijan Ghaisar incident? The updated guidelines appear to have no qualifications that would prevent the Internal Affairs Unit from conducting an investigation concurrently with any potential civil or criminal investigation associated with an incident pertaining to the use of force by a Park Police officer. Would these reporting requirements spelled out in the updated General Orders on Use of Force be subjected to USPP's current stated policy that it does not initiate internal affairs investigations if a criminal investigation is possible, even if the OPR Commander determines an incident is worthy of an internal affairs investigation?

4. When the Fairfax County Commonwealth's Attorney makes a formal decision of whether or not to bring criminal charges against the two Park Police officers involved in the shooting of Bijan Ghaisar, what is the anticipated timeline for the USPP Internal Affairs Unit to determine if any violations of USPP policy occurred?

Thank you for your attention to the questions outlined above. Should you or your staff have any questions regarding this request, please contact Stephanie Doherty at 202-224-8651 or Stephanie_Doherty@warner.senate.gov, or Micah Barbour at 202-604-8375 or [Micah Barbour@warner.senate.gov](mailto:Micah_Barbour@warner.senate.gov).

² https://www.washingtonpost.com/context/new-and-old-park-police-policies-on-use-of-force/4dfb2b68-525f-46d0-b055-2821067d1ce0/?itid=lk_inline_manual_8

Thank you for your attention to this matter. I look forward to your response.

Sincerely,

A handwritten signature in blue ink that reads "Mark R. Warner". The signature is written in a cursive, flowing style.

Mark R. Warner
United States Senator