

From: Bill Nguyen

Sent: Friday, June 12, 2020 10:24 AM

To: City Clerk <city.clerk@sanjoseca.gov>

Cc: Singh, Kanwalroop ; Jasjit Mundh ; Nicholas Cotter

Subject: *For 6/12 meeting and 6/15 hearing* Letter from Asian-American lawyers and law students: Fire Yuen and defund the SJPd.

Dear San José City Clerk:

Attached is a letter from 17 Asian-American legal organizations and 156 Asian-American law students and lawyers from San José and the greater Bay Area. We are demanding that the City of San José fire Jared Yuen and demilitarize and defund the San José Police Department.

This correspondence is relevant to both (1) the San José City Council's meeting on the use-of-force proposals at 11:30 A.M. today and (2) the final public hearing on the city's budget at 1:30 P.M. on Monday, June 15. Please circulate the letter to council members and add it to the agenda for both events. Thank you so much.

Sincerely,
Bill Nguyen

June 12, 2020

To Mayor Sam Liccardo, San José Police Chief Eddie Garcia, San José City Council, and Jared Yuen:

We write to you as Asian-American law students and lawyers from San José and the Bay Area more broadly. We condemn the gross misconduct of San José Police Department (SJPD) Officer Jared Yuen #4362 at San José City Hall on May 29, 2020.

During a demonstration against the routine slaughter of Black people at the hands of the police, Yuen stood clad in riot gear before a group of protestors, cradling a projectile launcher and licking his lips.¹ Cameras caught him yelling “let’s get this motherfucker” and “shut up, bitch” at a woman.² They also caught him in the act of shooting his projectile launcher into an unarmed crowd.³ News reports indicate that Yuen may have shot Black community activist Derrick Sanderlin, who has trained SJPD officers on implicit bias for years.⁴ Because of this wanton violence, Sanderlin had to have surgery and may not be able to have children.⁵

In short, Yuen did not protect or de-escalate, nor did he seek to. Instead, and without provocation, he launched an attack and incited a peaceful protest to violence. Yuen’s lip licking suggests that he was thrilled at the prospect of abusing his power. We, on the other hand, are outraged. We are outraged that rather than condemning his actions and acting swiftly to remove him from the SJPD, San José Police Chief Eddie Garcia placed Yuen on desk duty and excused him, claiming, “He’s a good kid and a good cop.”⁶

¹ Kristi Sturgill, *Viral Twitter video shows San Jose police officer barking at a protester, ‘Shut up, b —’*, L.A. TIMES, June 1, 2020, <https://www.latimes.com/california/story/2020-06-01/viral-twitter-video-captures-san-jose-police-officer-barking-at-a-protester-to-shut-up-bitch>. The FBI has also uploaded to YouTube the relevant clips of Yuen’s misconduct: <https://www.youtube.com/watch?v=YCR4iC3jeC8>.

² *Id.*

³ Kate Larsen, *Man who helped injured officer in viral video later shot with rubber bullet during SJ protest*, ABC 7 NEWS, June 2, 2020, <https://abc7news.com/police-officer-taunts-protesters-san-jose-taunting-george-floyd-curfew-protest/6226298/>.

⁴ Dan Noyes, *Man who trains San Jose police about bias severely injured by riot gun during George Floyd protest*, ABC 7 NEWS, June 6, 2020, <https://abc7news.com/san-jose-police-george-floyd-protest-bay-area-shot-by-during/6234212/>.

⁵ *Id.*

⁶ Robert Salonga, *‘Let’s get this motherf—ker’: San Jose officer benched after viral protest comments*, SAN JOSE MERCURY NEWS, May 31, 2020, <https://www.mercurynews.com/2020/05/31/lets-get-this-motherf-ker-san-jose-officers-viral-protest-comments-draw-wide-condemnation/>.

While Yuen continues to sit on desk duty, we ask that he reflect on the enormity of his misconduct and the debts that, as an Asian American, he owes to the Black community. The reason Yuen and other Asian-American SJPd officers make over \$200,000 a year⁷ in taxpayer money is that, decades ago, Black organizers fought for anti-discrimination laws and immigration reforms that allowed their families to come and build wealth here.⁸ We ask that Yuen and all other Asian-American SJPd officers summon and honor the memory of those whom the SJPd's brutality has killed: Jenny Vasquez, Anthony Nunez, Phillip Watkins, Jacob Dominguez, Antonio Guzman Lopez, Bich Cau Thi Tran, and many others.⁹ We ask that Yuen and all other Asian-American SJPd officers commit to challenging their anti-Blackness—that they devote their time to acting in solidarity with the Black community and other marginalized communities that disproportionately experience police brutality. We ask that they stand with us in demanding justice for the Black people whom the police have murdered across the country and the decades. Above all, we ask that they take off their riot gear, put down their projectile launchers, and march alongside us in the streets.

Having studied and practiced the law, we understand that justice for Black people and other victims of police brutality cannot be achieved through changing the behavior of a single police officer—or through reforms disconnected from systemic transformation. For this reason, in advance of the San José City Council's public hearing on June 15, 2020, on proposed capital/operating budgets, we demand the following from the City of San José and from the SJPd:

1. **Fire Yuen immediately.** His sadistic behavior on May 29 is evidence that he is unfit to serve the people of San José.
2. **Reject the proposals in City Council File #20-673 to review and revise the SJPd's use-of-force policy.** The proposals in the memorandum attached to File #20-673, entitled "Discussion and Actions Related to Police Use of Force and Crowd Control Measures," are a futile attempt at addressing the problem of racialized police violence.¹⁰ The proposals

⁷ See *Jared Yuen: Police Officer (2019)*, TRANSPARENT CALIFORNIA, <https://transparentcalifornia.com/salaries/2019/san-jose/jared-yuen/> (last visited June 7, 2020).

⁸ See Deepti Hajela, *Civil Rights and Immigration History Connected*, AP NEWS, Aug. 26, 2013, <https://apnews.com/5b3a2295a46c4a408f04f7adf50b315f>; Rebekah Barber, *How the Civil Rights Movement Opened the Door to Immigrants of Color*, FACING SOUTH, Feb. 3, 2017, <https://www.facingsouth.org/2017/02/how-civil-rights-movement-opened-door-immigrants-color>.

⁹ SV De-Bug, Facebook (June 4, 2020, approx. 3 P.M.), <https://www.facebook.com/sv.debug/photos/a.1087925051391310/1462672943916517/?type=3&theater>.

¹⁰ Memorandum from Sam Liccardo et al. to San José City Council (June 5, 2020), <https://sanjose.legistar.com/View.ashx?M=F&ID=8592183&GUID=1FBE9A4B-57F5-4B0B-9511-0F42E40CC2AB>.

call for reviewing and revising the SJPd's use-of-force and crowd-control policy. They call, in other words, for expanding the administrative apparatus of the SJPd—for investing more resources into monitoring and justifying it. But spending so much time and money on reviewing the SJPd's handbook will only divert us from shrinking the police's function in our community. Rather than discussing, for example, whether “the safety of Kinetic Impact Projectile (KIP) design or composition has substantially improved,” the San José City Council must order that KIPs be banned and the SJPd be demilitarized completely.¹¹

The San José City Council's discussion of these proposals on June 9, 2020, confirmed their pitfalls. At the meeting, Jason Dwyer of the SJPd Special Operations Division maintained that the “threshold” for use of force was a “violent crowd of several hundred people who were attacking officers.”¹² Dwyer further claimed that officers had been the targets of “assaults with deadly weapons by [protestors] throwing full plastic bottles of water and/or milk.”¹³ Alongside this unsubstantiated allusion to hundreds of assailants and the elevation of plastic bottles to the level of deadly weapons, Dwyer framed the initially peaceful protest as “rioting,” eliding the instigating violence of officers like Jared Yuen.¹⁴ Given the chance to take accountability in a public forum, Dwyer instead mischaracterized and omitted facts to justify the SJPd's use of force. The proposed police reforms, which largely just ask the SJPd to justify its use of force in more elaborate terms, will produce the same result.

3. **Demilitarize the SJPd.** The SJPd should halt the purchase and use of—and should ultimately liquidate—militarized equipment like the BearCat, mine-resistant ambush-protected vehicles, Humvees, battering rams, riot guns, projectile launchers, kinetic-impact projectiles, flash grenades, tear gas, and firearms.¹⁵
4. **Defund the SJPd.** The City of San José is slated to increase the proportion of its annual budget allocated to the SJPd: from 40.4% to 43.8%.¹⁶ This is unacceptable. Instead, the

¹¹ *Id.*

¹² City of San José, *JUN 9, 2020 | City Council*, YOUTUBE (June 9, 2020), at 59:44, https://www.youtube.com/watch?v=DHVbNHf_kw.

¹³ *Id.* at 51:30.

¹⁴ *Id.* at 52:34.

¹⁵ These demands are inspired by the Oakland police-oversight board's recent objections to the Oakland Police Department's militarization. See Lisa Fernandez, *Oakland police oversight board wants stricter rules on militarized equipment*, FOX KTVU, Feb. 12, 2020, <https://www.ktvu.com/news/oakland-police-oversight-board-wants-stricter-rules-on-militarized-equipment>.

¹⁶ See OFFICE OF THE CITY MANAGER, CITY OF SAN JOSÉ PROPOSED 2020–2021 OPERATING BUDGET III - 4 (2020), <https://www.sanjoseca.gov/home/showdocument?id=58414>.

City of San José should scale back the SJPD's budget by a fixed percentage per year. Concrete steps for defunding the SJPD include (1) suspending the use of paid administrative leave for officers under investigation, (2) withholding pensions from and refusing to rehire officers involved in the use of excessive force, (3) requiring officers to be personally liable for misconduct settlements, (4) capping overtime accrual, and (5) halting overtime pay for military exercises.¹⁷

The act of defunding the police has picked up national attention since the murder of George Floyd.¹⁸ Many 2021 electoral candidates in New York City have called on the city council to reduce the New York Police Department's operating budget by one billion dollars over the next four years.¹⁹ Likewise, on June 3, 2020, Los Angeles Mayor Eric Garcetti slashed \$100–150 million from a proposed Los Angeles Police Department budget hike in support of defunding the police.²⁰ Most prominently, on June 7, 2020, a veto-proof majority of the Minneapolis City Council vowed to dismantle the Minneapolis Police Department and build an alternative model of community safety.²¹ We expect the City of San José to follow in these cities' footsteps and significantly reduce the SJPD's current budget, with the ultimate goal of disbanding the SJPD.

5. **Redirect funding from the SJPD to other community resources.** The City of San José should redirect funding for the SJPD to social services, public housing, K–12 education, and mental-health resources for vulnerable communities in San José—especially low-income Black, Indigenous, Latinx, and Asian communities. In Minneapolis, groups like Reclaim the Block and the Black Visions Collective have convinced the city council to

¹⁷ These demands are inspired by Critical Resistance's analysis of how to limit the abuse of power in police departments. See CRITICAL RESISTANCE, REFORMIST REFORMS VS. ABOLITIONIST STEPS IN POLICING, https://static1.squarespace.com/static/59ead8f9692ebce25b72f17f/t/5b65cd58758d46d34254f22c/1533398363539/C_R_NoCops_reform_vs_abolition_CRside.pdf.

¹⁸ Matthew Yglesias, *Growing Calls to "Defund the Police," Explained*, VOX, June 3, 2020, <https://www.vox.com/2020/6/3/21276824/defund-police-divest-explainer>.

¹⁹ Janos Marton, *New York City 2021 Candidates Demand Immediate Cuts of NYPD Budget*, MEDIUM, June 1, 2020, <https://medium.com/@janosforda/new-york-city-2021-candidates-demand-immediate-cuts-to-nypd-budget-d523354e79c>.

²⁰ Jack Brewster, *LA Mayor Slashes LAPD Budget As Calls to 'Defund Police' Slowly Pick Up Steam*, FORBES, (June 4, 2020, <https://www.forbes.com/sites/jackbrewster/2020/06/04/la-mayor-slashes-lapd-budget-as-calls-to-defund-police-slowly-pick-up-steam/#11838f3d1ba3>).

²¹ Sam Levin, *Minneapolis lawmakers vow to disband police department in historic move*, THE GUARDIAN, June 7, 2020, <https://www.theguardian.com/us-news/2020/jun/07/minneapolis-city-council-defund-police-george-floyd>.

shift \$1.1 million from the police budget to violence-prevention efforts in 2019.²² We expect no less from the City of San José.

Finally, we—the undersigned Asian-American law students and lawyers of San José and the greater Bay Area—assert and believe this unequivocally: Black lives matter.

Sincerely,

Asian Law Alliance

Asian Americans Advancing Justice – Asian Law Caucus

Asian American Criminal Trial Lawyers Association

Vietnamese American Bar Association of Northern California

San José Nikkei Resisters

Asian Pacific American Law Students Association at McGeorge School of Law

Asian Pacific American Law Students Association at UC Hastings College of the Law

Asian Pacific American Law Students Association at Berkeley Law

Asian Pacific American Law Students Association at Golden Gate University School of Law

Asian and Pacific Islander Law Students Association Board at Stanford Law School

Pilipinx American Law Society at Berkeley Law

Filipino American Law Society at Santa Clara Law

Pilipinx American Law Society at UC Hastings College of the Law

South Asian Law Student Association at Berkeley Law

South Asian Law Students Association at UCLA School of Law

Vietnamese American Law Students at Santa Clara Law

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²² Tessa Stuart, *A Practical Guide to Defunding the Police*, ROLLING STONE, June 3, 2020, <https://www.rollingstone.com/politics/politics-news/defund-the-police-1007254/>.

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