

may be served with process through its City Manager at 301 W. 2nd Street, Austin, Texas 78701. *Service is hereby requested.*

II. JURISDICTION AND VENUE

4. This Court has federal question jurisdiction over this 42 U.S.C. § 1983 action pursuant to 28 U.S.C. §§ 1331 and 1343.

5. This Court has general personal jurisdiction over Defendants as they are located in or reside in Travis County, Texas.

6. This Court has specific *in personam* jurisdiction over Defendants because this case arises out of conduct by Defendants that injured Plaintiff that occurred in Travis County, Texas, which is within the Western District of Texas.

7. Venue of this cause is proper in the Western District pursuant to 28 U.S.C. § 1391(b) because a substantial portion of the events or omissions giving rise to Plaintiff's claims occurred in Travis County, which is within the Western District of Texas.

III. FACTS

A. OFFICER GARCIA ATTACKED PLAINTIFF JAMES RODRIGUEZ ON AUSTIN'S SIXTH STREET WHEN HE HAD DONE NOTHING WRONG.

8. Plaintiff James Rodriguez was a victim of indefensible police brutality.

9. On October 10, 2025, James Rodriguez was walking down the street in Austin's Sixth Street Entertainment District.

10. At that time, near where Mr. Rodriguez was walking, APD Officers, including Officer Garcia, detained two teenagers standing near Mr. Rodriguez, Johnny Acuna-Jacobo and another young man. APD Officer Kenneth Leger viciously threw Mr. Acuna-Jacobo to the ground and then straddled him and began punching him in the head.

11. Officer Garcia threw the other young man to the ground where he landed on his back. That young man immediately put his empty hands up in front of him in surrender as Officer Garcia straddled him on the ground and pushed his face into the concrete.

12. Another APD Officer then detained that young man and Officer Garcia got up and ran to join Officer Leger in punching and kneeling on Mr. Acuna-Jacobo a few feet away.

13. Onlookers on Sixth Street expressed dismay at the vicious attack on Mr. Acuna-Jacobo and the other young man and called for the officers to stop.

14. In response, Officer Garcia stood up and began pushing the onlookers away from where Officer Leger was continuing to punch the non-resisting Mr. Acuna-Jacobo in the head and face.

15. One of those onlookers was Plaintiff James Rodriguez who was standing still with his visibly empty hands loose at his sides.

16. Officer Garcia then detained and handcuffed one of the women who had been begging Officer Leger and Officer Garcia to stop brutalizing Mr. Acuna-Jacobo.

17. As Officer Garcia started to lead the handcuffed woman away and past Plaintiff Rodriguez, he suddenly turned toward Plaintiff Rodriguez and without any warning punched Plaintiff Rodriguez in the head, knocking Plaintiff Rodriguez to the ground.

18. Before he punched Mr. Rodriguez without warning, Officer Garcia had not given Plaintiff Rodriguez any commands, nor had any other APD Officer.

19. Instead, Mr. Rodriguez, who is 5' 5" tall and weighs only 140 pounds, was simply standing with his empty hands loose by his sides watching APD brutally punch and detain others on Sixth Street.

20. Officer Garcia's punch to Mr. Rodriguez's head was so hard, it knocked Mr. Rodriguez unconscious.

21. Days after the incident when video of Officer Garcia's shocking use of force against Mr. Rodriguez was posted to social media, Austin Mayor Kirk Watson issued a statement.

22. Mayor Watson said that the actions were "inexcusable and indefensible. There is no room in APD for such violent behavior or for someone who claims to be a public servant and acts that way. I know that Chief Davis will take appropriate action, including action that leads to termination."

23. Chief Davis, in contrast, did not immediately condemn the officer's brutality and force.

24. As a direct and proximate consequence of Officer Garcia's actions, Plaintiff Rodriguez suffered and continues to suffer serious ongoing injuries.

B. THE AUSTIN POLICE DEPARTMENT HAS A LONG HISTORY OF OFFICERS USING EXCESSIVE FORCE, FAILING TO DE-ESCALATE, AND FAILING TO DISCIPLINE OFFICERS WHO COMMIT VIOLENT ACTS, PARTICULARLY IN THE SIXTH STREET ENTERTAINMENT DISTRICT.

25. Unfortunately, the actions of Defendant Garcia are part of a longstanding pattern of APD officers using excessive force and failing to de-escalate.

26. APD fails to adequately train its officers and failed to train Defendant Garcia on the extremely dangerous nature of head strikes, or deliberate punches or blows to the head.

27. APD likewise fails to train its officers and failed to train Defendant Garcia that head strikes can be deadly.

28. Instead, APD affirmatively encourages officers and encouraged Defendant Garcia to escalate quickly or immediately to head strikes, even when the victim of the strikes is compliant or non-resisting.

29. APD has particularly encouraged its officers who work in the Sixth Street entertainment district to use head strikes, including Defendant Garcia.

30. APD also fails to adequately train its officers to use de-escalation and failed to train Defendant Garcia to use de-escalation. APD's training failure extended to both failing to train officers to use de-escalation against potential suspects as well as when they are interacting with non-violent but upset witnesses, like those who were calling for the officers to stop beating Mr. Acuna-Jacobo.

31. APD also fails to train officers and failed to train Defendant Garcia to provide warnings to citizens before using force and to give citizens a reasonable time to comply.

32. Moreover, the City of Austin has systematically failed to supervise or discipline its officers, rarely disciplines officers for using excessive force, including but not limited to using excessive head strikes and rarely investigates or disciplines for using head strikes, failing to de-escalate, or not warning civilians before using force.

33. As a consequence, APD officers' engaging in excessive force, specifically including but not limited to the use of head strikes; failing to warn; and failing to de-escalate has become the de facto practice/policy of APD and the City of Austin which is well-known by the City's policymakers, including its Chief of Police.

34. Further, the City of Austin's policymakers, including its Chief of Police, know that APD officers assigned to work in the Sixth Street entertainment district disproportionately use force—both at higher rates and more severe or injurious levels of force—than in other APD sectors and that this disproportionate use of force is not accounted for simply by the Sixth Street environment.

35. Specifically, the City of Austin’s policymakers and its Chief of Police are aware that APD officers assigned to work on Sixth Street not only use more force than needed but have used excessive force at higher rates than other APD sectors and yet have done nothing to stop this dangerous police or practice.

36. Some of the most egregious and notorious examples, which are only some examples of the larger, widespread pattern, are detailed below:

- a. **Nathaniel Sanders and Sir Smith:** On May 11, 2009, then-Officer Leonardo Quintana shot both Nathaniel Sanders and Sir Smith without warning after approaching their car while they were asleep—Mr. Sanders died, Mr. Smith survived. Officer Quintana and another officer came up on the car from behind, and could tell through the car windows that both occupants were asleep. Instead of making a plan, communicating with his partner, or identifying himself as police, Officer Quintana woke Ms. Sanders, saw that Mr. Sanders had a pistol in his waistband, unsuccessfully tried to grab it, then backed away and opened fire on the car without warning, killing Mr. Sanders. Mr. Smith, unarmed and suddenly under fire, awoke from sleeping and tried to escape by running from the car. Instead of letting Mr. Smith escape to safety, Officer Quintana shot him without warning while Mr. Smith was fleeing, unarmed, and posed no danger to anyone. The police chief disciplined Officer Quintana only for failing to activate his squad car’s video camera, rejecting an internal recommendation to discipline him for his poor tactics that ultimately led to deadly force. He was not disciplined for shooting an unarmed Smith who was doing nothing

threatening. Officer Quintana's partner and the other officer present did nothing to stop the improper tactics or excessive force throughout the ordeal.

- b. **Carlos Chacon:** On April 29, 2011, APD officers Eric Copeland and Russell Rose used excessive force against Carlos Chacon when he called 911 to report he was the victim of an armed robbery. When Officers Copeland and Rose arrived and saw Mr. Chacon, they immediately brandished their firearms before saying a word. When Mr. Chacon did not immediately comply with contradictory commands issued by the officers, Officers Copeland and Rose escalated to punching and electrocuting Mr. Chacon with a TASER rather than taking the time to issue clear commands and given Mr. Chacon time to comply. In reviewing the undisputed facts from the video, Judge Sparks concluded that “[b]oth officers’ involvement in the entire struggle could likely have been avoided had the officers behaved reasonably,” and “[i]t was, after all, *the officers* who escalated the situation by drawing their weapons and shouting profanity.” The Fifth Circuit affirmed and a jury found against the officers on May 13, 2015. Yet APD never disciplined Copeland or Rose for abusing Chacon. APD likewise did not investigate either of them for failing to intervene.
- c. **Byron Carter and L.W.:** On May 30, 2011, Officer Nathan Wagner fatally shot Byron Carter, Jr., a 20-year-old Black man without warning. Mr. Carter was in a vehicle driven by L.W., a Black 16-year-old child, while exiting a tight parallel parking space downtown, just east of I-35, after 11:00 pm. Unbeknownst to Mr. Carter and L.W., Officer Wagner and his partner were nearby on foot, and had been following Mr. Carter and L.W. surreptitiously and

without suspecting the young men of any crime. L.W. heard Mr. Carter say, “go,” in a fearful tone, so he accelerated out of the parking space. Although there was no danger, Officer Wagner fired his weapon without any warning five times into the driver’s side doors as the car drove away. Officer Wagner’s shots wounded L.W. and killed Carter. Officer Wagner’s partner did nothing to intervene and stop the shooting, even as the car drove away. In ensuing excessive force litigation, Judge Yeakel denied summary judgment to Officer Wagner. Although neither officer was disciplined by APD, then-Police Monitor Margo Frasier and a Citizen Review Panel told the chief that the shooting was unjustified. APD never investigated Officer Wagner’s partner for failing to intervene.

- d. **Peter Hernandez:** On June 7, 2012, at least three officers used excessive force against Pete Hernandez, whose only “crime” was exiting a Wal-Mart store. As Mr. Hernandez walked through the parking lot, an APD officer suddenly yelled from behind him to “stay,” and then, “get on the ground.” Confused, Mr. Hernandez stopped—he testified that all he heard was to “Move out of the way,” not “get on the ground.” Then, less than four seconds after the first command, Officer John Sikoski ordered his colleagues to “grab him.” Officer Jesus Sanchez executed a flying tackle into Mr. Hernandez, slamming him into the ground. Officer Robert Escamilla then stepped on Mr. Hernandez’s hand. The City found the officers did not violate any policies. (Albeit, without even investigating whether the officers failed to intervene.) Magistrate Judge Austin recommended denial of summary judgment on the excessive force claims

against Officers Sikoski, Sanchez, and Escamilla, and that recommendation was adopted by Judge Yeakel. A jury found Officer Sanchez used excessive force, awarding Mr. Hernandez \$877,000 (later reduced on remittitur). APD never investigated any of the officers for failing to intervene to stop the initial use of force nor its escalation.

- e. **John Schaefer:** On March 1, 2013, 70-year-old John Schaefer called 911 to report that he had been attacked by a dog on his property, had shot and killed it in self-defense, and needed police assistance. When APD officer Jonathan Whitted arrived, Mr. Schaefer came out to meet him wearing his legally owned handgun in its holster. Without warning, Officer Whitted attempted to wrestle the holstered weapon away from Mr. Schaefer and, when Mr. Schaefer resisted having his legally owned handgun forcibly removed from him when he had done absolutely nothing wrong, Officer Whitted shot him twice in the chest, killing him. Though the Citizen's Review Panel found serious problems with Officer Whitted's use of force, Officer Whitted was not disciplined by APD. In litigation brought by Mr. Schaefer's estate, Judge Sparks denied both Officer Whitted's motion to dismiss the excessive force claim against him and the City of Austin's motion.
- f. **Unknown Handcuffed Subject:** On March 27, 2013, APD Officer Brian Yarger intentionally and deliberately kicked a handcuffed subject who was not resisting. Officer Yarger received only a five-day suspension and was able to use his vacation days for paid time off. Despite this incident, Officer Yarger

was promoted soon after and became a supervisor for officers assigned to work in the Sixth Street area.

- g. **Hunter Pinney:** On December 20, 2013, APD officers Michael Nissen, Cassandra Langston, and Chance Bretches were sent to an apartment in search of Jason Brown, whom Williamson County said was involved in a domestic disturbance, to arrest Brown. Instead of Mr. Brown, the officers encountered Hunter Pinney, who lived at the apartment. The officers knocked on the door persistently and demanded that Mr. Pinney come out. When Mr. Pinney complied, he told the officers his name. Instead of letting Mr. Pinney re-enter the apartment he had just voluntarily exited to get his ID and prove the officers were at the wrong address, the APD officers suddenly grabbed Mr. Pinney without warning and, Officer Nissen claimed, demanded that Mr. Pinney allow them to frisk him for weapons. When Mr. Pinney “began to tense up” and “pull away,” the officers escalated their use of force and ultimately Officer Nissen struck Mr. Pinney with his knee and shocked Mr. Pinney with a TASER. Although APD officers charged Mr. Pinney with resisting arrest, those charges were dismissed and the City settled Mr. Pinney’s ensuing lawsuit against Officer Nissen and the other officers. Officer Nissen and the other officers were not disciplined for their uses of force or investigated for failing to intervene.
- h. **Jawhari Smith:** In March 2014, APD Sergeant Greg White shot Jawhari Smith, a young black man, after confronting Mr. Smith when Mr. Smith was holding a small BB gun. Mr. Smith honestly and immediately told Sgt. White that the “pistol” was just a BB gun and held it up in his right hand over his head,

according to Sgt. White. Mr. Smith reported that he quickly dropped the BB gun on the ground. Sgt. White disagreed, claiming Mr. Smith still kept his right hand holding the BB gun above his head. Nonetheless, instead of giving Mr. Smith time to comply, Sgt. White shot Mr. Smith, though his patrol car audio recording shows Sgt. White gave Smith less than two seconds to comply with his commands. APD did not discipline Sgt. White, but the City paid Mr. Smith a settlement.

- i. **Grady Bolton:** On February 9, 2015, APD Officers Manuel Jimenez, Michael Nguyen, and Rolando Ramirez approached Grady Bolton after Mr. Bolton was told to leave a bar on 6th Street. Officer Jimenez escalated the encounter by suddenly and without warning grabbing Mr. Bolton's wrist, twisting it behind Bolton's back, and then kicking out Mr. Bolton's legs. Instead of intervening to stop Officer Jimenez, Officer Ramirez joined in the use of force, including by hitting Mr. Bolton in the neck. Next, Officer Nguyen also did nothing to stop the force, instead joining and repeatedly kicking Mr. Bolton with knee strikes. In ensuing litigation by Mr. Bolton, Judge Sparks denied summary judgment to Officers Jimenez, Nguyen, and Ramirez. APD never investigated the officers for failing to intervene.
- j. **Joseph Cuellar:** On February 15, 2015, Joseph Cuellar, who was intoxicated, encountered a "phalanx" of APD officers on horseback on 6th Street, while APD Detective Otho Deboise stood nearby. When Mr. Cuellar did not immediately yield to the horses, the officer riding ordered him to back away. Cuellar complied, but in a dancing motion. Mr. Cuellar then "danced" back towards one

of the horses. Officer Deboise reacted by advancing and grabbing Mr. Cuellar when he was one to three yards from the horse and throwing him to the ground. Officer Deboise gave Mr. Cuellar no warning he was going to use force, much less time to comply. None of the other three officers intervened to stop Officer Deboise or assist Mr. Cuellar. Officer Deboise initially claimed that Mr. Cuellar had merely “stumbled” when pushed by the officer and fallen to the ground but revised his report when a bystander’s cell phone footage revealed Officer Deboise had brutally thrown Mr. Cuellar down. In ensuing litigation by Mr. Cuellar, Judge Sparks denied summary judgment on excessive force claims against Deboise on October 11, 2018. APD never investigated the other officers for failing to intervene.

- k. **Justin Scott:** On February 20, 2015, APD Officer Greg White (apparently the same officer who shot Jawhari Smith) tackled and repeatedly struck Justin Scott, who was only passively resisting—Mr. Scott argued with Officer White before the tackle, then “twisted and turned” on the ground. Judge Pitman denied summary judgment on January 7, 2019, and the Fifth Circuit dismissed a subsequent appeal. Officer White was not disciplined for this use of force.
- l. **Adrian Aguado:** On April 25, 2015, APD Officers Eric Copeland (apparently the same Officer who used excessive force on Carlos Chacon) and Mark Bergeson had ordered Adrian Aguado out of the back of Officer Copeland’s patrol vehicle to reapply his handcuffs, which had slipped off one hand, when Officer Copeland suddenly fired his TASER at Mr. Aguado without warning. Mr. Aguado had been complying with Officer Copeland’s command to exit the

vehicle and had not even put his second foot on the ground to exit the patrol vehicle when Officer Copeland fired, causing Mr. Aguado to fall. As Officer Bergeson stood by doing nothing, Officer Copeland then “dropped his body weight onto” Mr. Aguado’s shoulder using his knee, then fired his TASER a second time. Officer Copeland was disciplined for using objectively unreasonable force, while Bergeson was not even investigated for failing to intervene.

m. **Breaion King:** On June 15, 2015, Officer Bryan Richter used excessive force against Breaion King, a 120-pound Black woman that he had stopped for speeding. Without warning, Officer Richter hauled Ms. King from her seat, slammed her into a nearby vehicle, and then repeatedly knocked her onto the ground despite Ms. King’s minimal resistance and very small stature. Richter later falsely told fellow officers King tried to punch him. In denying Richter summary judgment, Judge Sparks concluded, “a reasonable jury could find Officer Richter’s use of force was clearly excessive and objectively unreasonable.” Tellingly, APD command staff failed to take formal disciplinary action or even respond seriously to Officer Richter’s misconduct until after the civil lawsuit was filed. Thus, Judge Sparks also denied summary judgment as to the City on May 1, 2018, concluding that a reasonable jury could find the City’s use of force, training, and discipline policies were inadequate, causing Officer Richter’s use of force against Ms. King, and that the City was deliberately indifferent to these known inadequacies.

- n. **Armando Martinez:** On August 27, 2015, APD Officers Christopher Van Buren and Daniel Jackson approached Armando Martinez, suspected of public urination, who was laying under a tree in a park just east of downtown Austin. Officer Jackson ordered Mr. Martinez to “show me your hands,” then Officer Van Buren ordered, “stand up,” “get off the ground,” and “walk in front of that vehicle, or I’m going to tase you now.” Mr. Martinez kept laying on the ground, and so, because the City did not adequately train him and Officer Jackson did not tell him to wait, Officer Van Buren fired at Mr. Martinez with his TASER four seconds later. Officer Jackson agreed with APD investigators that he would not have used a TASER; Mr. Martinez was not preparing to fight, “just kind of sitting there.” Officer Jackson then handcuffed Mr. Martinez. EMS was called to remove the TASER barb, and they determined Mr. Martinez was suffering a hyperglycemic reaction that required him to be hospitalized. Despite the fact that Mr. Martinez was obviously never a threat to anyone and Officer Van Buren audibly threatened to use a TASER anyway, Officer Jackson was not investigated for failing to intervene.
- o. **Jeremy King:** On November 6, 2015, APD Officers Gustave Gallenkamp and Brian Huckaby attacked Jeremy King because they suspected him of jaywalking on or near Sixth Street and did immediately respond to a command to “come here.” After Mr. King was handcuffed, Officer Gallenkamp pinned Mr. King face down with his knee on Mr. King’s neck. In 2018, a jury found that Officer Gallenkamp had used excessive force against Mr. King during the interaction. Nonetheless, APD did not discipline either officer.

- p. **Matthew Wallace:** On November 6, 2015 during the same incident with Jeremy King, APD Officers Daniel McCameron and Nathan Canche slammed Matthew Wallace into a wall, struck him in the head multiple times, and grabbed him by the neck, though Mr. Wallace did not fight back or resist. Neither officer was disciplined, even after the City of Austin settled litigation with Mr. Wallace.
- q. **Gregory Jackson:** On December 20, 2015, Gregory Jackson was attempting to cross to the north side of Sixth Street with his party when officers were about to close the street. He encountered APD Officers Jason Jones and Brian Huckaby on bicycles, among many other patrol officers. Officer Jones' bike bumped into Mr. Jackson, they had an eleven-second conversation, then Officer Jones suddenly grabbed Mr. Jackson to place him under arrest. Mr. Jackson complied—or at least “did not actively resist.” Nonetheless, in seconds, Officers Jones and Huckaby grabbed Mr. Jackson's arms and kicked him with their knees multiple times before escalating to punching his head and face, all without warning. Video evidence revealed a large number of officers surrounded Mr. Jackson and assisted in the use of force, causing a facial fracture, concussion, and other head injuries. Many APD officers were present and could see Mr. Jackson was not resisting, but none of them intervened to stop the use of excessive force. Magistrate Judge Austin denied summary judgment for Mr. Jackson's excessive force claims against Officers Jones and Huckaby. APD never investigated any of the officers for failing to intervene.

- r. **Jason Roque:** On May 2, 2017, APD Officer James Harvel shot at Jason Roque—whom Officer Harvel knew to be suicidal—three times, including twice after Mr. Roque dropped his BB-gun and was stumbling away from the police, hitting and killing him with the third shot. Though four other APD officers were on the scene standing right next to Officer Harvel watching him take one shot after another, none of them did anything to try to prevent Officer Harvel from continuing to fire on Mr. Roque. In ensuing litigation by Mr. Roque’s survivors, Judge Yeakel denied summary judgment on excessive force claims against Officer Harvel. The Fifth Circuit affirmed. The City settled the matter for \$2,250,000. APD never investigated the officers who were standing right next to Officer Harvel for failing to intervene and stop the shooting—particularly after Mr. Roque dropped the BB gun and fled.
- s. **Landon Nobles:** On May 7, 2017, APD Officers Richard Egal and Maxwell Johnson encountered twenty-four-year-old Landon Nobles on Sixth Street. Officer Johnson found Nobles with other APD officers, and Mr. Nobles ran when he saw Officer Johnson approach. Officer Egal intercepted the pursuit and pushed a bicycle into Mr. Nobles’ path, causing Mr. Nobles to stumble and fall to the ground. Officers Johnson and Egal testified at trial that they saw a gun in Mr. Nobles’ hand, so they drew their own weapons, but another APD officer, Mr. Nobles’ cousin, and two security guards testified that Mr. Nobles never had a gun in his hands. Officers Egal and Johnson fired at Mr. Nobles five times without any warning, hit him three times, and killed him. A jury found a constitutional violation, rejected the qualified immunity defense, and awarded

Mr. Nobles' family \$67,107,500 in damages. Neither Officers Egal, Johnson, nor any of the APD officers present was disciplined for their conduct surrounding Mr. Nobles' death.

- t. **Breanna Williams:** On June 26, 2017, Breanna Williams was in downtown Austin at the Four Seasons Hotel when Austin Police Officers Nathan Canche (the same officer involved in the use of force against Matthew Wallace) and Vanessa Jimenez arrived and arrested her for public intoxication. Ms. Williams complied with being handcuffed and walked to the patrol vehicle with officers on either side of her. Officers opened the door to the vehicle and then, without warning, Officer Canche intentionally pushed Ms. Williams head-first into the patrol vehicle despite knowing she would be unable to catch herself with her hands cuffed behind her back. Ms. Williams struck her face, splitting it open and requiring sixty stitches. Ms. Williams suffered a head injury and permanent, significant scarring on her face. On July 20, 2021, District Court Judge Robert Pitman denied Officer Canche's motion for summary judgment on Ms. Williams' claim of excessive force and the City of Austin subsequently settled with Ms. Williams. Though this was the second time the City of Austin settled a lawsuit over Officer Canche's use of excessive force, he did not receive any discipline.
- u. **Joseph Figueroa:** On April 17, 2018, APD Officers Mario Aquino and Daniel McLeish stopped a person for walking against a pedestrian signal near Sixth Street when Officer Aquino decided to physically move a third person, Joseph Figueroa, who was standing against a nearby wall. Officer Aquino pushed Mr.

Figueroa's arm at the same time as he told him to move, prompting Mr. Figueroa to move but angrily tell the officer not to touch him. Instead of ignoring the compliant (and understandably annoyed) Mr. Figueroa, Officer Aquino repeatedly taunted him, eventually being joined by Officer McLeish who spoke up not to stop his fellow officer but to join the goading. Reacting to the incessant taunts, Mr. Figueroa moved toward the officers, so Officer Aquino slammed him on the ground. Although the City temporarily suspended Officer Aquino for starting a completely unnecessary fight with a person who was just standing nearby, Officer McLeish was never investigated for failing to intervene.

- v. **Justin Grant:** On July 4, 2018, Justin Grant had an argument with security at a downtown bar in the Sixth Street area who refused to let him rejoin his party. Mr. Grant walked away, but APD officers Gadiel Alas and Corey Hale approached Mr. Grant from behind. Officers Alas and Hale grabbed Mr. Grant without warning, then violently threw him to the ground. Once Mr. Grant was on the ground, Officer Alas escalated further by electrocuting Mr. Grant with his TASER while Officer Alas sat on top of Mr. Grant. Instead of intervening to stop Officer Alas' excessive force, Officer Hale then punched Mr. Grant in the face repeatedly. Officer Alas then punched Mr. Grant in the face repeatedly as well. Neither Officer Alas nor Officer Hale were disciplined by APD.
- w. **Michael Yeager-Huebner:** On November 18, 2018, Michael Yeager-Huebner and his girlfriend were heading back to their hotel from Sixth Street when four unidentified assailants attacked Mr. Yeager while he waited at a crosswalk.

APD Officers Bradley Hoover and Timothy Skeen witnessed the assault, dispersed the assailants, and then followed Mr. Yeager to a nearby parking lot where they immediately threatened to electrocute him with a TASER. Then a third APD officer, Dusty Jester, sprinted over thirty yards to intentionally “surprise” tackle Mr. Yeager, pulling him to the ground, and then began to repeatedly punch him in the face. Instead of stopping Officer Jester, Officers Hoover and Skeen piled on—and called for backup, leading to a large mass of APD officers pummeling Mr. Yeager. Officer Skeen testified in subsequent litigation that he would intervene to assist an officer who used unjustified force if their victim tried to defend themselves. Officer Jester was given an informal reprimand but no additional punishment. The City did not even investigate, much less discipline, Officer Hoover or Officer Skeen.

- x. **Paul Mannie:** On March 28, 2019, numerous officers, including officers Chance Bretches (apparently the same officer who failed to intervene in the use of excessive force against Hunter Pinney) and Gregory Gentry, mercilessly and without warning punched and kicked Paul Mannie in the face while they had him pinned to the ground and he was not resisting. Although many officers were present, none of them intervened to stop the obviously excessive force. While APD decided not to discipline any of the officers—indeed, no one was even investigated for failing to intervene—Officer Bretches was indicted for aggravated assault by a public servant on January 20, 2021.
- y. **Javier Ambler:** On March 28, 2019, Javier Ambler was prone on the pavement begging for help and telling two deputies who were holding him down that “I

can't breathe." APD Officer Michael Nissen (apparently the same officer who used excessive force on Hunter Pinney) was present and did nothing to help Javier Ambler. Instead, he assisted the deputies' use of excessive force on Mr. Ambler and caused him to die at the scene. Despite knowing that Officer Nissen was present while other officers were hurting Ambler, APD never investigated Officer Nissen for not intervening.

- z. **Derek Zelonka:** On June 16, 2019, APD Officer Andrew Cobb tackled Derek Zelonka, pinned his neck with his arm, and then turned him to his stomach for handcuffing. As other APD officers streamed in to assist, when Mr. Zelonka did not put his hands behind his back instantly after the first command, Officer Cobb punched Mr. Zelonka in the back seven times. Officer Cobb then completed a police report claiming he only hit Mr. Zelonka twice. Kroll Associates singled out this incident in its January 21, 2022 report (discussed below), criticizing Officer Cobb's unnecessary and overly aggressive force. Nonetheless, APD did not discipline Officer Cobb or any of the other officers involved.
- aa. **Christopher Swain:** On June 21, 2019, APD Officers Brian O'Quinn and Bryan Menduni stopped Christopher Swain for jaywalking. As Mr. Swain raised his hands in surrender, the two officers grabbed him and then threw Mr. Swain to the ground. On the ground, Mr. Swain complained that he was thrown to the ground and so did not immediately turn over as directed. Though Mr. Swain was doing nothing other than laying on the ground on his back, Officer O'Quinn Tased him. Kroll Associates also highlighted this incident in its 2022

report as the officers involved gave conflicting commands, went “hands on” almost immediately, and unnecessarily escalated a minor traffic offense. Neither officer was disciplined.

bb. **Chadley Trombka:** On June 28, 2019, APD Officers Nicholas Brunnet and Jesse McDowell responded to a 911 call from Chadley Trombka who had called 911 on himself as a result of mental health issues. After a conversation, Officer Brunnet asked Mr. Trombka to stand and began handcuffing him. Mr. Trombka stepped away from Officer Brunnet. In response, Officer Brunnet grabbed Mr. Trombka from behind, lifted him off the ground, and slammed him to the ground. Officer McDowell then falsely wrote that Mr. Trombka had lunged towards them. Kroll’s 2022 report likewise identified this incident as excessive and highlighted the false report. Nonetheless, APD did not discipline either officer.

cc. **Mauris DeSilva:** On July 31, 2019, Mauris Desilva, a Ph.D. neuroscientist from Sri Lanka, suffered a mental health crisis. Neighbors called 911 to specifically request a mental health officer. Instead, APD officers Christopher Taylor and Karl Krycia responded, though neither was trained as a mental health officer. APD had twice responded to mental health calls for Mr. DeSilva, and Officers Taylor and Krycia specifically knew he was mentally ill. When officers encountered Mr. DeSilva, he was holding a knife to his throat. When he complied with officers’ commands and took a step towards officers, APD officer Joseph Cast fired a kinetic projectile from his shotgun without warning. Officers Taylor and Krycia then shot Mr. DeSilva several times with their

handguns without warning and without waiting to see if the projectile fired by Officer Cast had stopped Mr. DeSilva from continuing to walk forward. Mr. DeSilva later died from his wounds. APD did not discipline any of the officers involved.

dd. **Daniel Trevino Jackson:** On October 27, 2019, APD Officer Ross Pranter and Gabriel Dobkin arrived to issue a trespass notice to Daniel Trevino Jackson at a local business. Officer Pranter twice (incorrectly) accused Mr. Jackson of lying about his identity. When Mr. Jackson then yelled “help me” while otherwise standing still with his empty hands visible and loose at his sides, Officers Pranter and Dobkin swept Mr. Jackson’s legs out from under him, causing him to fall to the gravel. When Mr. Jackson then curled up in a fetal position, Officers Pranter and Dobkin punched him in the face repeatedly. Both officers falsely documented in their reports and arrest affidavit that Mr. Jackson repeatedly struck them, though body worn camera showed that Mr. Jackson remained curled in a fetal position. Neither officer was disciplined.

ee. **Michael Ramos:** On April 24, 2020, Michael Ramos was unarmed when APD Officer Mitchell Pieper fired a lead pellet-bag at him without warning. When Mr. Ramos tried to drive away from officers who had just fired a weapon at him, APD Officer Christopher Taylor shot him dead. Although Officer Taylor was indicted for murder and Mr. Ramos was unarmed, APD has not disciplined Officers Taylor or Pieper.

ff. **2020 Black Lives Matter/ George Floyd Protests:** Dozens of APD officers shot at non-violent demonstrators with kinetic projectiles fired from shotguns

and launchers without any warning over the course of May 30 – June 1, 2020. Despite the extensive police presence at the demonstrations, including numerous officers who could have intervened to prevent demonstrators from being seriously injured, no bystander officers intervened to protect unarmed civilians. This failure to intervene and put a stop to the illegal, unconscionable, and unreasonable shooting left numerous innocent individuals at the protest with serious, life altering injuries. Not a single officer has been disciplined for the intentional firing of kinetic projectiles into crowds without warning or the failure to intervene to stop their misuse during the protests, even though Chief Henderson and her predecessors Chiefs Chacon and Manley personally knew that shotguns and kinetic projectiles were being used inappropriately, dangerously, and against hundreds of nonviolent people without warning. In another incident during the protests exemplifying the failure to APD officers to intervene, no fewer than three APD officers all used excessive force against a single non-violent protestor on May 30, 2020: Officer John Siegel pepper-sprayed Jason Gallagher in the face, then while Mr. Gallagher was still reacting to the pain of the first attack, Officer Salvador Gonzalez-Galvan also sprayed him in the face. When Mr. Gallagher turned away and tried to wipe his eyes, Officer Bryan McCulloch shoved Gallagher down a concrete hill while he was effectively blinded by the OC spray, causing significant injury to Gallagher. None of these officers warned Gallagher before they used force against him.

gg. **Drayshad Hayes:** On June 1, 2020, APD Officers Alejandro Gaitan, Nicholas Moore, Samuel Noble, and Scott Truho took Mr. Hayes to the ground. Officer

Gaitan then struck Mr. Hayes in the head with his TASER. Officer Noble knelt on Mr. Hayes's head, grinding Mr. Hayes's face and head into the ground, while Mr. Hayes cried out that he couldn't breathe. Officer Gaitan told Mr. Hayes he would be allowed to breathe when he complied. Though these details were reported to the Chief of Police, the officers were not disciplined.

hh. **Elisha Wright:** On May 1, 2022, Austin Police Officers Stephen Johnson and Officer Smart were working on Sixth Street shortly before 2 a.m. when they came upon Elisha Wright attempting to break up a fight. Officer Smart pushed Mr. Wright to the ground. Mr. Wright got up and tried to explain the he was breaking up the fight. Rather than de-escalate, Officer Smart instead pushed Mr. Wright to the ground again. He and Officer Johnson then climbed on top of Mr. Wright and one of them began punching him in the face repeatedly. Mr. Wright was initially charged with assault on a peace officer after Officer Johnson filed an arrest affidavit that falsely claimed Mr. Wright had punched Officer Smart in the mouth with a closed fist. The body-worn camera from the incident showed that Mr. Wright never punched either officer. The Travis County DA dismissed the charges against Mr. Wright. Neither Officer Johnson nor Officer Smart were disciplined for their use of force nor was Officer Johnson disciplined for filing a false affidavit.

ii. **Eli Winkelman:** On August 29, 2022 Eli Winkelman was attending a march of about fifty peaceful protestors and was walking in downtown Austin near the intersection of Congress Avenue and Cesar Chavez Street. Austin Police Officers gave commands for the marchers to move to the sidewalk but, before

they could comply, began pepper-spraying and arresting the peaceful protestors. Ms. Winkelman saw one of her friends being arrested and pulled out her phone to record from where she stood on the sidewalk. APD Officers Quint Sebek and Thomas Tuminelli saw Ms. Winkelman and approached. One officer forcefully knocked her phone out of her hand to prevent her from recording while the other grabbed her by the back of the neck and threw her to the ground headfirst. Neither officer gave her any commands or any warning before they forcefully knocked her phone away and threw her to the ground. The APD Officers then confiscated her phone and refused to return it though Ms. Winkelman was not charged with any crimes. Ms. Winkelman suffered significant head injuries despite the fact that she was wearing a bike helmet at the time the officers used excessive force. Though the City of Austin paid to settle her lawsuit against the City and the two officers, neither Officer Sebek nor Officer Tuminelli were ever disciplined.

jj. **Armando Herrera-Amaro:** On December 1, 2020, APD officers Gadiel Alas (apparently the same officer who assaulted Justin Grant) and Alexander Khidre brutally tasered and hit an autistic, bipolar Hispanic young man for no justifiable reason and without warning. The force used by Officer Alas was excessive, unreasonable, and pure police brutality. Despite the egregious nature of the abuse, which was caught on video, another APD officer stood by and helped it happen. As a consequence, Amaro faced bogus charges for nearly two years before the County Attorney dismissed them. Tellingly, APD's leadership

approved of Alas' misconduct and his fellow officer's decision to allow it to continue.

kk. **Carvius Jackson:** Because APD did not discipline Officer Alejandro Gaitan after his use of excessive force on Drayshad Hayes, Officer Gaitan was working on March 12, 2021 when he deliberately hit Carvius Jackson and then Tased him for 37 seconds after he knew that other APD officers had secured Mr. Jackson in handcuffs. Officer Gaitan pled guilty to assault causing bodily injury of Mr. Jackson on March 18, 2025.

ll. **Whitney Mitchell:** On March 29, 2021, Officer Brian Yarger (who had previously kicked a handcuffed subject), walked up to quadruple amputee Whitney Mitchell who was downtown peacefully protesting the shooting of her fiancé, Garret Foster, and intentionally and deliberately dumped her out of her wheelchair onto the ground. Officer Yarger then looked down at her lying on the ground where he could obviously see that she could not get up and walked away, leaving her on the ground and her wheelchair in the street. Though the incident was caught on video and garnered media attention, the Austin Police Department did not investigate Officer Yarger for the entirely unnecessary or disgusting use of force against Ms. Mitchell.

mm. **L.N.R.:** On June 23, 2021, APD Officer Nikolas Warren shot a fifteen year-old, unarmed girl who posed no danger to anyone without adequately warning her that he was going to do so. The girl had committed no crime, was not suspected of committing a crime, and yet was shot for walking forward instead of backwards. Rather than disciplining the officers involved, Chief Chacon

approved and ratified the conduct of his officers. The City of Austin settled the excessive force case.

nn. **Jessica Arellano:** In the early morning hours of January 5, 2021, off-duty APD officer Gabriel Gutierrez cut off Ms. Arellano and her boyfriend, Alex Gonzales, while driving. Within seconds of Mr. Gonzales pulling his car next to Officer Gutierrez a few blocks later to ask him what his problem was, Officer Gutierrez opened fire into Mr. Gonzales's and Ms. Arellano's car without warning and despite making eye contact with Ms. Arellano, who was in the passenger seat. Officer Gutierrez shot Ms. Arellano three times. When Officer Gonzales's and Arellano's car slowly rolled to a stop a short distance ahead, Ms. Arellano attempted to check on their infant son in the backseat of the car but, unable to stand, fell from the car screaming for her baby. Officer Gutierrez then called 911, reporting that he was an off-duty officer and that shots had been fired, though he failed to report that he was the only one who had fired a weapon. Though both the Office of the Police Monitor the Community Police Review Commission (CPRC) recommended terminating Officer Gutierrez, and the City paid to settle Ms. Arellano's claims against him, APD declined to discipline him.

oo. **Rajan Moonesinghe:** On November 15, 2022, Rajan Moonesinghe was fatally shot by APD Officer Daniel Sanchez on the front steps of his own home. That night, Mr. Moonesinghe had arrived back at his home after a trip and saw signs that there was a burglar in his home. Mr. Moonesinghe was holding his legally owned gun on his own front steps when APD officers arrived and shot Mr.

Moonsinghe within seconds of arriving on scene without any warning. Mr. Moonsinghe never pointed his weapon at officers or threatened anyone before being shot and killed by APD. Officer Sanchez has since been indicted for his conduct.

pp. **Unknown Victims:** On September 12, 2022, the Austin Office of Police Oversight received a complaint that Corporal Brian Yarger—the same officer who kicked a handcuffed subject and pushed a quadruple-amputee out of her wheelchair—demeaned, ridiculed, and made jokes about APD’s internal affairs department and the Chief of Police, calling his previous short suspension a “vacation.” The complaint, which was submitted by a fellow APD Officer, noted that Corporal Yarger discussed looking forward to “beating up” citizens, was “extremely quick to use force on someone when force isn’t always immediately necessary,” and “scoffs at the idea of trying to de-escalate.” Though the Office of Police Oversight requested that APD Internal Affairs investigate, on information and belief, no investigation was done. Just weeks later, Yarger was promoted to Sergeant.

qq. **Louis Flores:** On January 15, 2023, APD Officer Felix Perez attacked Louis Flores without justification on Sixth Street and without any attempt to de-escalate or even any warning. Officer Perez brutally threw Mr. Flores to the concrete before Officers Pierron and Pastore joined to apply more force by kneeling Mr. Flores in the back and shoving his head into the ground. As a result of the officers’ assault, Mr. Flores suffered multiple spinal fractures, a traumatic brain injury, and a dislocated shoulder. District Court Judge David Ezra denied

the officers' motion for summary judgment on Mr. Flores's ensuing excessive force claims. Again, none of the officers involved were disciplined. Notably, Officer Perez's supervisor at the time was Sergeant Brian Yarger, the same officer who only three months before was noted to rush to use force and eschew de-escalation.

- rr. **Anthony Marquis Franklin:** Shortly before midnight on January 15, 2023, APD officers shot and killed Anthony Marquis Franklin, a young Black man, as he ran away from police on Sixth Street. During the foot pursuit, APD Officers Kelby Radford, Ryan Rawlins, and Jacob Bowman watched him fall to the ground after trying to jump off a porch and, while Mr. Franklin lay on the ground in the fetal position, shot him in the back several times without warning, killing him. None of the officers were disciplined.
- ss. **Asia Mayo:** On February 11, 2024, APD Officer Felix Perez—who was working as an active duty APD Officer because he had not been disciplined for his excessive force against Louis Flores a year earlier—threw the diminutive Asia Mayo to the ground without warning, causing her to strike her head on a planter and fall semi-conscious to the ground in the Sixth Street area. Before he threw her down, Officer Perez approached Ms. Mayo from behind where she could not see him and yelled only “hey” and gave her no commands. The incident was reviewed by the Office of Police Oversight who noted that the force Officer Perez used was excessive to the need, particularly given the disparity between Officer Perez's height and weight and Ms. Mayo's and expressed this concern to then-Chief Henderson. Officer Perez received no discipline.

tt. **Shaun Allen Johnson:** On June 2, 2024 in the downtown/Sixth Street area, Sergeant Brian Yarger—the same officer who kicked a handcuffed subject, pushed a quadruple amputee out of a wheelchair, and was not investigated despite a serious peer complaint about his use of force in 2022—shoved Shuan Allen Johnson to the ground for filming Sergeant Yarger and other APD Officers use force against someone else. Sergeant Yarger then punched Mr. Johnson repeatedly in his head and torso though he had done nothing wrong, was not resisting, and was not interfering in any way with the APD Officers. APD did not immediately investigate Sergeant Yarger despite a complaint. On June 3, 2025, the Travis County District Attorney charged Sergeant Yarger with assault causing bodily injury and official oppression. Sergeant Yarger pled guilty to these crimes against Mr. Johnson on June 17, 2025.

uu. **Marcos Cardoza & Fidel Gonzalez:** Because APD had not investigated or removed Sergeant Yarger from the force, even temporarily after the complaint regarding his use of force against Mr. Johnson, he was working on July 24, 2024 in the downtown/Sixth Street area. That evening, Sergeant Brian Yarger violently threw Marcos Cardoza to the ground when he had done nothing wrong. He then proceeded to punch Mr. Cardoza in the head and also dropped his knee from a standing position onto Mr. Cardoza's head and neck on the ground. That same night, he used a Taser against Fidel Gonzalez who had done nothing wrong. On information and belief, Sergeant Yarger did not warn either Mr. Cardoza or Mr. Gonzalez before using force on them. APD did not discipline Sergeant Yarger for either incident. On June 17, 2025, Sergeant

Yarger pled guilty to assault causing bodily injury and official oppression for his excessive force against Mr. Johnson and admitted during the sentencing of that case his guilt for assaulting Mr. Cardoza and Mr. Gonzalez.

vv. **Unknown Victim:** In 2024, APD Officer Calvin Fusilier Tased a restrained female victim and, when investigated, admitted that he had not attempted to de-escalate the situation and admitted that his use of the Taser was excessive. This was at least the second time Officer Fusilier had used excessive force against an Austin citizen as he was also one of the officers who fired a kinetic projectile at peace protestor Caesar Fuentes during the 2020 George Floyd/Black Lives Matter protests, penetrating Mr. Fuentes's arm. Officer Fusilier received no discipline for the incident. Though the Office of Police Oversight recommended that Officer Fusilier be suspended for his 2024 use of excessive force, APD instead determined that Officer Fusilier would only be retrained and would not receive any suspension. Though the Office of Police Oversight objected to the discipline in a memo to Chief Lisa Davis, Chief Davis upheld the decision to impose no discipline on Officer Fusilier.

ww. **Unknown Victim:** On September 26, 2024, APD Officer Joseph Cast did a dangerous takedown on an unknown man who was walking away from him in the Sixth Street area. Officer Cast broke his arm, broke his teeth, and left him bruised and battered. The victim required surgery and was hospitalized for several days for his injuries. Officer Cast was not disciplined for this excessive use of force. This was at least the second time Officer Cast received no discipline in as many years, having received no discipline for shooting peaceful

protestor Meredith Williams on May 30, 2020 without any cause or justification. The City of Austin settled Ms. Williams suit against Officer Cast and the City for \$400,000.

xx. **Unknown Victim:** On or around September 28, 2024, a young man got into a verbal disagreement with a bartender on Sixth Street before giving up on getting into the bar and deciding to go home. As he walked home, APD Officer Trinithad Garcia approached him and, after the victim identified himself, Officer Trinithad Garcia told him he had an outstanding warrant and was under arrest. Without giving the victim any warning he was about to use force or even time to comply with commands, Officer Trinithad Garcia threw the victim to the ground, dropped his knee into his back, and punched him with a closed fist in the head three to four times. Officer Trinithad Garcia was not disciplined for this use of force.

yy. **Unknown Male Victim and Young Boy:** On October 6, 2024, Austin Police Officer Joseph Strothers, joined by other APD officers, tackled a man attending the ACL music festival with his 11-year-old son without any warning and without giving any commands to him. After tackling the man, Detective Strothers turned to the shocked young boy, picked him up, and slammed him to the ground without warning, knocking him unconscious. Both the man and his son were then put in handcuffs, questioned about phone thefts, and then released when a search of their belongings turned up no stolen phones.

zz. **Natalie Gialenes:** During the early morning hours of February 18, 2025, Natalie Gialenes was a guest of the J.W. Marriott located in the same police

sector as Sixth Street and was standing outside. APD Officer Joseph Spees saw Ms. Gialenes talking loudly and detained her in handcuffs for suspicion of public intoxication. After handcuffing Ms. Gialenes, Officer Spees suddenly and without warning, threw Ms. Gialenes to the ground, headfirst. The takedown slammed Ms. Gialenes into the ground so hard that her forehead split open. Ms. Gialenes was taken to Dell Seton where she was hospitalized for several days for the injuries to her head. On information and belief, APD did not discipline Officer Spees.

aaa. **Unknown Victim:** On March 2, 2025, APD Officer Nicholas Locken was working in the downtown Sixth Street area when he brutally took down a transwoman on Sixth Street. The Office of Police Oversight received 17 complaints about the incident and reviewed it. The OPO identified that APD's internal affairs department had administratively closed its investigation despite the fact that it had not conducted a sufficiently thorough investigation. The OPO identified that Officer Locken utterly failed to engage in any de-escalation techniques before brutally taking the woman down. Austin Police Chief Lisa Davis personally reviewed the incident and declined to discipline Officer Locken.

37. As is shown by the extensive history above, the City of Austin fails to discipline officers for using excessive force, failing to de-escalate, and failing to issue warnings before resorting to force, particularly, but not exclusively, in the Sixth Street area.

38. On January 21, 2022, the City of Austin's policymakers including its Chief of Police received a report from Kroll Associates that highlighted APD officers' excessive uses of

force and failure to de-escalate. Specifically, Kroll Associates reviewed all APD body worn camera and police reports for a sixth month period and identified 112 uses of force that contained issues of concern, including 82 where the force used was either inappropriate or caused by an unnecessary escalation of the encounter by the APD officers.

39. Across the incidents reviewed, Kroll Associates additionally identified several recurring issues including APD officers escalating straight to head strikes to the back or sides of the head in response to subjects merely pulling an arm or hand away and use of leg sweeps to take down subjects “at the slightest resistance.”

40. Kroll Associates likewise found, and informed the City of Austin policymakers including its Chief of Police, that APD’s use of force process lacked proper internal supervisory review and investigation such that in all but one of the cases where Kroll Associates determined APD officers used inappropriate force, the APD supervisor approved the force.

41. In contrast to Kroll Associates’ finding of 82 incidents of excessive force or improper escalation over the course of six months, APD has only disciplined, on average, ten officers *per year* from 2009 to 2021. Accordingly, on average, 154 incidents of excessive force—well over 90%—are not disciplined by APD at all.

42. APD’s own reports reflect that its officers routinely use force against those who are not resisting at all—like Mr. Rodriguez—as well as those who it deems to be engaged in mere “verbal,” “passive,” or “defensive” resistance hundreds of times per year. This is despite the fact that any significant force against people engaged in that level of resistance is unconstitutional.

43. Upon information and belief, there are numerous other instances where APD officers have used excessive force, failed to de-escalate, and failed to issue warnings to give

citizens a chance to comply before using force. On information and belief, many of these incidents occur in the Sixth Street area.

44. Upon information and belief, the City has adopted policies and practices of encouraging its officers to rapidly escalate encounters with citizens, encouraging grotesque uses of force, and failing to discipline officers when they commit these violent acts.

45. These problems with APD's training and supervision had been festering for years by the time of this incident and were well-known to its policymakers, including the chief of police.

46. The Office of the Police Monitor (OPM), an agency created by the City to facilitate public complaints against police officers, participated in investigations of APD officers and made non-binding policy recommendations to APD.

47. OPM recommended APD rethink its missing de-escalation training and aggressive tactics as early as 2007—based on 2005 data—due to a high number of complaints and allegations of misconduct.

48. For 2005, OPM reported citizens made a total of 73 use-of-force-related allegations, and succeeding years saw between 47 and 123 such complaints each year through 2015, for a total of 815 allegations of excessive force reported to OPM from 2004 to 2015.

49. Critically, every year beginning in 2009, OPM warned that this number was under-inclusive, with succeeding reports stating that APD was not obeying its own written use-of-force complaint and investigation procedures—hampering oversight of misconduct both by deterring citizens from raising excessive force matters and by failing to internally investigate potential excessive uses of force.

50. In 2015, OPM observed that multiple high-profile cases highlighted the deficiency in the manner in which APD reviews responses to resistance or uses of force.

51. The OPM emphasized that the uses of force against Breion King and another use of force against Tyrone Wilson—a young man who was pepper sprayed in the face while handcuffed in the back of a prisoner transport van for only harmlessly kicking the van door—were originally determined by APD to be reasonable, only to later result in officer discipline when the videos were leaked to the press.

52. Sadly, Chief Davis has continued the pattern of failing to discipline numerous officers who have committed acts of excessive force, failed to de-escalate, and failed to issue warnings before resorting to force.

53. In 2015, OPM again recommended APD revise policies and training for de-escalation and officer communication, but APD again declined.

54. In January 2021, the Austin Office of Police Oversight (OPO) recommended that APD update its policies concerning the use of deadly force, finding that existing policies failed to require officers to give a warning or specify how to warn before using deadly force, leaving officers without guidance. OPO specifically noted that requiring officers to identify themselves, give a clear command, and provide adequate time for citizens to comply with commands could decrease the need to use deadly force.

55. APD declined to make these changes and, in fact, specifically left language in its use of firearm policy concerning warnings that the OPO identified as problematic.

56. Shortly after Chief Lisa Davis became Austin's Chief of Police in early 2025, she identified that the percentage of calls during which Austin Police Department officers used force was significantly higher than that other similar jurisdictions.

57. Chief Davis likewise made public statements that acknowledged APD's history of excessive force incidents.

58. On information and belief, shortly after she took over as Chief of Police, Chief Davis was informed of the previous incidents described above as well as findings of Kroll Associates and the Austin Officer of Police Oversight.

59. Rather than change anything, just months after Chief Davis took over, the Austin Police Department announced that it had determined that APD was “over-counting” uses of force. In other words, Chief Davis’s solution to the Austin Police Department’s policies, practices, and training programs that have led officers to eschew de-escalation and use excessive force is for APD officers to *document less*.

60. As a result, APD officers like Defendant Garcia have continued to unnecessarily escalate encounters with violence and without warning.

61. Moreover, numerous high-ranking officers routinely describe the Sixth Street area as a war zone when it is nothing of the kind, which sends a dangerous message to officers that is inconsistent with their constitutional obligations.

62. As a direct and proximate result of the City’s policies and practices, Officer Garcia failed to de-escalate the encounter with Mr. Rodriguez, failed to warn Mr. Rodriguez before using force, and used excessive force on Mr. Rodriguez.

IV. CAUSES OF ACTION

A. FOURTH AND FOURTEENTH AMENDMENT EXCESSIVE FORCE BY DEFENDANT GARCIA.

63. Plaintiff incorporates by reference the foregoing paragraphs and further alleges as follows:

64. Defendant Garcia, while acting under color of law, punched Plaintiff Rodriguez in the head with a closed fist when Mr. Rodriguez posed no danger to anyone and had not done anything to justify any use of force, much less the force of a closed punch to the head.

65. Defendant Garcia's uses of force were wholly excessive to any conceivable need, objectively unreasonable in light of clearly established law, and directly caused Mr. Rodriguez to suffer serious injuries. Therefore, Defendant Garcia's actions violated Mr. Rodriguez's clearly established Fourth Amendment right to be free from excessive force and unreasonable seizure, as incorporated by the Fourteenth Amendment.

66. Mr. Rodriguez was not suspected of having committed any crime, posed no immediate threat to anyone, and was not at risk of flight.

67. As a direct and proximate result of Officer Garcia's actions, Mr. Rodriguez suffered and continues to suffer significant injuries.

B. PUNITIVE/EXEMPLARY DAMAGES AS TO DEFENDANT GARCIA.

68. Plaintiff incorporates all of the foregoing as if alleged herein.

69. Defendant Garcia's conduct was egregious, reckless, and endangered Mr. Rodriguez. Plaintiff therefore, in hopes of deterring future acts of violence like the one Mr. Rodriguez suffered, seeks punitive or exemplary damages as to Defendant Garcia.

70. Plaintiff brings this claim pursuant to 42 U.S.C. § 1983.

C. FOURTH AND FOURTEENTH AMENDMENT § 1983 MONELL CLAIM AGAINST DEFENDANT CITY OF AUSTIN ONLY.

71. Plaintiff incorporates all of the foregoing and further alleges as follows:

72. The conduct by APD Officer Garcia discussed in this complaint and described herein constituted excessive force in violation of the Fourth Amendment to the United States Constitution, as incorporated through the Fourteenth Amendment.

73. At all material times, Officer Garcia acted under color of state law, as an agent of Defendant City of Austin.

74. At all material times, Defendant Garcia was acting within the course and scope of his duties as a City of Austin police officer at the time he punched Mr. Rodriguez in the head without warning or any reason or need.

75. Defendant City of Austin's policymaker for all matters related to the activities of the Austin Police Department at the time of the wrongful shooting was APD Chief Lisa Davis.

76. The City of Austin, had or ratified the following policies, practices, or customs in place when Defendant Officer Garcia punched Mr. Rodriguez in the head without justification:

- a. Using excessive force;
- b. Failing to train officers that striking subjects in the head is prohibited or should be used only when officers are justified in using deadly force;
- c. Training officers to use head strikes in the absence of any justification for use of deadly force;
- d. Training officers to use head strikes in the absence of any justification for the use of any force;
- e. Encouraging officers to use head strikes in the absence of any justification of use of deadly force;
- f. Encouraging officers to use head strikes in the absence of any justification for the use of any force;
- g. Encouraging officers assigned to the Sixth Street and downtown area to use head strikes against subjects who are not threatening, are not resisting, and/or are already subdued;
- h. Not providing warnings before using deadly and non-deadly force;
- i. Failing to train officers to provide warnings to citizens before using deadly and non-deadly force, including but not limited to head strikes;
- j. Eschewing de-escalation of incidents, particularly but not exclusively in the Sixth Street area;

- k. Not training officers to use de-escalation with subjects, including when interacting with citizen bystanders who are observing APD officers use force against others, particularly but not exclusively in the Sixth Street Area;
- l. Training officers to use force rather than de-escalation when interacting with citizen bystanders who are peaceably observing APD officers use force against others, particularly but not exclusively in the Sixth Street Area;
- m. Tolerating officers' using excessive force without warning;
- n. Not adequately investigating officers who are accused of using excessive force;
- o. Not adequately investigating officers who are accused more than once of using excessive force;
- p. Not disciplining or supervising officers who use excessive force;
- q. Not disciplining or supervising officers who did not attempt to de-escalate before using force when there is no threat or risk of flight from the citizen;
- r. Failing to train officers on the need to use de-escalation techniques;
- s. Not using de-escalation techniques and/or tolerating officers' repeated failures to use de-escalation techniques;
- t. Tolerating officers' failures to warn before using force;
- u. Not disciplining officers who fail or refuse to warn citizens before resorting to force despite having adequate opportunity for such a warning;
- v. Failing to adequately supervise officers who fail or refuse to warn citizens before resorting to force despite having adequate opportunity for such a warning; and
- w. Fostering a culture of impunity.
- x. Encouraging officers to treat the Sixth Street area at night as a "war zone" when it is nothing of the kind.

77. Chief Davis was aware of the pattern of similar incidents that occurred before and after Officer Garcia wrongfully punched Mr. Rodriguez in the head without warning or justification, as well as the culture of impunity at APD and the City, although it was also apparent and obvious that a constitutional violation was a highly predictable consequence of the City's

above delineated policies. Chief Davis was specifically aware that her officers had violated the constitution by using excessive force in each of the specific incidents of excessive force listed in this complaint, as well as hundreds more incidents reported by APD, and that no additional procedures, policies, training, or practices had been implemented that would resolve this ongoing risk of constitutional harm to citizens.

78. Likewise, Chief Davis knew or should have known that failing to correct the dangerous culture of impunity and failing to train her officers in the appropriate use of force, the dangerous of head strikes and head-first takedowns, and the use of de-escalation techniques and warnings were particular omissions in the City's training program that would cause City employees to violate the constitutional rights of members of the public they encountered, like Mr. Rodriguez. Nevertheless, though Chief Davis knew of these obvious deficiencies, she acted with deliberate indifference and chose to retain the City's dangerously flawed training program.

79. Each of the policies, practices, or customs delineated above was actually known, constructively known, approved, and/or ratified by City of Austin and its then policymaker for law enforcement purposes, Chief of Police Lisa Davis, and was promulgated and continued by Chief Davis with deliberate indifference to James Rodriguez's Fourth and Fourteenth Amendment rights under the United States Constitution. Moreover, the known and obvious consequence of these policies, practices, or customs was that APD officers would be placed in recurring situations in which the constitutional violations described within this complaint would result. Accordingly, these policies also made it highly predictable that the particular violations alleged here, all of which were under color of law, would result.

80. Consequently, the policies and conduct delineated above were a moving force of Mr. Rodriguez's constitutional deprivations and injuries, and proximately caused him to suffer severe injuries.

V. DAMAGES

81. Plaintiff James Rodriguez seeks the following damages:

- a. Past and future lost wages and loss of earning capacity;
- b. Past and future physical pain;
- c. Past and future mental anguish;
- d. Past and future impairment;
- e. Past and future disfigurement;
- f. Past and future medical expenses;
- g. Attorneys' fees, including costs, expert fees, and attorneys' fees pursuant to 42 U.S.C. § 1988;
- h. Pre-judgment and post-judgment interest at the highest rates allowable under the law;
- i. All other compensatory and/or general damages to which Mr. Rodriguez is entitled under state or federal law; and,
- j. Punitive damages in the highest amount allowed by law against Defendant Garcia only.

VI. JURY DEMAND

82. Plaintiff respectfully requests a trial by jury.

VII. PRAYER FOR RELIEF

83. To right this grave injustice, Plaintiff requests the Court:

- a. Award compensatory damages to the Plaintiff against all Defendants;
- b. Award punitive damages to Plaintiff against Defendant Garcia only;

- c. Award Plaintiff costs including expert fees and attorneys' fees pursuant to 42 U.S.C. § 1988;
- d. Award pre-judgment and post-judgment interest at the highest rate allowable under the law; and,
- e. Award and grant such other just relief as the Court deems proper.

Dated: November 17, 2025.

Respectfully submitted,

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By /s/ Jeff Edwards

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JS 44 (Rev. 04/21)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<p>I. (a) PLAINTIFFS James Rodriguez</p> <p>(b) County of Residence of First Listed Plaintiff <u>Travis</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number) Jeff Edwards, Edwards Law, 603 W. 17th St., Austin, Texas 512-623-7727</p>	<p>DEFENDANTS Officer Garcia, #10339, in his individual capacity, and the City of Austin</p> <p>County of Residence of First Listed Defendant <u>Travis</u> <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known)</p>
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<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <p><i>(For Diversity Cases Only)</i></p> <table style="width:100%;"> <tr> <td style="width:33%;">Citizen of This State</td> <td style="width:10%;"><input type="checkbox"/> 1</td> <td style="width:10%;"><input type="checkbox"/> 1</td> <td style="width:33%;">Incorporated or Principal Place of Business In This State</td> <td style="width:10%;"><input type="checkbox"/> 4</td> <td style="width:10%;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4														
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5														
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6														

IV. NATURE OF SUIT (Place an "X" in One Box Only) [Click here for: Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District (specify) 6 Multidistrict Litigation - Transfer 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C § 1983

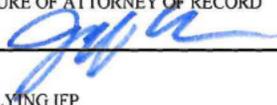
Brief description of cause:
Excessive force by an Austin Police Department officer

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. **DEMAND \$** _____ CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE: 11/17/2025 SIGNATURE OF ATTORNEY OF RECORD: 

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____