

United States District Court for the Western District of Texas  
Austin Division

Sam Kirsch,	§	
Plaintiff,	§	
	§	Case no. _____
v.	§	
	§	
City of Austin and	§	
John Doe,	§	
Defendants.	§	

**Plaintiff’s Complaint and Request for Jury Trial**

To the Honorable Court:

**I. Introduction**

This is a lawsuit about an as-yet unidentified Austin police officer who shot Plaintiff Sam Kirsch in the face to punish him for participating in a peaceful protest against police brutality on Interstate 35. Officer Doe shot Sam in the head with a so-called “less lethal” projectile moments after Sam had been peacefully exercising his constitutional right to assemble with like-minded people and protest the government. Shockingly, Officer Doe shot Sam *while* Sam was following police commands to disburse and *after* Sam had stopped protesting and had already left the highway.

This lawsuit is also about the City of Austin’s appalling response to protests—especially its pattern of violently violating demonstrators’ civil rights—during the weekend of May 30-31, 2020. The City compounded its mishandling of the situation by failing to investigate or attempt to deter further misconduct by Officer Doe and other police. Sam described the events of May 31 in detail at a City Council meeting attended by the police chief and his assistant chiefs on June 4. A month later, on July 2, Austin police denied knowing anything about Sam or his injury.

Finally, based on multiple credible sources, the City caused severe injuries by allowing its stockpile of “less-lethal” munitions to expire, and thus harden, and then arming its police with these expired munitions for crowd control during peaceful demonstrations.

**Table of Contents**

- I. Introduction ..... 1
- II. Parties ..... 3
- III. Jurisdiction ..... 3
- IV. Venue ..... 3
- V. Facts ..... 4
  - A. Officer Doe shot Sam Kirsch even though Sam was doing nothing wrong. .... 4
  - B. At best, the City tried to ignore what happened to Sam. .... 9
  - C. Other protesters were also severely injured. .... 11
- VI. Claims ..... 13
  - A. Officer Doe violated Sam Kirsch’s First Amendment rights when he shot Sam in retaliation for protesting police misconduct. .... 13
  - B. Officer Doe violated Sam Kirsch’s Fourth and Fourteenth Amendment rights when he shot Sam without justification. .... 13
  - C. Officer Doe acted with such impunity and reckless disregard for civil rights, this case warrants damages that will deter this type of misconduct in the future. .... 14
  - D. The City of Austin’s policy of using excessive violence to control demonstration crowds violated protesters’ First, Fourth, and Fourteenth Amendment rights. .... 14
  - E. The City was negligent when it used expired munitions against protesters. .... 15
- VII. Damages ..... 16
- VIII. Request for jury trial ..... 16
- IX. Prayer ..... 16

## II. Parties

1. Sam Kirsch is a resident of Austin, Texas.
2. The City of Austin is a Texas municipal corporation in the Western District of Texas. Brian Manley is Austin's policymaker when it comes to policing.
3. Defendant John Doe is an as-yet unidentified (to Sam or the Austin community, anyway) Austin police officer. The City knows who shot Sam but has refused to identify Officer Doe even though it has been over five months since he shot Sam. Upon information and belief, Officer Doe is Jeffrey Teng or Eric Heim. See <https://www.fox7austin.com/news/two-more-apd-officers-placed-on-administrative-leave-in-connection-to-may-protest-incidents>.

## III. Jurisdiction

4. This Court has federal question subject matter jurisdiction over this 42 U.S.C. § 1983 lawsuit under 28 U.S.C. § 1331.
5. This Court has general personal jurisdiction over Officer Doe because he works and lives in Texas. The City of Austin is subject to general personal jurisdiction because it is a Texas municipality.
6. This Court has specific personal jurisdiction over Officer Doe and the City because this case is about their conduct that occurred here in Austin, Texas.

## IV. Venue

7. Under 28 U.S.C. § 1391(b), the Western District of Texas is the correct venue for this lawsuit because the events described above and below occurred in Austin.

**V. Facts**

**A. Officer Doe shot Sam Kirsch even though Sam was doing nothing wrong.**

8. On May 31, 2020 at 4:00pm, Sam Kirsch was peacefully exercising his constitutional right to assemble and protest the government. This picture from KXAN shows Sam sitting in the northbound lanes of Interstate 35 adjacent to Austin police headquarters with a large crowd of peaceful protesters:



9. At 4:00 pm, Austin police began tear gassing the protesters. Moments later police began ordering demonstrators to clear the highway and simultaneously began shooting so-called "less lethal" projectiles at various protestors. This screenshot of drone video shows

the scene when the tear gas started:



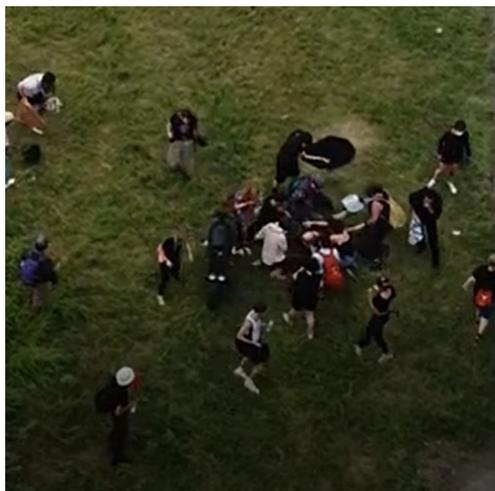
10. In response to the tear gas, Sam, like everyone else, scrambled to get off the highway. He opened an umbrella he had in his backpack and held it on the side of his body that was closest to the police for protection as he ran:



11. As Sam ran up the steep grassy median between the northbound lanes of the Interstate and the northbound frontage road, he turned and looked back over his shoulder. In doing so, he lowered his umbrella, and, in that moment, Officer Doe shot him in the head. Sam fell forward and downhill onto the ground when he was shot:

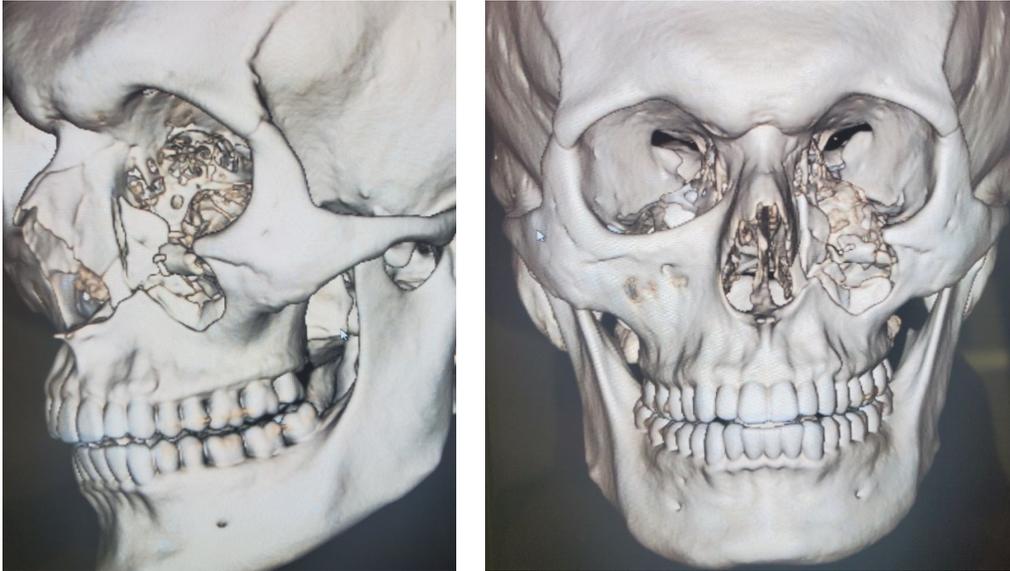


12. Multiple protesters who had been running up the hill to escape the shooting, turned back to help Sam who was bleeding profusely and was blinded. The group of Good Samaritans worked together to get Sam up the hill and further away from police:



13. One of the Good Samaritans pulled her car adjacent to where the group was tending to Sam and the group loaded Sam into the back seat. Two women drove Sam to the emergency room at Dell Seton Medical Center.

14. Sam was admitted to the hospital and underwent the first of his three surgeries to date (there will likely be more surgeries to try to preserve Sam's remaining eyesight). These pictures of Sam's skull taken on May 31, 2020 show the hole that Officer Doe shot into Sam's orbital cavity and cheekbone:



15. Sam's surgeon made this mold of Sam's face to practice fitting the metal implants before Sam underwent Open Reduction Internal Fixation (ORIF) surgery on June 9 (the second of Sam's three surgeries to date):



This is an image of Sam's face with the metal implants after the ORIF surgery on June 9:



16. The metal implants in Sam's face are permanent. The structure of Sam's face and his eyesight will never fully heal. Officer Doe's excessive and unjustified use of force permanently disabled Sam.

17. On May 31, *Texas Tribune* journalists collected spent munitions fired by Austin police at demonstrators, including Sam, that day:



<https://www.texastribune.org/2020/06/03/texas-police-force-protests-george-floyd/>.

18. Austin police Chief Brian Manley later identified the types of munitions that he ordered his officers to carry and use on May 31. Under questioning from the Austin City Council—and referring to the picture of expended projectiles collected by *Texas Tribune* journalists (above)—he stated:

And then since you've got these pictures up here, what I see is the 12-gauge munition is the one on the direct left. That is a foam baton round, and so that -- rubber bullets are -- and I guess maybe it's a misnomer -- rubber bullets are also from a 12-gauge shotgun something you do as a skip round into the answering or something. That is a foam baton round that we also have access and use of. That's what that larger one is that's being held there. And then of course the one in the middle is a gas can, and I don't know whether that is smoke or whether that was the cs can.

<https://www.austintexas.gov/edims/document.cfm?id=341786> (Transcript Austin City Council, June 4, 2020).

19. Upon information and belief, Officer Doe shot Sam with a 40mm “foam baton” round or a 12-gage round filled with lead pellets.

20. Upon information and belief, the City armed its police on May 30 and May 31 with expired munitions which had hardened over time and thus caused more severe injuries than munitions used within the manufacturers’ recommended time frames.

**B. At best, the City tried to ignore what happened to Sam.**

21. At the same City Council meeting where Brian Manley gave the testimony above, Sam testified in detail about what happened to him:

>> The next speaker is Samuel kirsch. You have three minutes.

>> Sam: Hello. This is Sam. Can you all hear me?

>> Yes.

>> Sam: Hello?

>> Mayor Adler: Yes. Please proceed.

>> Sam: Okay, thank you. First of all, I want to thank mayor Adler and the city council for allowing me to speak today. So I was peacefully protesting on Sunday, may 31st, in solidarity with black lives matter. When I was near I-35, police started

using what I believe was smoke grenades, which is when I started running away. While I was on the grass, while I was running away, I was shot with what I believe to be either a rubber bullet or a beanbag. I was hit in my face. If I were not wearing sunglasses at the time, I have no doubt in my mind that I would be blind right now. I immediately hit the ground and was dragged away by fellow protesters and I was rushed to the hospital. There was blood all over my chest, and my hands. It felt like a war zone. I did not know what was going on, and it all happened extremely quickly. The damage that I took was a very large laceration due to the cut from the sunglasses, from the bullet hitting them. I suffered a broken nose. I believe it was also five or six broken bones near my upper cheek and the bone supporting my eye. I also have hopefully temporary retinal bruising. I have to undergo another surgery in a week. That surgery is risky, because I will be getting multiple titanium plates to support my eye. There's a risk for the -- for my body to reject those plates. There's a risk for infection with those plates. There's also a risk of going blind from the surgery, because when they do the surgery, they have to make an incision in my lower left eyelid. And there's also a significant risk, I was told by an ophthalmologist, of permanent vision loss, either temporary or -- either partial or permanent, even if the surgery goes well. I'm currently unable to eat anything except pureed food, I have to drink through a straw. I have double vision, I have no depth perception, I am in enormous pain, both physically, emotionally and soon to be financially. And I would like to thank some of those councilmembers that have called out the police chief for not showing his face, and for not having sufficient answers to using these, quote unquote, less lethal rounds on people, protesters. I think it was wrong in any scenario. So I'm open to any questions if you have them. And thank you for allowing me to speak today.

<https://www.austintexas.gov/edims/document.cfm?id=341786> (Transcript Austin City Council, June 4, 2020).

22. Brian Manley and his assistant chiefs attended the June 4 City council meeting and heard straight from Sam about what had happened. Nonetheless, Austin police denied having even heard of Sam Kirsch or his injury one month later, on July 2.

23. It was over another month before police investigators even spoke to Sam. At Sam's police interview on August 13, the lead investigator (despite having the drone footage and Sam's hospital records) stated that he did not yet have probable cause to investigate any police officer for injuring Sam. The lead investigator expressed his

skepticism that Sam's injuries were caused by an Austin police officer and he attempted to have Sam implicate other protesters in his injury instead.

24. Five months after Sam was shot, on October 29, the City placed Officer Doe on administrative leave indicating that Officer Doe was the subject of administrative and criminal investigations. Upon information and belief, the City continued to assign Officer Doe to staff demonstrations and protests in the five months between when he shot Sam and when he was placed on administrative leave.

**C. Other protesters were also severely injured.**

25. A group of emergency room doctors who had treated Austinites injured by police on May 30 and May 31 at Dell Seton Medical Center, published an op-ed in *The New England Journal of Medicine* about their observations. The doctors unequivocally concluded that these munitions should not be used for crowd control, stating:

In Austin, Texas, tensions culminated in 2 days of vigorous protest, during which police used beanbag munitions for crowd control, resulting in numerous clinically significant injuries.

...

At the closest level 1 trauma center, located blocks from the protests in Austin, we treated 19 patients who sustained beanbag injuries over these 2 days.

...

Four patients had intracranial hemorrhages. One patient presented with a depressed parietal skull fracture with associated subdural and subarachnoid hemorrhages, leading to emergency intubation, decompressive craniectomy, and a prolonged stay in the intensive care unit. Another patient presented with a depressed frontal bone fracture with retained beanbag, which was treated with an emergency craniotomy and cranioplasty.

...

Although our report reflects the experience at only one center during a short period and we cannot determine the frequency of injuries when these munitions are used, these findings highlight the fact that beanbag munitions can cause serious harm and are not appropriate for use in crowd control. Beanbag rounds have since been abandoned by our local law enforcement in this context.

<https://www.nejm.org/doi/full/10.1056/NEJMc2025923>. The doctors listed Sam's

injuries among the most serious head injuries:

*The NEW ENGLAND JOURNAL of MEDICINE*

Type of Injury, Sex, and Age	Details of Injury	Course
<b>Head injury</b>		
F, 26 yr	5-mm Subdural hematoma, hemotympanum	Admitted to ICU, treated without operative intervention, discharged on hospital day 3
M, 20 yr	Displaced right parietal skull fracture, subarachnoid hemorrhage, 5-mm subdural hematoma	Intubated, taken to OR for craniectomy and cranioplasty, admitted to ICU, given a tracheostomy, discharged on hospital day 23 to rehabilitation facility
M, 18 yr	6-cm Scalp laceration, subarachnoid hemorrhage	Treated with washout and laceration repair, admitted to medical-surgical floor, discharged on hospital day 1
M, 16 yr	Midline comminuted, depressed frontal bone fracture; retained beanbag; bifrontal intraparenchymal hemorrhage; subarachnoid hemorrhage; subdural hematoma	Taken to OR for foreign-body removal, bifrontal craniotomy, cranioplasty, and complex wound closure; admitted to ICU; given a psychiatric consultation; discharged on hospital day 6
M, 25 yr	Inner canthus laceration; comminuted, displaced fractures of the maxilla and orbital floor	Taken to OR for washout and laceration repair, discharged on hospital day 2, given delayed ORIF for facial fractures
<b>Facial fracture</b>		
F, 29 yr	Open facial wound with retained beanbag in masticator space; comminuted, displaced mandibular and maxillary fractures; facial nerve palsy	Taken to OR for foreign-body removal, washout, and débridement; discharged on hospital day 1; treated with healing by secondary intention (i.e., the wound was left open to heal under a dressing)
M, 23 yr	Comminuted, displaced mandibular body fracture; avulsed teeth; complex lip and gingival lacerations	Taken to OR for closed reduction, washout, débridement, and laceration repair; discharged on hospital day 1
<b>Other injuries</b>		
F, 29 yr	Penetrating soft-tissue injury to chest and breast, retained beanbag	Taken to OR for foreign-body removal, washout, and débridement; discharged on hospital day 1; treated with healing by secondary intention
F, 19 yr	Open fracture of the olecranon with retained foreign bodies	Taken to OR for ORIF, débridement, and foreign-body removal; discharged on hospital day 2
M, 54 yr	Lacerations to torso and shin	Received washout and laceration repair, discharged
F, 19 yr	Laceration to eyebrow	Received washout and laceration repair, discharged
F, 43 yr	Tuft fracture	Received splinting, discharged
M, 36 yr	Abdominal abrasion, contusion	Discharged
M, 31 yr	Elbow laceration	Received washout and laceration repair, discharged
M, 22 yr	Olecranon fracture	Received sling, discharged
M, 16 yr	Contusion to forearm and leg	Discharged
F, 24 yr	Contusion to abdomen	Discharged
M, 20 yr	Contusion to abdomen, ear laceration	Received washout and laceration repair, discharged
F, 19 yr	Scalp laceration	Received washout and laceration repair, discharged

**VI. Claims**

**A. Officer Doe violated Sam Kirsch's First Amendment rights when he shot Sam in retaliation for protesting police misconduct.**

26. Sam Kirsch incorporates sections I through V above into his First Amendment claim.

27. Sam brings this claim under 42 U.S.C. § 1983.

28. Sam exercised his right to free speech and his right to assemble with other demonstrators to protest police brutality on May 31, 2020.

29. Officer Doe shot Sam because Sam was protesting Austin police and other police departments around the country for their habitual use of excessive force. Officer Doe was acting under color of law when he shot Sam as retribution for Sam exercising his First Amendment rights. Officer Doe was acting under color of law when he directly and proximately caused Sam's injuries.

**B. Officer Doe violated Sam Kirsch's Fourth and Fourteenth Amendment rights when he shot Sam without justification.**

30. Sam Kirsch incorporates sections I through VI.A above into his Fourth and Fourteenth Amendment claims.

31. Sam brings this claim under 42 U.S.C. § 1983.

32. Officer Doe was acting under color of law when he shot Sam as he scrambled to disburse. Officer Doe shot Sam even though Sam did not pose a danger to anyone and *after* Sam had complied with police commands and left the highway.

**C. Officer Doe acted with such impunity and reckless disregard for civil rights, this case warrants damages that will deter this type of misconduct in the future.**

33. Sam Kirsch incorporates sections I through VI.B above into his punitive damages claim.

34. Officer Doe's actions and conduct were egregious, reckless, and endangered numerous peaceful protesters and bystanders. Sam seeks punitive damages to deter this type of retaliation and excessive force against protesters who demonstrate against police brutality in the future.

**D. The City of Austin's policy of using excessive violence to control demonstration crowds violated protesters' First, Fourth, and Fourteenth Amendment rights.**

35. Sam Kirsch incorporates sections I through VI.C above into his *Monell* claim.

36. Sam brings this claim under 42 U.S.C. § 1983.

37. Austin had these policies, practices, and customs on May 30-31, 2020:

- a. Using dangerous kinetic projectiles that caused severe and permanent injuries to control peaceful demonstrations,
- b. Using excessive force against non-violent demonstrators,
- c. Failing to adequately train officers regarding civil rights protected by the United States Constitution,
- d. Failing to adequately train officers in crowd control during non-violent protests,
- e. Failing to adequately supervise officers doing crowd control during non-violent protests,
- f. Failing to intervene to stop excessive force and civil rights violations by its officers during non-violent protests,
- g. Failing to investigate excessive violence by its officers against peaceful protesters, and
- h. Failing to adequately discipline officers for—and deter officers from—using excessive force and violating protesters' civil rights during demonstrations.

38. The City and Brian Manley knew about these policies and directed Austin police to comply with them. The City and Brian Manley developed and issued these policing policies with deliberate indifference to Sam's and other peaceful demonstrators' civil rights.

39. The City and Brian Manley were aware of the obvious consequences of these policies. Implementation of these policies made it predictable that Sam's constitutional rights would be violated in the manner they were, and the City and Brian Manley knew that was likely to occur. It was obvious that these policies would injure more people on May 31 because they injured so many people on May 30. The City and Brian Manley condoned and ratified the civil rights violations and the conduct that caused injuries on May 30 by continuing to mandate the same policies on May 31.

40. These policies were the moving force behind Officer Doe's violation of Sam's civil rights and thus, proximately caused Sam's severe injury and permanent disability.

**E. The City was negligent when it used expired munitions against protesters.**

41. Sam Kirsch incorporates sections I through VI.D above into his negligence claim.

42. The City had a duty to every Austinite, including Sam, to maintain and keep its stockpiles of police equipment functional and up to date. The City had a duty to Sam and every other protester not to arm its police with expired munitions that become more dangerous with age when its police were sent to control crowds during demonstrations. Nonetheless, upon information and belief, the City knowingly armed its police with expired munitions on May 30 and May 31, 2020 and thus breached its duty to Austinites including Sam.

43. Upon information and belief, Sam's injuries were more serious because the projectile was expired and had hardened. Upon information and belief, the City's failure to

maintain unexpired munitions stores and the deliberate decision to use expired munitions against Sam and other protesters directly and proximately caused Sam's injuries.

**VII. Damages**

44. Sam Kirsch incorporates sections I through VI above into this section on damages.

45. Sam seeks recovery for all of his damages including past and future pain, past and future mental anguish, past and future disfigurement, past and future physical impairment, past and future loss of enjoyment of life, past and future medical expenses, past and future lost income, past and future loss of consortium, past and future loss of services, miscellaneous other economic damages including out-of-pocket expenses, pre and post judgment interest, attorney's fees, expenses, and costs.

**VIII. Request for jury trial**

46. Plaintiff requests a jury trial.

**IX. Prayer**

47. For all these reasons, Sam Kirsch requests that the City of Austin and Officer Doe be summoned to appear and answer Sam's allegations. After a jury trial regarding his claims, Sam seeks to recover the damages listed above in an amount to be determined by the jury and any other relief to which he is entitled.

Respectfully submitted,  
Hendler Flores Law, PLLC



---

Rebecca Webber

[rwebber@hendlerlaw.com](mailto:rwebber@hendlerlaw.com)

Scott M. Hendler

[shendler@hendlerlaw.com](mailto:shendler@hendlerlaw.com)

**HENDLER FLORES LAW, PLLC**

1301 West 25th Street, Suite 400

Austin, Texas 78705

Telephone: 512-439-3202

Facsimile: 512-439-3201

Attorneys for Plaintiff

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 THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS Sam Kirsch
(b) County of Residence of First Listed Plaintiff
(c) Attorney's (Firm Name, Address, and Telephone Number) Rebecca Webber, Hendler Flores Law, 1301 West 25th Street, Suite 400. Austin, Texas 78705. 512-439-3200
DEFENDANTS City of Austin and John Doe
County of Residence of First Listed Defendant
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.
Attorneys (If Known) Meghan Riley, City of Austin Law Department

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
U.S. Government Plaintiff, U.S. Government Defendant, Federal Question, Diversity
Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country
PTF DEF, PTF DEF, PTF DEF

IV. NATURE OF SUIT (Place an "X" in One Box Only)
CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, SOCIAL SECURITY, FEDERAL TAX SUITS, BANKRUPTCY, OTHER 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, 7 Appeal to District Judge from Magistrate Judgment

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: First, Fourth, and Fourteenth Amendment violations, negligence, Monell claim

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
DEMAND \$
CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY
(See instructions): JUDGE Robert Pitman DOCKET NUMBER see attached

DATE November 9, 2020 SIGNATURE OF ATTORNEY OF RECORD /s/ Rebecca Webber

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

VIII. Related Cases.

1. Case No. 1:2020-cv-00956-RP, *Drake v. City of Austin*, filed 9/16/2020
2. Case No. 1:2020-cv-00901-RP, *Gallagher v. City of Austin*, filed 8/28/2020
3. Case No. 1:20-cv- 01057-RP, *Evans v. Doe*, filed 10/20/20

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

**SAM KIRSCH,**  
*Plaintiff,*

§  
§  
§  
§  
§  
§  
§

v.

**CIVIL ACTION NO. 1:20-cv-01113-RP**

**CITY OF AUSTIN AND JOHN DOE,**  
*Defendants.*

**DEFENDANT CITY OF AUSTIN’S ANSWER AND  
AFFIRMATIVE DEFENSES TO PLAINTIFF’S ORIGINAL COMPLAINT**

TO THE HONORABLE JUDGE OF SAID COURT:

Defendant City of Austin files this Answer and Affirmative Defenses to Plaintiffs’ Original Complaint (Doc. No. 1). Pursuant to Rules 8 and 12 of the Federal Rules of Civil Procedure, Defendant respectfully shows the Court the following:

**ORIGINAL ANSWER**

Pursuant to Federal Rule of Civil Procedure 8(b), Defendant responds to each of the specific averments in Plaintiffs’ First Amended Complaint as set forth below. To the extent that Defendant does not address a specific averment made by Plaintiff, Defendant expressly denies that averment.<sup>1</sup>

This Defendant denies the allegations contained in the first paragraph labeled “Introduction” in Plaintiff’s Original Complaint.

**PARTIES**

1. Upon information and belief, Defendant admits the allegations contained in Paragraph 1.
2. Defendant admits the allegations contained in Paragraph 2.

---

<sup>1</sup> Paragraph numbers in Defendant’s Answer correspond to the paragraphs in Plaintiffs’ Original Complaint.

3. Defendant denies the allegations contained in Paragraph 3.

**JURISDICTION**

4. Defendant admits the allegations contained in Paragraph 4.

5. Defendant admits the allegations contained in Paragraph 5.

6. Defendant admits the allegations contained in Paragraph 6.

**VENUE**

7. Defendant admits the allegations contained in Paragraph 7.

**FACTS**

8. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 8 of the Original Complaint and therefore denies same.

9. Defendant denies the allegations contained in Paragraph 9.

10. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 10 of the Original Complaint and therefore denies same.

11. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 11 of the Original Complaint and therefore denies same.

12. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 12 of the Original Complaint and therefore denies same.

13. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 13 of the Original Complaint and therefore denies same.

14. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 14 of the Original Complaint and therefore denies same.

15. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 15 of the Original Complaint and therefore denies same.

16. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 16 of the Original Complaint and therefore denies the same.
17. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 17 of the Original Complaint and therefore denies the same.
18. Upon information and belief, Defendant admits the allegations contained in Paragraph 18.
19. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 19 of the Original Complaint and therefore denies same.
20. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 20 of the Original Complaint and therefore denies same.
21. Upon information and belief, Defendant admits the allegations contained in Paragraph 21.
22. Defendant admits the allegations contained in the first sentence of Paragraph 22. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in the remainder of Paragraph 22 of the Original Complaint and therefore denies same.
23. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 23 of the Original Complaint and therefore denies same.
24. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 24 of the Original Complaint and therefore denies same.
25. Upon information and belief, Defendant admits the allegations contained in the first sentence of Paragraph 25. Defendant is without sufficient knowledge to form a belief as to the truth of the remaining allegations contained in Paragraph 25 of the Original Complaint and therefore denies same.

**CLAIMS**

26. Defendant adopts and incorporates its responses to the previous paragraphs of the Complaint.
27. Defendant admits the allegations contained in Paragraph 27.
28. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 28 of the Original Complaint and therefore denies same.
29. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 29 of the Original Complaint and therefore denies same.
30. Defendant adopts and incorporates its responses to the previous paragraphs of the Complaint.
31. Defendant admits the allegations contained in Paragraph 31.
32. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 32 of the Complaint and therefore denies same.
33. Defendant adopts and incorporates its responses to the previous paragraphs of the Complaint.
34. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 34 of the Complaint and therefore denies same.
35. Defendant adopts and incorporates its responses to the previous paragraphs of the Complaint.
36. Defendant admits the allegations contained in Paragraph 36.
37. Defendant denies the allegations contained in Paragraph 37.
38. Defendant denies the allegations contained in Paragraph 38.
39. Defendant denies the allegations contained in Paragraph 39.

40. Defendant denies the allegations contained in Paragraph 40.
41. Defendant adopts and incorporates its responses to the previous paragraphs of the Complaint.
42. Defendant denies the allegations contained in Paragraph 42.
43. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in the first sentence of Paragraph 43 of the Original Complaint and therefore denies same. Defendant denies the remaining allegations contained in Paragraph 43.
44. Defendant adopts and incorporates its responses to the previous allegations contained in the Original Complaint.
45. Defendant denies the allegations contained in Paragraph 45.
46. Paragraph 46 is a request for a trial by jury and does not contain allegations that require Defendant to admit or deny.
47. Defendant denies the allegations contained in Paragraph 47 and specifically denies that the Plaintiff is entitled to any relief whatsoever of and from the Defendant.

#### **AFFIRMATIVE DEFENSES**

1. Defendant City of Austin asserts the affirmative defense of governmental immunity as a municipal corporation entitled to immunity while acting in the performance of its governmental functions, absent express waiver.
2. Defendant City of Austin asserts the affirmative defense of governmental immunity since its employees are entitled to qualified/official immunity for actions taken in the course and scope of their employment, absent express waiver.
3. As a political subdivision, Defendant City of Austin denies that it can be liable for exemplary/punitive damages under 42 U.S.C. § 1983.

4. Defendant reserves the right to assert additional affirmative defenses throughout the development of the case.

**DEFENDANT'S PRAYER**

Defendant City of Austin prays that all relief requested by Plaintiff be denied, that the Court dismiss this case with prejudice, and that the Court award Defendant costs and attorney's fees, and any additional relief to which it is entitled under law or equity.

RESPECTFULLY SUBMITTED,  
ANNE L. MORGAN, CITY ATTORNEY  
MEGHAN RILEY, CHIEF, LITIGATION

/s/ H. Gray Laird  
H. GRAY LAIRD III  
State Bar No. 24087054  
[gray.laird@austintexas.gov](mailto:gray.laird@austintexas.gov)  
City of Austin  
P. O. Box 1546  
Austin, Texas 78767-1546  
Telephone (512) 974-1342  
Facsimile (512) 974-1311

**ATTORNEYS FOR DEFENDANT CITY OF  
AUSTIN**

**CERTIFICATE OF SERVICE**

This is to certify that I have served a copy of the foregoing on all parties or their attorneys of record, in compliance with the Federal Rules of Civil Procedure, this 8th day of January, 2021

**Via ECF/e-filing:**

Rebecca Ruth Webber

State Bar No. 24060805

[rwebber@hendlerlaw.com](mailto:rwebber@hendlerlaw.com)

Scott M. Hendler

State Bar No. 09445500

[shendler@hendlerlaw.com](mailto:shendler@hendlerlaw.com)

HENDLER FLORES LAW, PLLC

1301 West 25<sup>th</sup> Street, Suite 400

Austin, Texas 76550

Telephone: (512) 439-3202

Facsimile: (512) 439-3201

/s/ H. Gray Laird III  
H. GRAY LAIRD III

United States District Court for the Western District of Texas  
Austin Division

Sam Kirsch,	§	
Plaintiff,	§	
	§	Case no. 1:20-cv-01113-RP
v.	§	
	§	
City of Austin and	§	
Officer Rolan Roman Rast,	§	
Defendants.	§	

**Plaintiff's First Amended Complaint**

To the Honorable Court:

**I. Introduction**

This is a lawsuit about Officer Rolan Roman Rast who shot Plaintiff Sam Kirsch in the face to punish him for participating in a peaceful protest against police brutality on Interstate 35. Officer Rast shot Sam in the head with a so-called “less lethal” projectile moments after Sam had been peacefully exercising his constitutional right to assemble with like-minded people and protest the government. Shockingly, Officer Rast shot Sam *while* Sam was following police commands to disburse and *after* Sam had stopped protesting and had already left the highway.

This lawsuit is also about the City of Austin’s appalling response to protests—especially its pattern of violently violating demonstrators’ civil rights—during the weekend of May 30-31, 2020. The City compounded its mishandling of the situation by failing to investigate or attempt to deter further misconduct by Officer Rast and other police. Sam described the events of May 31 in detail at a City Council meeting attended by the police chief and his assistant chiefs on June 4. A month later, on July 2, Austin police denied knowing anything about Sam or his injury.

Finally, based on multiple credible sources, the City caused severe injuries by allowing its stockpile of “less-lethal” munitions to expire, and thus harden, and then arming its police with these expired munitions for crowd control during peaceful demonstrations.

**Table of Contents**

- I. Introduction ..... 1
- II. Parties ..... 3
- III. Jurisdiction ..... 3
- IV. Venue ..... 3
- V. Facts ..... 3
  - A. Officer Rast shot Sam Kirsch even though Sam was doing nothing wrong..... 3
  - B. At best, the City tried to ignore what happened to Sam..... 9
  - C. Other protesters were also severely injured..... 11
- VI. Claims ..... 13
  - A. Officer Rast violated Sam Kirsch’s First Amendment rights when he shot Sam in retaliation for protesting police misconduct. .... 13
  - B. Officer Rast violated Sam Kirsch’s Fourth and Fourteenth Amendment rights when he shot Sam without justification..... 13
  - C. Officer Rast acted with such impunity and reckless disregard for civil rights, this case warrants damages that will deter this type of misconduct in the future. .... 14
  - D. The City of Austin’s policy of using excessive violence to control demonstration crowds violated protesters’ First, Fourth, and Fourteenth Amendment rights. .... 14
  - E. The City was negligent when it used expired munitions against protesters. .... 15
- VII. Damages..... 16
- VIII. Request for jury trial ..... 16
- IX. Prayer ..... 16

## II. Parties

1. Sam Kirsch is a resident of Austin, Texas.
2. The City of Austin is a Texas municipal corporation in the Western District of Texas. Brian Manley is Austin's policymaker when it comes to policing.
3. Officer Rolan Roman Rast is the Austin police officer who shot Sam.

## III. Jurisdiction

4. This Court has federal question subject matter jurisdiction over this 42 U.S.C. § 1983 lawsuit under 28 U.S.C. § 1331.
5. This Court has general personal jurisdiction over Officer Rast because he works and lives in Texas. The City of Austin is subject to general personal jurisdiction because it is a Texas municipality.
6. This Court has specific personal jurisdiction over Officer Rast and the City because this case is about their conduct that occurred here in Austin, Texas.

## IV. Venue

7. Under 28 U.S.C. § 1391(b), the Western District of Texas is the correct venue for this lawsuit because the events described above and below occurred in Austin.

## V. Facts

### **A. Officer Rast shot Sam Kirsch even though Sam was doing nothing wrong.**

8. On May 31, 2020 at 4:00pm, Sam Kirsch was peacefully exercising his constitutional right to assemble and protest the government. This picture from KXAN shows Sam sitting in the northbound lanes of Interstate 35 adjacent to Austin police headquarters with a large crowd of peaceful protesters:



9. At 4:00 pm, Austin police began tear gassing the protesters. Moments later police began ordering demonstrators to clear the highway and simultaneously began shooting so-called “less lethal” projectiles at various protesters. This screenshot of drone video shows

the scene when the tear gas started:



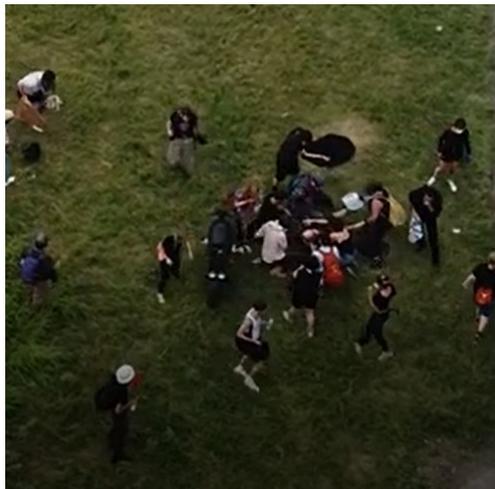
10. In response to the tear gas, Sam, like everyone else, scrambled to get off the highway. He opened an umbrella he had in his backpack and held it on the side of his body that was closest to the police for protection as he ran:



11. As Sam ran up the steep grassy median between the northbound lanes of the Interstate and the northbound frontage road, he turned and looked back over his shoulder. In doing so, he lowered his umbrella, and, in that moment, Officer Rast shot him in the head. Sam fell forward and downhill onto the ground when he was shot:

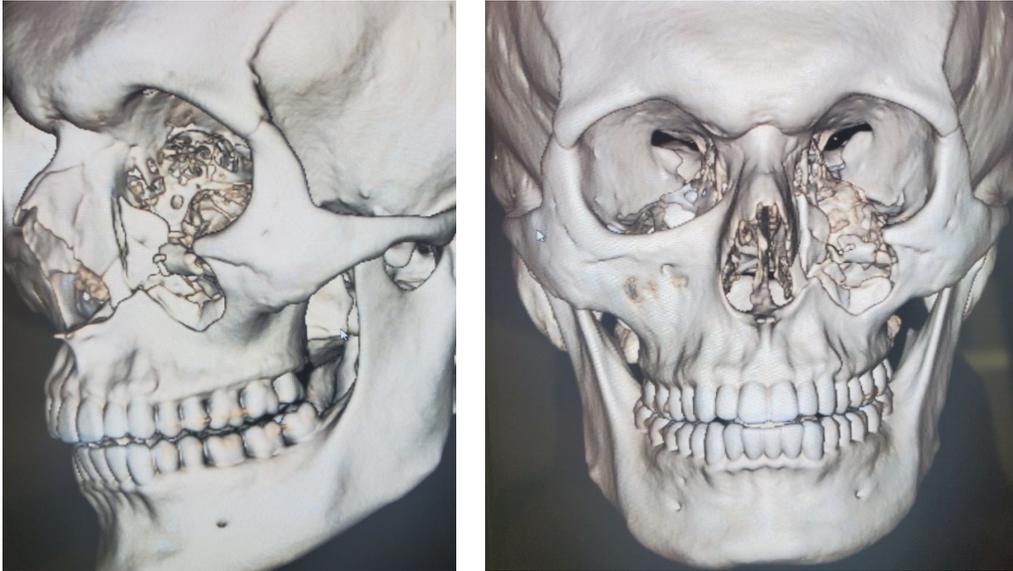


12. Multiple protesters who had been running up the hill to escape the shooting, turned back to help Sam who was bleeding profusely and was blinded. The group of Good Samaritans worked together to get Sam up the hill and further away from police:



13. One of the Good Samaritans pulled her car adjacent to where the group was tending to Sam and the group loaded Sam into the back seat. Two women drove Sam to the emergency room at Dell Seton Medical Center.

14. Sam was admitted to the hospital and underwent the first of his three surgeries to date (there will likely be more surgeries to try to preserve Sam's remaining eyesight). These pictures of Sam's skull taken on May 31, 2020 show the hole that Officer Rast shot into Sam's orbital cavity and cheekbone:



15. Sam's surgeon made this mold of Sam's face to practice fitting the metal implants before Sam underwent Open Reduction Internal Fixation (ORIF) surgery on June 9 (the second of Sam's three surgeries to date):



This is an image of Sam's face with the metal implants after the ORIF surgery on June 9:



16. The metal implants in Sam's face are permanent. The structure of Sam's face and his eyesight will never fully heal. Officer Rast's excessive and unjustified use of force permanently disabled Sam.

17. On May 31, *Texas Tribune* journalists collected spent munitions fired by Austin police at demonstrators, including Sam, that day:



<https://www.texastribune.org/2020/06/03/texas-police-force-protests-george-floyd/>.

18. Austin police Chief Brian Manley later identified the types of munitions that he ordered his officers to carry and use on May 31. Under questioning from the Austin City Council—and referring to the picture of expended projectiles collected by *Texas Tribune* journalists (above)—he stated:

And then since you've got these pictures up here, what I see is the 12-gauge munition is the one on the direct left. That is a foam baton round, and so that -- rubber bullets are -- and I guess maybe it's a misnomer -- rubber bullets are also from a 12-gauge shotgun something you do as a skip round into the answering or something. That is a foam baton round that we also have access and use of. That's what that larger one is that's being held there. And then of course the one in the middle is a gas can, and I don't know whether that is smoke or whether that was the cs can.

<https://www.austintexas.gov/edims/document.cfm?id=341786> (Transcript Austin City Council, June 4, 2020).

19. Upon information and belief, Officer Rast shot Sam with a 40mm “foam baton” round or a 12-gage round filled with lead pellets.

20. Upon information and belief, the City armed its police on May 30 and May 31 with expired munitions which had hardened over time and thus caused more severe injuries than munitions used within the manufacturers’ recommended time frames.

**B. At best, the City tried to ignore what happened to Sam.**

21. At the same City Council meeting where Brian Manley gave the testimony above, Sam testified in detail about what happened to him:

>> The next speaker is Samuel kirsch. You have three minutes.

>> Sam: Hello. This is Sam. Can you all hear me?

>> Yes.

>> Sam: Hello?

>> Mayor Adler: Yes. Please proceed.

>> Sam: Okay, thank you. First of all, I want to thank mayor Adler and the city council for allowing me to speak today. So I was peacefully protesting on Sunday, may 31st, in solidarity with black lives matter. When I was near I-35, police started

using what I believe was smoke grenades, which is when I started running away. While I was on the grass, while I was running away, I was shot with what I believe to be either a rubber bullet or a beanbag. I was hit in my face. If I were not wearing sunglasses at the time, I have no doubt in my mind that I would be blind right now. I immediately hit the ground and was dragged away by fellow protesters and I was rushed to the hospital. There was blood all over my chest, and my hands. It felt like a war zone. I did not know what was going on, and it all happened extremely quickly. The damage that I took was a very large laceration due to the cut from the sunglasses, from the bullet hitting them. I suffered a broken nose. I believe it was also five or six broken bones near my upper cheek and the bone supporting my eye. I also have hopefully temporary retinal bruising. I have to undergo another surgery in a week. That surgery is risky, because I will be getting multiple titanium plates to support my eye. There's a risk for the -- for my body to reject those plates. There's a risk for infection with those plates. There's also a risk of going blind from the surgery, because when they do the surgery, they have to make an incision in my lower left eyelid. And there's also a significant risk, I was told by an ophthalmologist, of permanent vision loss, either temporary or -- either partial or permanent, even if the surgery goes well. I'm currently unable to eat anything except pureed food, I have to drink through a straw. I have double vision, I have no depth perception, I am in enormous pain, both physically, emotionally and soon to be financially. And I would like to thank some of those councilmembers that have called out the police chief for not showing his face, and for not having sufficient answers to using these, quote unquote, less lethal rounds on people, protesters. I think it was wrong in any scenario. So I'm open to any questions if you have them. And thank you for allowing me to speak today.

<https://www.austintexas.gov/edims/document.cfm?id=341786> (Transcript Austin City Council, June 4, 2020).

22. Brian Manley and his assistant chiefs attended the June 4 City council meeting and heard straight from Sam about what had happened. Nonetheless, Austin police denied having even heard of Sam Kirsch or his injury one month later, on July 2.

23. It was over another month before police investigators even spoke to Sam. At Sam's police interview on August 13, the lead investigator (despite having the drone footage and Sam's hospital records) stated that he did not yet have probable cause to investigate any police officer for injuring Sam. The lead investigator expressed his

skepticism that Sam's injuries were caused by an Austin police officer and he attempted to have Sam implicate other protesters in his injury instead.

**C. Other protesters were also severely injured.**

24. A group of emergency room doctors who had treated Austinites injured by police on May 30 and May 31 at Dell Seton Medical Center, published an op-ed in *The New England Journal of Medicine* about their observations. The doctors unequivocally concluded that these munitions should not be used for crowd control, stating:

In Austin, Texas, tensions culminated in 2 days of vigorous protest, during which police used beanbag munitions for crowd control, resulting in numerous clinically significant injuries.

...

At the closest level 1 trauma center, located blocks from the protests in Austin, we treated 19 patients who sustained beanbag injuries over these 2 days.

...

Four patients had intracranial hemorrhages. One patient presented with a depressed parietal skull fracture with associated subdural and subarachnoid hemorrhages, leading to emergency intubation, decompressive craniectomy, and a prolonged stay in the intensive care unit. Another patient presented with a depressed frontal bone fracture with retained beanbag, which was treated with an emergency craniotomy and cranioplasty.

...

Although our report reflects the experience at only one center during a short period and we cannot determine the frequency of injuries when these munitions are used, these findings highlight the fact that beanbag munitions can cause serious harm and are not appropriate for use in crowd control. Beanbag rounds have since been abandoned by our local law enforcement in this context.

<https://www.nejm.org/doi/full/10.1056/NEJMc2025923>. The doctors listed Sam's

injuries among the most serious head injuries:

## The NEW ENGLAND JOURNAL of MEDICINE

**Table 1. Patients with Beanbag Injuries during the 2020 Protests in Austin, Texas.\***

Type of Injury, Sex, and Age	Details of Injury	Course
<b>Head injury</b>		
F, 26 yr	5-mm Subdural hematoma, hemotympanum	Admitted to ICU, treated without operative intervention, discharged on hospital day 3
M, 20 yr	Displaced right parietal skull fracture, subarachnoid hemorrhage, 5-mm subdural hematoma	Intubated, taken to OR for craniectomy and cranioplasty, admitted to ICU, given a tracheostomy, discharged on hospital day 23 to rehabilitation facility
M, 18 yr	6-cm Scalp laceration, subarachnoid hemorrhage	Treated with washout and laceration repair, admitted to medical-surgical floor, discharged on hospital day 1
M, 16 yr	Midline comminuted, depressed frontal bone fracture; retained beanbag; bifrontal intraparenchymal hemorrhage; subarachnoid hemorrhage; subdural hematoma	Taken to OR for foreign-body removal, bifrontal craniotomy, cranioplasty, and complex wound closure; admitted to ICU; given a psychiatric consultation; discharged on hospital day 6
M, 25 yr	Inner canthus laceration; comminuted, displaced fractures of the maxilla and orbital floor	Taken to OR for washout and laceration repair, discharged on hospital day 2, given delayed ORIF for facial fractures
<b>Facial fracture</b>		
F, 29 yr	Open facial wound with retained beanbag in masticator space; comminuted, displaced mandibular and maxillary fractures; facial nerve palsy	Taken to OR for foreign-body removal, washout, and débridement; discharged on hospital day 1; treated with healing by secondary intention (i.e., the wound was left open to heal under a dressing)
M, 23 yr	Comminuted, displaced mandibular body fracture; avulsed teeth; complex lip and gingival lacerations	Taken to OR for closed reduction, washout, débridement, and laceration repair; discharged on hospital day 1
<b>Other injuries</b>		
F, 29 yr	Penetrating soft-tissue injury to chest and breast, retained beanbag	Taken to OR for foreign-body removal, washout, and débridement; discharged on hospital day 1; treated with healing by secondary intention
F, 19 yr	Open fracture of the olecranon with retained foreign bodies	Taken to OR for ORIF, débridement, and foreign-body removal; discharged on hospital day 2
M, 54 yr	Lacerations to torso and shin	Received washout and laceration repair, discharged
F, 19 yr	Laceration to eyebrow	Received washout and laceration repair, discharged
F, 43 yr	Tuft fracture	Received splinting, discharged
M, 36 yr	Abdominal abrasion, contusion	Discharged
M, 31 yr	Elbow laceration	Received washout and laceration repair, discharged
M, 22 yr	Olecranon fracture	Received sling, discharged
M, 16 yr	Contusion to forearm and leg	Discharged
F, 24 yr	Contusion to abdomen	Discharged
M, 20 yr	Contusion to abdomen, ear laceration	Received washout and laceration repair, discharged
F, 19 yr	Scalp laceration	Received washout and laceration repair, discharged

**VI. Claims**

**A. Officer Rast violated Sam Kirsch's First Amendment rights when he shot Sam in retaliation for protesting police misconduct.**

25. Sam Kirsch incorporates sections I through V above into his First Amendment claim.

26. Sam brings this claim under 42 U.S.C. § 1983.

27. Sam exercised his right to free speech and his right to assemble with other demonstrators to protest police brutality on May 31, 2020.

28. Officer Rast shot Sam because Sam was protesting Austin police and other police departments around the country for their habitual use of excessive force. Officer Rast was acting under color of law when he shot Sam as retribution for Sam exercising his First Amendment rights. Officer Rast was acting under color of law when he directly and proximately caused Sam's injuries.

**B. Officer Rast violated Sam Kirsch's Fourth and Fourteenth Amendment rights when he shot Sam without justification.**

29. Sam Kirsch incorporates sections I through VI.A above into his Fourth and Fourteenth Amendment claims.

30. Sam brings this claim under 42 U.S.C. § 1983.

31. Officer Rast was acting under color of law when he shot Sam as he scrambled to disburse. Officer Rast shot Sam even though Sam did not pose a danger to anyone and *after* Sam had complied with police commands and left the highway.

**C. Officer Rast acted with such impunity and reckless disregard for civil rights, this case warrants damages that will deter this type of misconduct in the future.**

32. Sam Kirsch incorporates sections I through VI.B above into his punitive damages claim.

33. Officer Rast's actions and conduct were egregious, reckless, and endangered numerous peaceful protesters and bystanders. Sam seeks punitive damages to deter this type of retaliation and excessive force against protesters who demonstrate against police brutality in the future.

**D. The City of Austin's policy of using excessive violence to control demonstration crowds violated protesters' First, Fourth, and Fourteenth Amendment rights.**

34. Sam Kirsch incorporates sections I through VI.C above into his *Monell* claim.

35. Sam brings this claim under 42 U.S.C. § 1983.

36. Austin had these policies, practices, and customs on May 30-31, 2020:

- a. Using dangerous kinetic projectiles that caused severe and permanent injuries to control peaceful demonstrations,
- b. Using excessive force against non-violent demonstrators,
- c. Failing to adequately train officers regarding civil rights protected by the United States Constitution,
- d. Failing to adequately train officers in crowd control during non-violent protests,
- e. Failing to adequately supervise officers doing crowd control during non-violent protests,
- f. Failing to intervene to stop excessive force and civil rights violations by its officers during non-violent protests,
- g. Failing to investigate excessive violence by its officers against peaceful protesters, and
- h. Failing to adequately discipline officers for—and deter officers from—using excessive force and violating protesters' civil rights during demonstrations.

37. The City and Brian Manley knew about these policies and directed Austin police to comply with them. The City and Brian Manley developed and issued these policing policies with deliberate indifference to Sam's and other peaceful demonstrators' civil rights.

38. The City and Brian Manley were aware of the obvious consequences of these policies. Implementation of these policies made it predictable that Sam's constitutional rights would be violated in the manner they were, and the City and Brian Manley knew that was likely to occur. It was obvious that these policies would injure more people on May 31 because they injured so many people on May 30. The City and Brian Manley condoned and ratified the civil rights violations and the conduct that caused injuries on May 30 by continuing to mandate the same policies on May 31.

39. These policies were the moving force behind Officer Rast's violation of Sam's civil rights and thus, proximately caused Sam's severe injury and permanent disability.

**E. The City was negligent when it used expired munitions against protesters.**

40. Sam Kirsch incorporates sections I through VI.D above into his negligence claim.

41. The City had a duty to every Austinite, including Sam, to maintain and keep its stockpiles of police equipment functional and up to date. The City had a duty to Sam and every other protester not to arm its police with expired munitions that become more dangerous with age when its police were sent to control crowds during demonstrations. Nonetheless, upon information and belief, the City knowingly armed its police with expired munitions on May 30 and May 31, 2020 and thus breached its duty to Austinites including Sam.

42. Upon information and belief, Sam's injuries were more serious because the projectile was expired and had hardened. Upon information and belief, the City's failure to

maintain unexpired munitions stores and the deliberate decision to use expired munitions against Sam and other protesters directly and proximately caused Sam's injuries.

**VII. Damages**

43. Sam Kirsch incorporates sections I through VI above into this section on damages.

44. Sam seeks recovery for all of his damages including past and future pain, past and future mental anguish, past and future disfigurement, past and future physical impairment, past and future loss of enjoyment of life, past and future medical expenses, past and future lost income, past and future loss of consortium, past and future loss of services, miscellaneous other economic damages including out-of-pocket expenses, pre and post judgment interest, attorney's fees, expenses, and costs.

**VIII. Request for jury trial**

45. Plaintiff requests a jury trial.

**IX. Prayer**

46. For all these reasons, Sam Kirsch requests that the City of Austin and Officer Rast be summoned to appear and answer Sam's allegations. After a jury trial regarding his claims, Sam seeks to recover the damages listed above in an amount to be determined by the jury and any other relief to which he is entitled.

Respectfully submitted,  
Hendler Flores Law, PLLC



---

Rebecca Webber

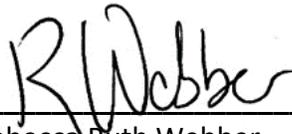
[rwebber@hendlerlaw.com](mailto:rwebber@hendlerlaw.com)  
Scott M. Hendler  
[shendler@hendlerlaw.com](mailto:shendler@hendlerlaw.com)

**HENDLER FLORES LAW, PLLC**  
1301 West 25th Street, Suite 400  
Austin, Texas 78705  
Telephone: 512-439-3202  
Facsimile: 512-439-3201

Attorneys for Plaintiff

**CERTIFICATE OF SERVICE**

I certify that Plaintiff's First Amended Complaint was filed on January 21, 2021 via the Court's CM/ECF which will serve all counsel of record.

  
\_\_\_\_\_  
Rebecca Ruth Webber

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

**SAM KIRSCH,**  
*Plaintiff,*

§  
§  
§  
§  
§  
§  
§

v.

**CIVIL ACTION NO. 1:20-cv-01113-RP**

**CITY OF AUSTIN AND OFFICER  
ROLAN ROMAN RAST,**  
*Defendants.*

**DEFENDANT CITY OF AUSTIN’S ANSWER AND  
AFFIRMATIVE DEFENSES TO PLAINTIFF’S AMENDED COMPLAINT**

TO THE HONORABLE JUDGE OF SAID COURT:

Defendant City of Austin files this Answer and Affirmative Defenses to Plaintiff’s First Amended Complaint (Doc. No. 4). Pursuant to Rules 8 and 12 of the Federal Rules of Civil Procedure, Defendant respectfully shows the Court the following:

**ORIGINAL ANSWER**

Pursuant to Federal Rule of Civil Procedure 8(b), Defendant responds to each of the specific averments in Plaintiff’s First Amended Complaint as set forth below. To the extent that Defendant does not address a specific averment made by Plaintiff, Defendant expressly denies that averment.<sup>1</sup>

This Defendant denies the allegations contained in the first section labeled “Introduction” in Plaintiff’s Amended Complaint.

**PARTIES**

1. Upon information and belief, Defendant admits the allegations contained in Paragraph 1.

---

<sup>1</sup> Paragraph numbers in Defendant’s Answer correspond to the paragraphs in Plaintiffs’ Original Complaint.

2. Defendant admits the allegations contained in Paragraph 2.
3. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 3 and therefore denies same.

**JURISDICTION**

4. Defendant admits the allegations contained in Paragraph 4.
5. Defendant admits the allegations contained in Paragraph 5.
6. Defendant admits the allegations contained in Paragraph 6.

**VENUE**

7. Defendant admits the allegations contained in Paragraph 7.

**FACTS**

8. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 8 of the Amended Complaint and therefore denies same.
9. Defendant denies the allegations contained in Paragraph 9.
10. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 10 of the Amended Complaint and therefore denies same.
11. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 11 of the Amended Complaint and therefore denies same.
12. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 12 of the Amended Complaint and therefore denies same.
13. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 13 of the Amended Complaint and therefore denies same.
14. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 14 of the Amended Complaint and therefore denies same.

15. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 15 of the Amended Complaint and therefore denies same.
16. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 16 of the Amended Complaint and therefore denies the same.
17. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 17 of the Amended Complaint and therefore denies the same.
18. Upon information and belief, Defendant admits the allegations contained in Paragraph 18.
19. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 19 of the Amended Complaint and therefore denies same.
20. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 20 of the Amended Complaint and therefore denies same.
21. Upon information and belief, Defendant admits that Plaintiff made the comments which are quoted in Paragraph 21. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in the remainder of Paragraph 21 of the Amended Complaint and therefore denies same.
22. Defendant admits the allegations contained in the first sentence of Paragraph 22. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in the remainder of Paragraph 22 of the Amended Complaint and therefore denies same.
23. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 23 of the Amended Complaint and therefore denies same.
24. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 24 of the Amended Complaint and therefore denies same.

25. Defendant adopts and incorporates its responses to the previous paragraphs of the Amended Complaint.
26. Defendant admits the allegations contained in Paragraph 26.
27. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 27 of the Amended Complaint and therefore denies same.
28. Defendant denies the allegations contained in Paragraph 28.
29. Defendant adopts and incorporates its responses to the previous paragraphs of the Amended Complaint.
30. Defendant admits the allegations contained in Paragraph 30.
31. Defendant denies the allegations contained in Paragraph 31.
32. Defendant adopts and incorporates its responses to the previous paragraphs of the Amended Complaint.
33. Defendant denies the allegations contained in Paragraph 33.
34. Defendant adopts and incorporates its responses to the previous paragraphs of the Amended Complaint.
35. Defendant admits the allegations contained in Paragraph 35.
36. Defendant denies the allegations contained in Paragraph 36.
37. Defendant denies the allegations contained in Paragraph 37.
38. Defendant denies the allegations contained in Paragraph 38.
39. Defendant denies the allegations contained in Paragraph 39.
40. Defendant adopts and incorporates its responses to the previous paragraphs of the Amended Complaint.
41. Defendant denies the allegations contained in Paragraph 41.

42. Defendant denies the allegations contained in Paragraph 42.
43. Defendant adopts and incorporates its responses to the previous allegations contained in the Amended Complaint.
44. Defendant denies the allegations contained in Paragraph 44.
45. Paragraph 45 is a request for a trial by jury and does not contain allegations that require Defendant to admit or deny.
46. Defendant denies the allegations contained in Paragraph 46 and specifically denies that the Plaintiff is entitled to any relief whatsoever of and from the Defendant.

#### **AFFIRMATIVE DEFENSES**

1. Defendant City of Austin asserts the affirmative defense of governmental immunity as a municipal corporation entitled to immunity while acting in the performance of its governmental functions, absent express waiver.
2. Defendant City of Austin asserts the affirmative defense of governmental immunity since its employees are entitled to qualified/official immunity for actions taken in the course and scope of their employment, absent express waiver.
3. As a political subdivision, Defendant City of Austin denies that it can be liable for exemplary/punitive damages under 42 U.S.C. § 1983.
4. Defendant reserves the right to assert additional affirmative defenses throughout the development of the case.

#### **DEFENDANT'S PRAYER**

Defendant City of Austin prays that all relief requested by Plaintiff be denied, that the Court dismiss this case with prejudice, and that the Court award Defendant costs and attorney's fees, and any additional relief to which it is entitled under law or equity.

RESPECTFULLY SUBMITTED,  
ANNE L. MORGAN, CITY ATTORNEY  
MEGHAN RILEY, CHIEF, LITIGATION

/s/ H. Gray Laird  
H. GRAY LAIRD III  
State Bar No. 24087054  
[gray.laird@austintexas.gov](mailto:gray.laird@austintexas.gov)  
City of Austin  
P. O. Box 1546  
Austin, Texas 78767-1546  
Telephone (512) 974-1342  
Facsimile (512) 974-1311

**ATTORNEYS FOR DEFENDANT CITY OF  
AUSTIN**

**CERTIFICATE OF SERVICE**

This is to certify that I have served a copy of the foregoing on all parties or their attorneys of record, in compliance with the Federal Rules of Civil Procedure, this 1st day of February, 2021.

**Via ECF/e-filing:**

Rebecca Ruth Webber  
State Bar No. 24060805  
[rwebber@hendlerlaw.com](mailto:rwebber@hendlerlaw.com)

Scott M. Hendler  
State Bar No. 09445500  
[shendler@hendlerlaw.com](mailto:shendler@hendlerlaw.com)

HENDLER FLORES LAW, PLLC  
1301 West 25<sup>th</sup> Street, Suite 400  
Austin, Texas 76550  
Telephone: (512) 439-3202  
Facsimile: (512) 439-3201

/s/ H. Gray Laird III  
H. GRAY LAIRD III

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

SAM KIRSCH,

Plaintiff,

v.

THE CITY OF AUSTIN, and  
ROLAN ROMAN RAST,

Defendants.

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

CIVIL ACTION NO. 1:20-CV-01113-RP

**DEFENDANT ROLAN RAST’S ORIGINAL ANSWER**

Defendant Rolan Rast (“Rast”) files this Original Answer in response to the allegations and causes of action asserted in the First Amended Complaint (Dkt. 4) filed by Plaintiff Sam Kirsch (“Plaintiff”). Pursuant to Federal Rules of Civil Procedure 8 and 12, Rast would show the Court as follows:

**ORIGINAL ANSWER**

Pursuant to Federal Rule of Civil Procedure 8(b), Rast responds to each of the specific allegations made in Plaintiff’s First Amended Complaint as set forth below. Any specific allegation in the First Amended Complaint not addressed below is denied.

Rast denies the allegations in the unnumbered preamble paragraph of the First Amended Complaint under the header “Introduction,” in the “Table of Contents,” and in all other headers in the First Amended Complaint.

1. Rast is without sufficient knowledge to form a belief as to the truth of the allegations in Paragraph 1, and therefore denies the same.

2. Rast is without sufficient knowledge to form a belief as to the truth of the allegations in Paragraph 2, and therefore denies the same.

3. With respect to the allegations in Paragraph 3, Rast admits that he is police officer employed by the City of Austin Police Department, and otherwise denies the remaining allegations.

4. Rast admits the allegations in Paragraph 4.

5. Rast admits the allegations in Paragraph 5 as to him, but is without sufficient knowledge to form a belief as to the truth of the remaining allegations, and therefore denies the same.

6. Rast admits the allegation in Paragraph 6 that the Court has personal jurisdiction over him, and otherwise denies the remaining allegations.

7. Rast admits the allegation in Paragraph 7 that the Court has venue over the lawsuit, and otherwise denies the remaining allegations.

8. Rast denies the general allegation in Paragraph 8 about “protestors” being “peaceful.” Rast is without sufficient knowledge to form a belief as to the truth of the remaining allegations in Paragraph 8, and therefore denies the same.

9. Rast denies the allegations in Paragraph 9.

10. Rast is without sufficient knowledge to form a belief as to the truth of the allegations in Paragraph 10, and therefore denies the same.

11. Rast denies the allegation in Paragraph 11 that he shot Plaintiff. Rast is without sufficient knowledge to form a belief as to the truth of the remaining allegations in Paragraph 11, and therefore denies the same.

12. Rast is without sufficient knowledge to form a belief as to the truth of the allegations in Paragraph 12, and therefore denies the same.

13. Rast is without sufficient knowledge to form a belief as to the truth of the allegations in Paragraph 13, and therefore denies the same.

14. Rast denies the allegation in Paragraph 14 that he shot Plaintiff. Rast is without sufficient knowledge to form a belief as to the truth of the remaining allegations in Paragraph 14, and therefore denies the same.

15. Rast is without sufficient knowledge to form a belief as to the truth of the allegations in Paragraph 15, and therefore denies the same.

16. Rast denies the allegation in Paragraph 16 that he used “excessive and unjustified use of force.” Rast is without sufficient knowledge to form a belief as to the truth of the remaining allegations in Paragraph 16, and therefore denies the same.

17. Rast is without sufficient knowledge to form a belief as to the truth of the allegations in Paragraph 17, and therefore denies the same.

18. Rast is without sufficient knowledge to form a belief as to the truth of the allegations in Paragraph 18, and therefore denies the same.

19. Rast denies the allegations in Paragraph 19.

20. Rast is without sufficient knowledge to form a belief as to the truth of the allegations in Paragraph 20, and therefore denies the same.

21. Rast is without sufficient knowledge to form a belief as to the truth of the allegations in Paragraph 21, and therefore denies the same.

22. Rast is without sufficient knowledge to form a belief as to the truth of the allegations in Paragraph 22, and therefore denies the same.

23. Rast is without sufficient knowledge to form a belief as to the truth of the allegations in Paragraph 23, and therefore denies the same.

24. Rast is without sufficient knowledge to form a belief as to the truth of the allegations in Paragraph 24, and therefore denies the same.

25. Rast incorporates his responses above in response to Paragraph 25.

26. No response is required to Paragraph 26, as it does not contain any factual allegations.

27. Rast is without sufficient knowledge to form a belief as to the truth of the allegations in Paragraph 27, and therefore denies the same.

28. Rast denies the allegations in Paragraph 28.

29. Rast incorporates his responses above in response to Paragraph 29.

30. No response is required to Paragraph 30, as it does not contain any factual allegations.

31. Rast denies the allegations in Paragraph 31.

32. Rast incorporates his responses above in response to Paragraph 32.

33. Rast denies the allegations in Paragraph 33.

34. Rast incorporates his responses above in response to Paragraph 34.

35. No response is required to Paragraph 35, as it does not contain any factual allegations.

36. Rast denies the allegations in Paragraph 36.

37. Rast denies the allegations in Paragraph 37.

38. Rast denies the allegations in Paragraph 38.

39. Rast denies the allegations in Paragraph 39.

40. Rast incorporates his responses above in response to Paragraph 40.

41. Rast is without sufficient knowledge to form a belief as to the truth of the allegations in Paragraph 41, and therefore denies the same.

42. Rast is without sufficient knowledge to form a belief as to the truth of the allegations in Paragraph 42, and therefore denies the same.

43. Rast incorporates his responses above in response to Paragraph 43.

44. Rast is without sufficient knowledge to form a belief as to the truth of the allegations in Paragraph 44, and therefore denies the same.

45. No response is required to Paragraph 45, as it does not contain any factual allegations.

46. To the extent any response is required, Rast denies the allegations in Paragraph 46, and denies that Plaintiff has any valid or supportable basis for any recovery from him.

**AFFIRMATIVE DEFENSES**

1. Rast asserts the defense of qualified immunity. Specifically, any and all actions by Rast that may be the subject of Plaintiff's claims did not violate clearly established statutory or constitutional rights of Plaintiff about which a reasonable person would have known.

2. Rast asserts the defense of official immunity. Specifically, any and all actions by Rast that may be the subject of Plaintiff's claims involved discretionary duties within the scope of Rast's authority performed in good faith.

3. Rast reserves the right to assert additional affirmative defenses in accordance with the Federal Rules of Civil Procedure and any orders of this Court.

**PRAYER**

Rast respectfully requests that the Court deny all relief requested by Plaintiff; enter a take-nothing judgment in favor of Rast; award Rast his costs; and award Rast any further relief to which he may show himself to be entitled.

Respectfully submitted,

**BUTLER SNOW LLP**

By: /s/ Karson Thompson

Eric J.R. Nichols

State Bar No. 14994900

[eric.nichols@butlersnow.com](mailto:eric.nichols@butlersnow.com)

Karson Thompson

State Bar No. 24083966

[karson.thompson@butlersnow.com](mailto:karson.thompson@butlersnow.com)

1400 Lavaca Street, Suite 1000

Austin, Texas 78701

Tel: (737) 802-1800

Fax: (737) 802-1801

**ATTORNEYS FOR DEFENDANT  
ROLAN RAST**

**CERTIFICATE OF SERVICE**

I hereby certify that on March 26, 2021, a true and correct copy of the foregoing document was served on all counsel of record by filing with the Court's CM/ECF system, as well as by sending a copy to lead counsel by email.

/s/ Karson Thompson  
Karson Thompson

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

Sam Kirsch,	§	
Plaintiff,	§	
	§	
v.	§	<b>Case no. 1:20-cv-01113</b>
	§	
City of Austin and	§	
Officer Rolan Roman Rast	§	
Defendants.	§	

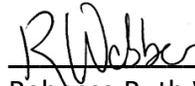
**Plaintiffs' Motion for ESI Order**

Plaintiff respectfully requests the Court enter the ESI Order attached as **Exhibit 1**.

The Parties conferred on two occasions regarding the protocols in the proposed order however the Parties have been unable to reach an agreement.

Dated: June 1, 2021

Respectfully submitted,  
HENDLER FLORES LAW, PLLC



Rebecca Ruth Webber  
[rwebber@hendlerlaw.com](mailto:rwebber@hendlerlaw.com)

Scott M. Hendler  
[shendler@hendlerlaw.com](mailto:shendler@hendlerlaw.com)

**HENDLER FLORES LAW, PLLC**  
1301 West 25th Street, Suite 400  
Austin, Texas 78705  
Telephone: 512-439-3202  
Facsimile: 512-439-3201

Attorneys for Plaintiffs

### Certificate of Conference

I certify that I conferred with all counsel regarding the ESI order on several occasions.

On November 24, 2020, during the parties' first Rule 26(f), I first discussed my concerns regarding emails produced in native formats, chat messages, and texts to be produced in searchable format to preserve all features of the original message. During this Rule 26(f) Conference, Counsel for the Defendants were not prepared to discuss ESI protocols and issues.

I emailed all counsel on December 9, 2020 asking to schedule a second Rule 26f conference and proposing the following ESI protocols:

#### ESI

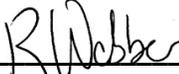
I propose asking the Court to order that email productions be in their native format with some metadata such as date, author, recipient(s) including bcc, transmission info, receipt info.

As far as electronic messages, I propose asking the Court to order production in a searchable format that preserves the features of the original messages (such as emojis or gifs).

I then served the proposed ESI Order, but counsel for the Defendants again declined to take any position on the proposed order on December 9, 2020.

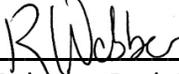
We received Defendants revised ESI proposal on January 29, 2021. Plaintiff brought the matter to this Court's attention and the Court gave parties until June 1, 2021 to reach an agreement. The parties continued to exchange drafts, culminating in a meet and confer on June 1, 2021. During the meet and confer, the parties were unable to reach an agreement on the ESI protocols.

My partner, Scott Hendler, advised Defendants that we would be bringing this Motion before the Court.

  
\_\_\_\_\_  
Rebecca Ruth Webber

### Certificate of Service

I certify that Plaintiffs' motion was served on all counsel of record via email from CM/ECF on June 1, 2021.

  
\_\_\_\_\_  
Rebecca Ruth Webber

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

Sam Kirsch,	§	
Plaintiff,	§	
	§	
v.	§	<b>Case no. 1:20-cv-01113</b>
	§	
City of Austin and	§	
Officer Rolan Roman Rast	§	
Defendants.	§	

**PLAINTIFF'S PROPOSED ESI ORDER**

Here, the parties agree to the following protocol related to production of electronically stored information ("Protocol"). The Protocol sets forth the specifications that shall govern document production during discovery in the above-captioned litigation ("Action").

**A. SCOPE**

1. This Protocol governs the collection and production of responsive computer-generated information or data of any kind, stored in or on any storage media located on computers, file servers, disks, tape or other real or virtualized devices or media ("ESI"), and hard-copy documents (collectively "Data") to be produced electronically in this Action.
2. Nothing herein shall alter the parties' respective responsibility to comply with the applicable Federal Rules of Civil Procedure and Local Rules of the Court regarding the collection or production of Data. To the extent additional obligations, restrictions, or rights not addressed in this Protocol arise under the Federal Rules of Civil Procedure or other applicable law or rules, that law or rule shall govern, including the proportionality standard set forth in Rule 26(b)(1) of the Federal Rules of Civil Procedure.
3. Nothing in this Protocol establishes any agreement regarding the subject matter or scope of discovery in this Action, or the relevance, authenticity, or admissibility of any Data.
4. Nothing in this Protocol shall be interpreted to require production of Data protected from disclosure by the attorney-client privilege, work-product doctrine, or any other applicable protection or privilege.
5. Nothing in this Protocol requires a party to use unreasonably burdensome or expensive data recovery processes, or to search for information, documents, or other materials in locations

where responsive information is not likely to be found. To the extent a party believes that responsive data is likely to be found on data sources that are not reasonably accessible, the party shall disclose that position to the other parties.

6. The parties shall cooperate to identify and facilitate access to the contents of encrypted, password-protected, corrupted, or difficult-to access files produced. The parties will work cooperatively to fashion reasonable, precise, and cost-effective search strategies and to agree upon and implement appropriate measures for quality assurance and quality control. Parties shall be transparent about and disclose their use of mechanized tools to cull responsive data and are encouraged to bring technically adept personnel together to resolve e-discovery issues.

7. To promote communication and cooperation between the parties, the parties will designate e-discovery liaisons for purposes of meeting and conferring on ESI topics. The ESI Liaisons for Plaintiffs shall be Cody Vaughn and Shahin Amini of Hendler Flores Law, PLLC. The ESI Liaisons for Defendant City Austin shall be Gray Laird and Priscilla Chavez. The ESI Liaison for Officer Defendants shall be Karson Thompson. The Parties agree to work in good faith to schedule e-discovery conferences when the ESI Liaisons or their designees are available.

8. Each ESI Liaison will be prepared to participate in the resolution of any ESI discovery issues; familiar with the party's electronic systems and capabilities in order to explain these systems and answer relevant questions; knowledgeable about the technical aspects of e-discovery, including electronic document storage, organization, and format issues; prepared to participate in e-discovery dispute resolutions; know the party's ESI discovery efforts; and have access to those who are familiar with the party's electronic systems and capabilities in order to, as appropriate, answer relevant questions.

#### **B. STANDARD FOR PRESERVATION OF ESI**

1. A party has a common law obligation to take reasonable and proportional steps to preserve discoverable information in the party's possession, custody, or control. In determining what ESI to preserve, parties should apply the following factors listed:

a) Whether the party under a duty to preserve took measures to comply with the duty to preserve that were both reasonable and proportional to what was at issue in known or reasonably anticipated litigation, taking into consideration the factors listed in Fed. R. Civ. P. 26(b)(2)(C);

(b) Whether the failure to preserve evidence was the result of culpable conduct, and if so, the degree of such culpability;

(c) The relevance of the information that was not preserved; and

(d) The prejudice that the failure to preserve the evidence caused to the requesting party, including the possible consequences under Fed. R. Civ. P. 37(e).

2. In preserving ESI and Data, the parties should also consider the limitations of the preservations format. If the preserved format differs from the original, and a party loses information while preserving, the information lost should be documented and all other parties notified to inform a spoliation analysis.

3. Each party shall produce a list of ESI and Data that were not preserved by the standard in B(1) once the common law obligation for preservation began.

4. In accordance with Section F herein, if the parties have a dispute regarding what ESI to preserve which cannot be resolved between the parties, the parties may present that dispute to the Court for judicial determination including the following considerations:

(a) Whether the requesting party and producing party cooperated with each other regarding the scope of the duty to preserve and the way it was to be accomplished; and

(b) Whether the requesting party and producing party sought prompt resolution.

#### **C. STANDARD FOR ADDRESSING PRIVILEGE:**

1. The parties are to confer on the nature and scope of privilege logs for the case, including whether categories of information may be excluded from any logging requirements and whether alternatives to document-by-document logs can be exchanged.

2. With respect to privileged or attorney work product information generated after the filing of the complaint, parties are not required to include any such information in privilege logs.

3. To the extent that a document is withheld from production based on attorney–client privilege or the work product doctrine, the producing Party shall produce a rolling privilege log of withheld documents at the same time that the document is withheld.

4. Parties shall confer on an appropriate non-waiver order under Fed. R. Evid. 502. Until a non-waiver order is entered, information that contains privileged matter or attorney work product shall be immediately returned to the producing party (i) if such information appears on its face that it may have been inadvertently produced or (ii) if the producing party provides notice within 15 days of discovery by the producing party of the inadvertent production.

#### **D. GENERAL PRODUCTION PROTOCOLS**

**1. TIFFs:** All production images will be provided as single page TIFFs in Group IV format and at least 300 DPI resolution. To the extent reasonably possible, the imaged Data shall retain all attributes of the native or hard-copy file, such as document breaks and original document orientation (i.e. portrait to portrait and landscape to landscape). The following formatting will be applied:

- a. Word processing documents will be processed to TIFF format and imaged showing track changes or edits, comments, notes and other similar information;
- b. Spreadsheet files with redactions will be imaged un-hiding any hidden rows and/or columns and/or sheets as provided in Section D.2;
- c. Presentation files will be processed to TIFF format showing comments, hidden slides, speakers' notes and similar data, where present in the original file. In addition to TIFF images, native presentation files will be provided upon request from a receiving party. The native file will be named as the first Bates number of the respective document. The corresponding load file shall include native file link information for each native file that is produced. original file. In addition to TIFF images, native presentation files will be provided upon request from a receiving party. The native file will be named as the first Bates number of the respective document. The corresponding load file shall include native file link information for each native file that is produced; and
- d. Where TIFF images of certain electronic documents are not readable, the parties may produce such documents in native format. Where TIFF images of certain hard-copy documents are not readable, the parties will meet and confer regarding the volume and best method of production prior to producing paper documents in hard copy format. To the extent the Receiving Party obtains through discovery a file or document that the party believes is not adequately represented in TIFF image format, the Receiving Party may request that the file or document be produced in native format by identifying the document by production number, the production of which shall not unreasonably be withheld.

**2. Native Files:** Notwithstanding any provision contained herein, the parties shall produce Microsoft Excel files, .CSV files and other similar spreadsheet files as Native Files. The parties shall further that PowerPoint of similar presentation files shall be produced as Native Files to preserve items such as speaker's notes, transitions, and embedded media. Each of the metadata and coding fields that reasonably can be extracted from an electronic document shall be produced for that document. Fields that are not populated shall be left with null values and not populated with fillers or spaces.

- a. To the extent that any file identified for production in native format contains information subject to a claim of privilege or any other applicable protection that requires redaction, the Producing Party shall convert that file to TIFF format and produce it with the necessary redactions, along with OCR text that reflects such redactions, unless such conversion and redaction is unduly burdensome to the Producing Party. If such conversion is unduly burdensome or renders the document unusable, the Producing Party may produce the document in any reasonably usable form as may be agreed upon by the respective parties.

B. The parties will make reasonable efforts to remove passwords or other security protection from any Native File prior to production. If the security protection cannot be removed from a Native File after reasonable efforts by the Producing Party, a placeholder TIFF image may be produced in place of the Native File indicating that security protection could not be removed from the Data. Upon request from the Requesting Party, the parties shall meet and confer in good faith regarding the reasonable efforts or mechanisms made to remove the security protection from the Native File and/or the production of the available metadata.

**3. Redaction:** The portion of the redacted text shall be clearly identified on the face of the TIFF image, either by masking the redacted content with electronic highlighting in black or through the use of redaction boxes. The label "Redacted" shall appear on the face of the redacted portion of the TIFF image. If Personally Identifiable Information ("PII"), such as social security numbers are redacted, the label "Redacted - PII" shall appear on the face of the redacted portion. If information is redacted based on the attorney-client privilege or the work product doctrine, the basis for the redaction shall appear on the face of the redacted document. Redactions for privilege and work product, including whether such redactions must be included on a privilege log, are discussed in more detail in Section F below. The redacted TIFF image shall be produced in accordance with the provisions for production of TIFF images contained herein. Redacted text shall not be included in the text file for that redacted TIFF image. The original unredacted Native File shall be preserved pending conclusion of the Action.

**4. Text Files:** Each paper document or ESI item produced under this order shall be accompanied by a text file as set out below. All text files shall be provided as a single document level text file for each item, not one text file per page. Each text file shall be named to use the Bates number of the first page of the corresponding production item.

a. OCR: Paper documents will be accompanied by an OCR file. The parties will endeavor to generate accurate OCR and will utilize quality OCR processes and technology. The parties acknowledge, however, that due to poor quality of the originals, not all documents lend themselves to the generation of accurate OCR. OCR text files should indicate page breaks where possible.

b. ESI: Embedded ESI documents ( e.g., a spreadsheet embedded within a word processing document) will be extracted, produced as independent document records and related back to the respective top level parent document ( e.g., standalone file, email message, etc.). Related documents will be produced within a continuous Bates range. However, a Producing Party may suppress its logo or v-card embedded in email files.

**5. Email:** Email messages shall be produced in their native export/backup format (e.g. a ".pst" for Microsoft Outlook) and include metadata such as date; author; recipients in the To:, CC:, and BCC: fields; transmission information; and receipt information. If a party uses Microsoft Outlook,

it should follow the process in attached Exhibit A of this Protocol. If a party uses a different email platform, it should use that platform's equivalent to the process attached Exhibit A.

**6. Electronic Messages:** Electronic messages (e.g., texts; imessages; chats in applications such as slack, Microsoft Teams, Zoom, Skype, or Webex) shall be produced in their native export/backup formats. Electronic message production should include attachments such as reactions, files, calendar data, and metadata. Because chat platforms back up different features in different locations (e.g., Microsoft teams backs up various features in Exchange, SharePoint, and OneDrive), each party shall take care to produce each back up file and collate the back up files into folders for each user and label as such.

**7. Training Modules:** Interactive training models, if any, shall be produced in a format so that other parties may engage with the training module as officers would. If this is not possible, the interactive training modules can be produced for video-recorded inspection.

**8. Images:** Images must be produced in their native format (e.g. .jpeg; .png; .gif).

**9. Audio:** Audio must be produced in their native format (e.g. .mp3; .wav; .wma).

**10. Video:** Video must be produced in their native format (e.g. .mpg; .mov; .wmv). If videos cannot be produced in a format playable by the other party (e.g. as part of proprietary software), the other party will be permitted video-recorded inspection.

**11. Social Media:** Social Media will be produced as each respective sites' downloadable data files (e.g., .json, .html) or another format that preserves social media posts' metadata, engagements (e.g. likes, comments, reactions), and media to the extent possible. These downloadable data files may be converted by the producing party to another commonly accessible format if necessary to remove non-responsive information from the production.

**12. Bates Numbering:**

a. All images must be assigned a Bates number that must always:

- (1) be unique across the entire document production;
- (2) maintain a constant length (0- padded) across the entire production;
- (3) contain no special characters or embedded spaces; and
- (4) be sequential within a given document.

b. If a Bates number or set of Bates numbers is skipped in a production, the producing party will so note in a cover letter or production log accompanying the production.

c. The producing party will endorse all TIFF images in the lower righthand corner with its corresponding bates number, using a consistent font type and size. The Bates number

must not obscure any part of the underlying image. If the placement in the lower right-hand corner will result in obscuring the underlying image, the Bates number should be placed as near to that position as possible while preserving the underlying image.

**13. Parent-Child Relationships for Email Data:** Parent-child relationships (the association between an attachment and its parent document) that have been maintained in the ordinary course of business should be preserved. For example, if a party is producing a hard copy printout of an e-mail with its attachments, the attachments should be processed in order behind the e-mail. Each document shall be produced with the production number for the first and last page of that document in the "BegDoc" and "EndDoc" fields of the data load file and with the "BegAttach" and "EndAttach" fields listing the production number for the first and last page in the document family.

**14. Load Files:** All production items will be provided with a delimited data file or "load file." Acceptable formats for the load file are .log, .opt, .dii .lfp, .txt, .dat, or .csv. Each party will designate its preferred load file format. Parties are encouraged to work in cooperation with one another and each other's respective vendors in exchanging sample load files. The load file must reference each TIFF in the corresponding production. The total number of documents referenced in a production's data load file should match the total number of designated document breaks in the Image Load files in the production. Each deliverable volume should limit directory contents to approximately 1000 files per folder.

**15. De-duplication:** To reduce the unnecessary costs of reviewing and producing duplicate documents, each party will make reasonable efforts to remove duplicate Data prior to producing documents. Data will be deduplicated vertically within each custodian and horizontally across custodians (e.g., globally) following industry standard de-duplication algorithms. The ALL\_CUSTODIANS field will be populated with all the custodians who had a copy of the document in their files, including BCC recipients.

a. To reduce the volume of entirely duplicative content within email threads, the parties may but are not required to use email thread suppression but shall disclose that they have used email thread suppression.

**17. Other Formats:**

a. If a Producing Party identifies a particular source or type of responsive Data for which it reasonably believes that application of this Protocol would be unduly burdensome or impractical, the party identifying the source or type of responsive Data shall promptly notify the Requesting Party, explaining in detail the type and source of the Data at issue, and the reason(s) why the party believes that application of this Protocol would be unduly burdensome or impractical, and proposing reasonable modifications of this Protocol with respect to that source or type of responsive Data. Thereafter, the parties shall meet and confer within 14 calendar days to determine if modification of the Protocol with respect to the Data at issue is appropriate, and if an agreement is not reached, the Producing

Party bears the burden of seeking relief from the Court from the requirements of this Protocol.

b. If a response to discovery requires production of ESI contained in a database or comprehensive electronic accounting system, the Producing Party shall meet and confer with the Requesting Party concerning a reasonable method of production. To the extent reasonably available, the Producing Party shall also provide any data dictionary, key, or other information sufficient to provide a reasonable understanding of the contents of the database or accounting system.

**18. Full Production:** Parties complying with (D. 1., 2., 4.–11.) can choose to turn over all files beyond responsive production. Alternatively, parties may use the search term procedure in (D. 19.) to ensure satisfaction of all responsive discovery.

**19. Alternative production through search terms for Email Data:**

a. Parties requesting ESI discovery and parties responding to such requests are expected to cooperate in the development of search methodology and criteria to achieve proportionality in ESI discovery, including appropriate use of computer-assisted search methodology. Parties shall try to reach agreement on appropriate search terms before any query is performed.

b. A producing party shall disclose what search terms, if any, will be used to locate ESI likely to contain discoverable information. If search terms will be used, a party shall disclose the search methodology used to locate ESI likely to contain discoverable information.

c. The cooperation will follow this schedule:

a. The producing party will confer with requesting party within five business days of receiving the discovery request (exclusive of the day of receipt) with proposed search terms or search methodology for each request;

b. The requesting party will reply with any objections to the producing party's proposed terms and methodologies within five business days of receiving the proposal (exclusive of the day of receipt);

c. The producing party will send any compromise proposal within five business days of requesting party's reply;

d. Parties will meet and confer over the proposals, and in the meantime the producing party can search for and produce Email Data using the then-developed search terms, subject to the requesting party's retention of its rights to seek broader discovery.

### **E. HARD COPY PRODUCTION FORMAT**

1. The parties agree that, with respect to documents that exist in hard-copy format ("Hard-Copy Materials"), a Producing Party will image and produce such documents as TIFF images and OCR text in accordance with the specifications delineated above. Where paper scanned images have identification spines, file folder labels, "post-it notes," or any other labels, the information on the label shall be scanned and produced to the extent practicable. In addition, folder labels, box labels, or binder labels (including spines), or other similar top-level identifiers, to the extent practicable, shall be manually recorded at the time of scanning and coded in the Binder and/or Folder field. Load files for such productions shall include data relevant to the individual documents, including Bates numbering, custodian, OCR and folder labels and box labels that have been manually recorded.
2. To the extent responsive hard-copy materials are included in a large compilation of documents that is compiled solely for the purposes of storage convenience and not for any purposes related to the litigation and contains irrelevant, non-responsive hard-copy materials, the Producing Party may produce responsive, non-privileged hard-copy materials without also producing non-responsive hard-copy materials.
3. If a Producing Party reasonably believes that production of hard-copy materials as imaged files pursuant to this section is unduly burdensome, the Producing Party shall seek to meet and confer in good faith with the Requesting Party regarding content, volume, and related issues before any production of hard-copy materials. If the parties are unable to reach agreement, any party reserves its rights to seek broader or a different form of production.

### **F. DISPUTES**

1. The parties agree to meet and confer in good faith regarding matters related to the production of Data not specifically set forth in this Protocol, related to the interpretation of this Protocol, or related to the parties' obligations thereunder.
2. The parties shall make their best efforts to comply with and resolve any differences concerning compliance with this Protocol. If a Producing Party cannot comply with any material aspect of this Protocol, such party shall inform the Requesting Party in writing at or before the time of production as to why compliance with the Protocol is unreasonable or not possible.
3. If the parties are unable to reach resolution regarding any dispute concerning the interpretation of this Protocol or compliance with same, such disputes may be presented for judicial resolution. No party may seek judicial relief concerning this Protocol unless it first has conferred with the applicable Producing or Requesting Party.

4. If the Court determines that any counsel or party in a case has failed to cooperate and participate in good faith in the meet and confer process, the Court may require additional meet and confer discussions, if appropriate.

**SO ORDERED, this \_\_\_\_\_ day of June, 2021.**

---

**HONORABLE JUDGE PRESIDING**

# Exhibit A

# Account Information



Info

Open & Export

Save As

Save Attachments

Print

Office Account

Feedback

Options

Exit

 [Redacted] Microsoft Exchange

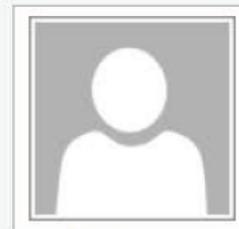
 Add Account

  
Account Settings ▾

## Account Settings

Change settings for this account or set up more connections.

- Access this account on the web.  
<https://outlook.office365.com/owa/hendlerlaw.com/>
- [Get the Outlook app for iOS or Android.](#)



[Change](#)

  
Automatic Replies

## Automatic Replies (Out of Office)

Use automatic replies to notify others that you are out of office, on vacation, or not available to respond to email messages.

  
Tools ▾

## Mailbox Settings

Manage the size of your mailbox by emptying Deleted Items and archiving.

- 48.9 GB free of 49.5 GB

  
Manage Rules & Alerts

## Rules and Alerts

Use Rules and Alerts to help organize your incoming email messages, and receive updates when items are added, changed, or removed.

  
Manage Add-ins

## Manage Add-ins

Manage and acquire Web Add-ins for Outlook.

- ←
- Info
- Open & Export**
- Save As
- Save Attachments
- Print
- Office Account
- Feedback
- Options
- Exit

# Open



## Open Calendar

Open a calendar file in Outlook (.ics, .vcs).



## Open Outlook Data File

Open an Outlook data file (.pst).



## Import/Export

Import or export files and settings.



## Other User's Folder

Open a folder shared by another user.

## Import and Export Wizard



Choose an action to perform:

Export RSS Feeds to an OPML file

**Export to a file**

Import a VCARD file (.vcf)

Import an iCalendar (.ics) or vCalendar file (.vcs)

Import from another program or file

Import RSS Feeds from an OPML file

Import RSS Feeds from the Common Feed List

### Description

Export Outlook information to a file for use in other programs.

< Back

Next >

Cancel

Export to a File



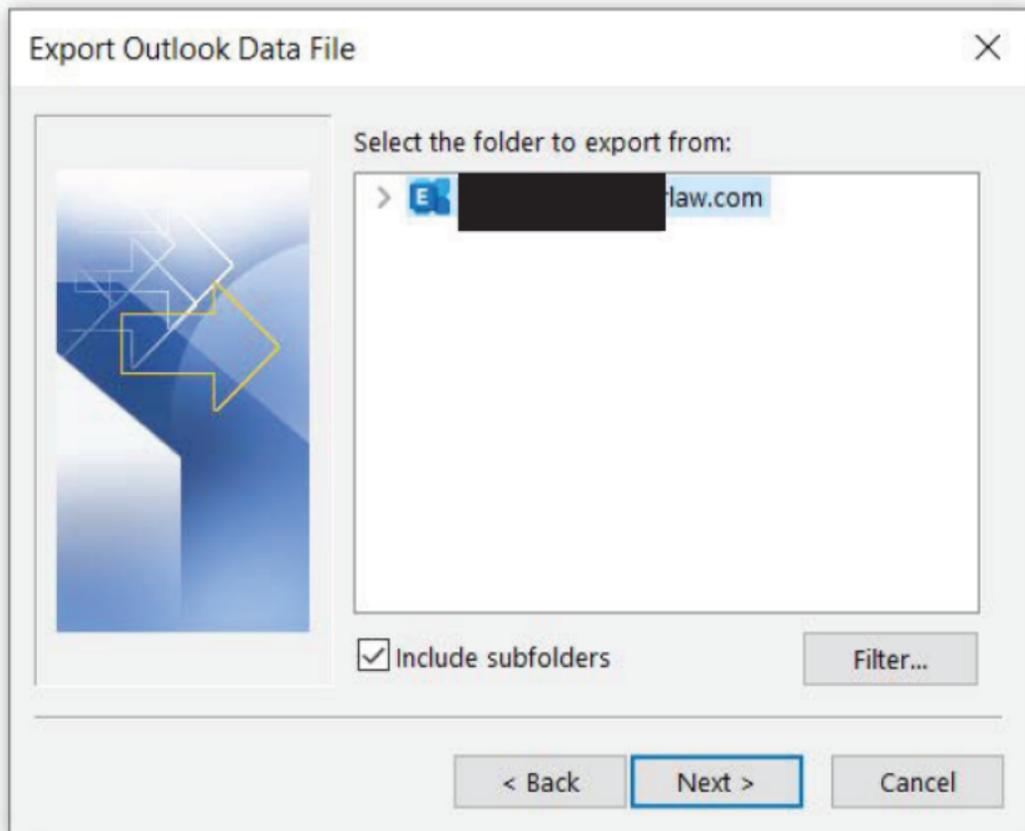
Create a file of type:

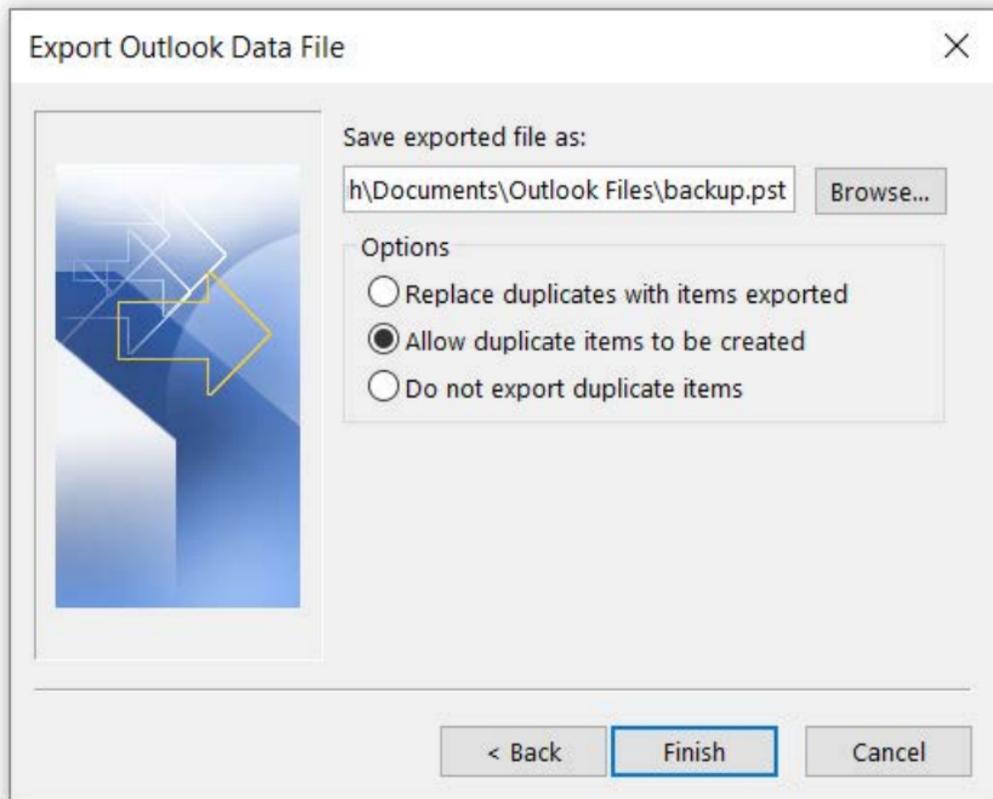
Comma Separated Values  
Outlook Data File (.pst)

< Back

Next >

Cancel





**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

**SAM KIRSCH,**  
  
**Plaintiff,**

v.

**THE CITY OF AUSTIN and  
ROLAN ROMAN RAST,**  
  
**Defendants.**

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

**CIVIL ACTION NO. 1:20-CV-01113-RP**

**DEFENDANTS’ JOINT RESPONSE TO  
PLAINTIFF’S MOTION FOR ESI ORDER**

Defendants the City of Austin (“the City”) and Officer Rolan Rast (“Officer Rast”) file this joint response in opposition to Plaintiff’s Motion for ESI Order (Dkt. 18).

Plaintiff’s motion merely attaches a proposed “ESI Order,” without any explanation or authority for why it should be entered. The “ESI Order” submitted by Plaintiff contains internally contradictory, unnecessary, and burdensome proposed ESI-related provisions that would serve no real role in the case. Its proposed content would also seek to engage the Court in determining whether Plaintiff’s proposed general and abstract restatement of the law relating to preservation and spoliation of evidence is accurate in the abstract, or advisable for a court to enter as an order. Even in the absence of specific discovery requests, discovery in this case is already proceeding without an “ESI Order” in place. Engaging in abstract discussions about the law of preservation and spoliation and then asking the Court to enter in essence a generalized discussion of the law does not advance discovery, and putting additional complicated and expensive hurdles in the way of document production would only serve to impede rather than facilitate the process. This case is being handled by professional counsel on all sides who can work cooperatively to ensure

discoverable information is produced in a timely manner, and in an accessible and usable format. The motion should be denied.

### **BACKGROUND**

This is a civil rights case brought under 42 U.S.C. § 1983. Plaintiff Sam Kirsch has brought free speech and excessive force claims arising out of injuries he sustained while participating in protests last year. Discovery is progressing in the case, and document production is already underway. As part of its Rule 26 disclosures, the City has to date produced over 3,000 pages of discovery material, a production that includes written documents as well as multimedia files such as images and video recordings. (Plaintiff has produced nothing.)

Counsel conferred regarding scheduling and discovery matters in this case on April 21, 2021.<sup>1</sup> During that conference, Plaintiff's counsel expressed a desire to have an identical proposed form of "ESI Order" entered in both this matter and an unrelated civil rights matter. From that point forward, the parties have discussed the terms and limits of a potential agreement on how relevant ESI would be produced in this case.

Subsequent to that meeting, counsel for all parties have exchanged draft language on a potential agreement on the form of ESI production and conferred by telephone. The parties have been unable to reach agreement on a general protocol for the form of ESI production, much less the form of Plaintiff's proposed "ESI Order." It has become clear from those discussions that the specifics about production of any ESI in this case is not the focus of Plaintiff's efforts. Defendants have made clear that they have and will continue to work with Plaintiff's counsel to get

---

<sup>1</sup>Plaintiff states in the certificate of conference on the motion that the parties had a Rule 26(f) conference in this case on November 24, 2020, which was before any party had answered and before Officer Rast was even named as a Defendant. Plaintiff is most likely making reference not to a Rule 26(f) conference in this case but instead to one conducted in an unrelated civil rights lawsuit, *Shalitha Ross et al. v. City of Austin et al.*, No. 1:20-cv-000856-LY (W.D. Tex.).

discoverable material produced in a usable format. Instead, Plaintiff's counsel have redoubled their efforts to have the Defendants agree (or ask the Court to enter as an order) to a generalized statement on the law on preservation and spoliation of evidence and dozens of complicated, unnecessary, internally inconsistent, and extremely burdensome procedures for discovery.

In that other, unrelated civil rights matter also involving Plaintiff's counsel (*Ross v. City of Austin et al.*), defense counsel provided plaintiffs' counsel with an alternative form of ESI agreement that would eliminate all of the abstract discussions on the law of preservation and spoliation of evidence, and would focus the parties on the actual form of production to be used in the case. A copy of that proposed agreement is attached as **Ex. A**. At the conclusion of the parties' most recent June 1, 2021 conference call, Plaintiff's counsel represented they would take another look at the proposed written agreement on the form of ESI production in light of the parties' discussions and the Defendants' proposal and consider circulating a revised draft. Rather than doing that, Plaintiff filed the pending two-line motion requesting the Court enter a form of "ESI Order" that reflects essentially none of the proposed changes that Defendants had suggested.

## **ARGUMENT**

### **A. Plaintiff has the burden to justify its proposed ESI Order.**

As the party seeking the entry of an "ESI Order," Plaintiff bears the burden of establishing that such an order should be entered. The Federal Rules of Civil Procedure do not require such orders, nor do this Court's Local Rules. *E.g., United Disaster Response, L.L.C. v. Omni Pinnacle, L.L.C.*, 2008 WL 11353712 (E.D. La. 2008) (declining to enter a burdensome "ESI Order" that exceeded model standards in existence and based on concerns raised by defendants). "Clearly, an order governing the discovery of ESI is not required by Rules 26 and 34." *Id.* at \*3. This Court has no standard or model order on ESI production, such as the "E-Discovery in Patent Cases" order

used in the Eastern District of Texas.<sup>2</sup> The City routinely litigates civil rights cases in this district without the use of anything like the proposed “ESI Order,” and Defendants’ counsel have not found such orders to be necessary in their experience in this district or elsewhere. At the same time, defense counsel were prepared to and have discussed with Plaintiff’s counsel a written agreement on the *form* of ESI production, but Plaintiff’s counsel has elected to stand on its form of “ESI Order.”

**B. Plaintiff made no effort to meet that burden.**

Plaintiff’s two-sentence motion cites no authority for the entry of its proposed “ESI Order.” Nor does the motion make any argument supporting entry of the order or explaining the usefulness or necessity of any of the dozens of highly specific, technical, and complex requirements that order would impose. The failure to articulate a basis for entry of the “ESI Order” is reason enough for the Court to deny the motion.<sup>3</sup>

**C. The proposed order is unnecessary.**

Without delving into the specifics of the proposed “ESI Order,” which spans ten single-spaced pages, the motion should be denied because the order simply is not necessary. Without any order relating to form of production in place, the City has already produced thousands of pages of production in the case. As it does in all of these cases, the City generally produces the documents in the format in which they were kept in the ordinary course of business: predominantly PDF format for documents. Conversion of a limited number of documents from their “native”

---

<sup>2</sup>That four-page double-spaced model order is available in the Civil Forms section of the Eastern District’s website: [http://txed.uscourts.gov/sites/default/files/forms/E-Discovery\\_Patent\\_Order.pdf](http://txed.uscourts.gov/sites/default/files/forms/E-Discovery_Patent_Order.pdf).

<sup>3</sup>Additionally, Defendants would object to any effort by Plaintiff to “lay behind the log” and articulate its substantive position to the Court for the first time in a reply brief. W.D. Local Rule CV-7(d)(1).

format is necessary to preserve content and allow for Bates labeling (such as with Word documents, which remain editable in “native” .doc format, or with image files).

This is the City’s standard approach to discovery in these cases. This method does not result and has not resulted in any issues that capable counsel cannot resolve. For example, Plaintiff’s counsel recently raised a concern over the opacity of a “CONFIDENTIAL” watermark the City placed on some of its document production in *Ross*, and the City accommodated Plaintiff’s request to reproduce those documents with a lighter watermark. **Ex. B.** This traditional process—counsel identifying a specific question or issue with a particular document produced in discovery and working together to solve the problem—works, and it does not require asking the Court to engage in abstract recitations of the law on collection and preservation of evidence, or to mandate generalized, complicated, and burdensome methods of production.

Plaintiff has not articulated any specific, unresolvable problems with the City’s current production, and has even expressed the view that the City’s approach to producing PDF documents as PDFs was generally acceptable, notwithstanding the fact (as explained below) that it would not comply with the six pages of “Production Protocols” contained in the “ESI Order.” After filing this motion, Plaintiff’s counsel suggested a need for a “native” email production in order to access unspecified email “metadata.” **Ex. C.** But the email “metadata” described in the proposed “ESI Order”—date, author, recipients, transmission/receipt information—is preserved, accessible, and readily apparent from the email headers included in the City’s existing PDF-format email production.

Rather than enter into complex agreements that attempt to hypothesize potential rather than existing problems and disputes about discovery matters, and that seek to treat this matter as a complex commercial or patent case involving vast amounts of data, the Defendants respectfully

suggest the preferable course of action is for the parties to continue to meet and confer about any specific issues with the parties' respective document productions as they may arise. There is simply no need for the Court to consider, much less enter, an order that sets out general principles of collection and preservation of ESI without any live issue on either, or an order burdening the parties with dozens of byzantine technical requirements when discovery can be conducted in a satisfactory manner without such requirements in place.

**D. The proposed "ESI Order" is unduly burdensome.**

If the Court were to consider the specifics of the proposed "ESI Order," it would see that the order places significant burdens on the parties producing documents or otherwise participating in discovery. These burdens, and the associated expenses, fall almost exclusively on the City, as the party with possession, custody, or control over the vast majority of relevant documents in the case. Even in the absence of discovery requests from Plaintiff, the City is already proactively participating in discovery, producing over 3,000 pages of documents and other materials in connection with its initial disclosures in this case (and even more in the unrelated *Ross* matter). (Plaintiff has produced no documents, and his disclosures specifically identify only unproduced "family photos" and "video footage of the incident" as documents he intends to rely upon at trial.)

It is not possible to succinctly set forth in a 10-page reply every problem presented by the proposed "ESI Order," or to fully quantify the monetary cost of compliance outside the context of specific discovery requests. The proposed agreement attached as **Exhibit A** as provided to Plaintiff's counsel would seek to eliminate all of the internal contradictions and unnecessary burdens set out in Plaintiff's proposed order. The non-exclusive examples below highlight the kinds of burdens and contradictions Plaintiff's proposal would impose and the lack of any need to impose such burdens.

**1. Attempts to restate the law and impose novel discovery obligations.**

Section B of the proposed ESI Order, titled “Standard for Preservation of ESI,” sets forth Plaintiff’s view of the state of the “common law” regarding preservation of evidence and spoliation. Defendants do not believe the parties need to attempt to restate the law in their agreements or ask the Court to endorse their view of the law by signing an order. To the extent any evidence preservation or spoliation issues may arise in this litigation—a concern that is purely hypothetical at this point—the parties would brief and this Court would decide then and there what the law is, what the law requires in that instance, and what, if any, action should be taken in the context of a specific dispute.

More significantly, Section B goes on to create a novel discovery obligation, requiring each party to “produce a list of ESI and Data that were not preserved by the standard” described earlier in Section B. Instead of doing what the Rules already require—setting out obligations on parties to search for and produce documents that exist as part of initial disclosures or discovery requests made in the case—the proposed order sets out a requirement for parties to determine what documents may have existed at one time “once the common law obligation for preservation began” (whatever that means); determine whether those non-existent documents would be responsive under a wholly undefined standard; and then log those non-existent materials. Nothing in the Federal Rules or case law requires the creation of such a list, if such a list could ever be created. To the contrary, courts have held parties may not invoke the discovery rules “to require another party to create or prepare a new or previously non-existent document solely for its production.” *Mir v. L-3 Comm’cns Integrated Sys., L.P.*, 319 F.R.D. 220, 227 (N.D. Tex. 2016).

**2. Requirement to produce materials in a non-native format.**

Section D.1 of the proposed ESI Protocol requires “all production images”<sup>4</sup> to be provided in “TIFF” format. Because documents are generally not created or maintained in TIFF format in the ordinary course of business, this amounts to an obligation to process and convert all documents produced in the case. For example, where the City maintains information in the commonly used and readily accessible PDF format, the ESI Protocol requires conversion of those PDF documents into TIFF format before the documents can be produced. To make it even more confusing, Plaintiff’s Proposed ESI Order requiring production in TIFF format runs contrary to Plaintiff’s certificate of conference, in which it is represented that Plaintiff is asking for production in native format. In any event, the City has already produced thousands of pages of readable and usable documents without any specific unresolvable issue having been raised about their form of production.

**3. Production of native email “database” files.**

Section D.5 of the proposed ESI Protocol calls for the production of email messages “in their native export/backup format (e.g., a “.pst” for Microsoft Outlook).” A .pst file is a database file, not an individual email file (e.g., a “.msg” for Microsoft Outlook). A .pst file may contain hundreds or thousands of emails, attachments, calendar entries, and other data stored in an email account. In the experience of the undersigned counsel, wholesale “native” .pst files are not routinely produced in litigation. At most (and in much more complicated and ESI-intense cases), native .pst files are used to gather emails and other information from relevant custodians and the

---

<sup>4</sup>It is not clear in the proposed “ESI Order” what would even count as a “production image.” Despite opening with a demand for production of data in TIFF format, the proposed “ESI Order” proceeds to identify numerous types of documents that should instead be produced in different formats, including spreadsheets, emails, electronic messages, audio and video files, and social media information.

emails and other data are then extracted from the .pst files and converted into another format (such as TIFF or PDF), allowing for individual review, redaction, labeling, and production.

There is no reason or basis on which to ask the Court to require wholesale production of .pst files. As in every case, the Defendants have the right to collect potentially responsive emails, review those emails for responsiveness and privilege, and produce (or withhold) the individual emails accordingly. Nothing in the Federal Rules requires or counsels a court to order that a party provide another party's counsel the equivalent of a seat at each email custodian's computer, without regard to responsiveness and privilege. In fact, the opposite is true: Rule 26(b) places limitations on the scope of discovery to "any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case." Any specific issues over the form of production of a particular email that stem from following the typical email production process can be addressed by professional counsel as they may arise.

**4. Production of customized native "electronic message" files.**

Section D.6 of the proposed ESI Order requires parties to produce electronic messages "in their native export/backup formats." It further requires the producing party to "produce each back up file and collate the back up files into folders for each user and label as such." As with the native .pst production issue, production of electronic messages in "native export/backup formats" potentially renders it impossible to review individual messages for responsiveness and privilege and produce documents accordingly. Additionally, the extra step of customizing this native format to collate files and create and label folders imposes additional burdens on the producing party and potentially requires parties to organize or create information that was not kept in the ordinary course of business. *See Mir*, 319 F.R.D. at 227.

**5. Production of native image files.**

Section D.7 of the proposed “ESI Order” requires parties to produce images (such as photographs) in their native format. The City’s document productions in this matter and the *Ross* matter include hundreds to thousands of individual images. To facilitate Bates labeling and production, the City converted those images to PDF format, which allows for bulk processing. Solely native production would require the City to manually rename each file to a Bates number individually and would preclude the embossing of a Bates label or confidentiality branding on the image itself. The City is willing to provide access as needed to particular native image files in addition to the Bates-labeled PDF images—for particular images of genuine interest for trial or other presentation—but to require production of hundreds of individual images as “native” would impose an undue burden. In this case, such an effort would require an estimated 8-10 person-hours of work to convert individual photographs, with no demonstrated benefit.

**6. Mandatory use of de-duplication algorithms.**

Section D.15 of the proposed “ESI Order” requires parties to employ “industry standard de-duplication algorithms” to reduce the presence of duplicate documents. In order to employ such an algorithm, all of the produced data must necessarily be loaded into some form of review platform or database capable of cross-referencing all documents in the potential production universe. The City does not maintain or use such a platform and should not be required to requisition one or hire outside vendors to perform such services at the taxpayers’ expense, simply to avoid the possibility that a particular document may appear more than once in the City’s production. While de-duplication technology may be available and useful in cases between private plaintiffs (*e.g.*, large corporations) involving massive amounts of responsive ESI, there is no

indication that requiring the City to first acquire and then deploy “de-duping technology” would be necessary or useful, or proportional to the discovery needs of this case.

The above examples are just examples, and are illustrative of the fact that Plaintiff has failed to present any genuine justification or basis on which to suggest that any “ESI Order”—much less one with all of the contradictions and complications presented by Plaintiff’s proposed order—should be considered by the Court in this case.

### CONCLUSION

For the foregoing reasons, the Defendants respectfully request the Court deny Plaintiff’s Motion for ESI Order.

Respectfully submitted,

By: /s/ H. Gray Laird III

H. Gray Laird  
Assistant City Attorney  
State Bar No. 24087054  
[gray.laird@austintexas.gov](mailto:gray.laird@austintexas.gov)  
City of Austin Law Department  
P.O. Box 1546  
Austin, Texas 78767-1546  
Telephone: (512) 974-1342  
Facsimile: (512) 974-1311

**ATTORNEY FOR DEFENDANT  
CITY OF AUSTIN**

**BUTLER SNOW LLP**

By: /s/ Karson Thompson

Eric J.R. Nichols

State Bar No. 14994900

[eric.nichols@butlersnow.com](mailto:eric.nichols@butlersnow.com)

Karson Thompson

State Bar No. 24083966

[karson.thompson@butlersnow.com](mailto:karson.thompson@butlersnow.com)

1400 Lavaca Street, Suite 1000

Austin, Texas 78701

Tel: (737) 802-1800

Fax: (737) 802-1801

**ATTORNEYS FOR DEFENDANT  
ROLAN RAST**

**CERTIFICATE OF SERVICE**

I hereby certify that on June 8, 2021, a true and correct copy of the foregoing document was served on all counsel of record by filing with the Court's CM/ECF system.

/s/ H. Gray Laird III

H. Gray Laird

# **Exhibit A**

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
**AUSTIN DIVISION**

<b>Shalitha Ross</b> , individually, as Independent	§
Executrix of the Succession of Aquantis	§
Griffin, and as natural guardian of K.F., a	§
minor, and	§
<b>Ariel Griffin</b> ,	§
	§
Plaintiffs,	§
	§
v.	§
	§ <b>CIVIL ACTION NO. 1:20-cv-00856</b>
<b>Joseph Cast, Wesley Devries,</b>	§
<b>Justin Halbach, Stephen Johnson,</b>	§
<b>Alberto Martinez, Daniel Mathis,</b>	§
<b>Joseph Moran, Christopher Salacki, and</b>	§
the <b>City of Austin</b> ,	§
	§
Defendants.	§

**AGREEMENT ON PRODUCTION OF ELECTRONICALLY STORED INFORMATION**

The parties in the above-captioned litigation by and through their undersigned counsel, agree to the following procedures related to production of electronically stored information ("Protocol"). The Protocol sets forth the specifications that shall govern document production during discovery in the above-captioned litigation ("Action").

**A. SCOPE**

1. This Protocol governs the collection and production of responsive computer-generated information or data of any kind, stored in or on any storage media located on computers, file servers, disks, tape or other real or virtualized devices or media ("ESI"), and hard-copy documents (collectively "Data") to be produced electronically in this Action.

2. Nothing herein shall alter the parties' respective responsibility to comply with the applicable Federal Rules of Civil Procedure and Local Rules of the Court regarding the collection or production of Data. To the extent additional obligations, restrictions, or rights not addressed in this Protocol arise under the Federal Rules of Civil Procedure or other applicable law or rules, that law or rule shall govern, including the proportionality standard set forth in Rule 26(b)(1) of the Federal Rules of Civil Procedure.

3. Nothing in this Protocol establishes any agreement regarding the subject matter or scope of discovery in this Action, or the relevance, authenticity, or admissibility of any Data.
4. Nothing in this Protocol shall be interpreted to require production of Data protected from disclosure by the attorney-client privilege, work-product doctrine, or any other applicable protection or privilege.
5. Nothing in this Protocol requires a party to use unreasonably burdensome or expensive data recovery processes, or to search for information, documents, or other materials in locations where responsive information is not likely to be found. To the extent a party believes that responsive data is likely to be found on data sources that are not reasonably accessible, the party shall disclose that position to the other parties.
6. The parties shall cooperate to identify and facilitate access to the contents of encrypted, password-protected, corrupted, or difficult-to access files produced. The parties will work cooperatively to fashion reasonable, precise, and cost-effective search strategies and to agree upon and implement appropriate measures for quality assurance and quality control. Parties shall be transparent about and disclose their use of mechanized tools to cull responsive data and are encouraged to bring technically adept personnel together to resolve e-discovery issues.
7. To promote communication and cooperation between the parties, the parties will designate e-discovery liaisons for purposes of meeting and conferring on ESI topics. The ESI Liaisons for Plaintiffs shall be Cody Vaughn and Shahin Amini of Hendler Flores Law, PLLC. The ESI Liaisons for Defendant City Austin shall be Gray Laird and Priscilla Chavez. The ESI Liaison for Officer Defendants shall be Karson Thompson. The Parties agree to work in good faith to schedule e-discovery conferences when the ESI Liaisons or their designees are available.
8. Each ESI Liaison will be prepared to participate in the resolution of any ESI discovery issues; familiar with the party's electronic systems and capabilities in order to explain these systems and answer relevant questions; knowledgeable about the technical aspects of e-discovery, including electronic document storage, organization, and format issues; prepared to participate in e-discovery dispute resolutions; know the party's ESI discovery efforts; and have access to those who are familiar with the party's electronic systems and capabilities in order to, as appropriate, answer relevant questions.

## **B. GENERAL PRODUCTION PROTOCOLS**

1. **Form of production for non-email Data:** Non-email Data shall be produced in native format, unless production in native format is unduly burdensome or if redaction is necessary pursuant to the provisions set forth below, in which case the Data shall be produced in a format that is accessible and readable using commonly available software and applications.

**2. Redaction of non-email Data:** To the extent that redaction for privilege or other reason is required, the non-email Data shall be produced as a TIFF image. The portion of the redacted text shall be clearly identified on the face of the TIFF image, either by masking the redacted content with electronic highlighting in black or through the use of redaction boxes. The label "Redacted" shall appear on the face of the redacted portion of the TIFF image. If Personally Identifiable Information ("PII"), such as social security numbers are redacted, the label "Redacted - PII" shall appear on the face of the redacted portion. If information is redacted based on the attorney-client privilege or the work product doctrine, the basis for the redaction shall appear on the face of the redacted document. Redactions for privilege and work product, including whether such redactions must be included on a privilege log, are discussed in more detail in Section F below. The redacted TIFF image shall be produced in accordance with the provisions for production of TIFF images contained herein. Redacted text shall not be included in the text file for that redacted TIFF image. The original unredacted Native File shall be preserved pending conclusion of the Action.

**3. Production of Email Data:** Email Data, if any, shall be converted into individual emails (as PDFs or TIFFs) and produced in that format along with load files that include the metadata for the emails.

**4. Production of Electronic Messages:** Electronic messages (e.g., texts; imessages; chats in applications such as slack, Microsoft Teams, Zoom, Skype, or Webex), if any, shall be produced, as required, in a format commonly used by qualified forensic examiners.

**5. Training Modules:** Interactive training models, if any, shall be produced in a format so that other parties may engage with the training module as officers would. If this is not possible, the interactive training modules can be produced for video-recorded inspection.

**6. Video:** If videos cannot be produced in a format playable by the other party (e.g. as part of proprietary software), the other party will be permitted video-recorded inspection.

**7. Bates Numbering:**

a. All images must be assigned a Bates number that must always:

- (1) be unique across the entire document production;
- (2) maintain a constant length (0- padded) across the entire production;
- (3) contain no special characters or embedded spaces; and
- (4) be sequential within a given document.

b. If a Bates number or set of Bates numbers is skipped in a production, the producing party will so note in a cover letter or production log accompanying the production.

c. The producing party will endorse all TIFF images in the lower righthand corner with its corresponding bates number, using a consistent font type and size. The Bates number must not obscure any part of the underlying image. If the placement in the lower right-hand corner will result in obscuring the underlying image, the Bates number should be placed as near to that position as possible while preserving the underlying image.

**8. Parent-Child Relationships regarding Email Data:** Parent-child relationships (the association between an attachment and its parent document) that have been maintained in the ordinary course of business should be preserved. For example, if a party is producing a hard copy printout of an e-mail with its attachments, the attachments should be processed in order behind the e-mail. Each document shall be produced with the production number for the first and last page of that document in the "BegDoc" and "EndDoc" fields of the data load file and with the "BegAttach" and "EndAttach" fields listing the production number for the first and last page in the document family.

**9. Other Formats:**

a. If a Producing Party identifies a particular source or type of responsive Data for which it reasonably believes that application of this Protocol would be unduly burdensome or impractical, the party identifying the source or type of responsive Data shall promptly notify the Requesting Party, explaining in detail the type and source of the Data at issue, and the reason(s) why the party believes that application of this Protocol would be unduly burdensome or impractical, and proposing reasonable modifications of this Protocol with respect to that source or type of responsive Data. Thereafter, the parties shall meet and confer within 14 calendar days to determine if modification of the Protocol with respect to the Data at issue is appropriate, and if an agreement is not reached, the Producing Party bears the burden of seeking relief from the Court from the requirements of this Protocol.

**10. Search terms for Email Data:**

a. Parties requesting ESI discovery and parties responding to such requests are expected to cooperate in the development of search methodology and criteria to achieve proportionality in ESI discovery, including appropriate use of computer-assisted search methodology. Parties shall try to reach agreement on appropriate search terms before any query is performed.

b. A producing party shall disclose what search terms, if any, will be used to locate ESI likely to contain discoverable information.

c. The cooperation will follow this schedule:

a. The producing party will confer with requesting party within a reasonable time with proposed search terms or search methodology for each request.

b. The requesting party will reply with any objections to the producing party's proposed terms and methodologies within five business days of receiving the proposal (exclusive of the day of receipt);

c. The producing party will send any compromise proposal within five business days of requesting party's reply;

d. Parties will meet and confer over the proposals, and in the meantime the producing party can search for and produce Email Data using the then-developed search terms, subject to the requesting party's retention of its rights to seek broader discovery.

**11. Social Media:** Social Media will be produced as each respective sites' downloadable data files (e.g., .json, .html) or another format that preserves social media posts' metadata, engagements (e.g. likes, comments, reactions), and media to the extent possible. These downloadable data files may be converted by the producing party to another commonly accessible format if necessary to remove non-responsive information from the production.

### **C. HARD COPY PRODUCTION FORMAT**

1. The parties agree that, with respect to documents that exist in hard-copy format ("Hard-Copy Materials"), a Producing Party will image and produce such documents as PDF or TIFF images and OCR text. Where paper scanned images have identification spines, file folder labels, "post-it notes," or any other labels, the information on the label shall be scanned and produced to the extent practicable.

2. To the extent responsive hard-copy materials are included in a large compilation of documents that is compiled solely for the purposes of storage convenience and not for any purposes related to the litigation and contains irrelevant, non-responsive hard-copy materials, the Producing Party may produce responsive, non-privileged hard-copy materials without also producing non-responsive hard-copy materials.

3. If a Producing Party reasonably believes that production of hard-copy materials as imaged files pursuant to this section is unduly burdensome, the Producing Party shall seek to meet and confer in good faith with the Requesting Party regarding content, volume, and related issues before any production of hard-copy materials. If the parties are unable to reach agreement, any party reserves its rights to seek broader or a different form of production.

### **D. DISPUTES**

1. The parties agree to meet and confer in good faith regarding matters related to the production of Data not specifically set forth in this Protocol, related to the interpretation of this Protocol, or related to the parties' obligations thereunder.

2. The parties shall make their best efforts to comply with and resolve any differences concerning compliance with this Protocol. If a Producing Party cannot comply with any material aspect of this Protocol, such party shall inform the Requesting Party in writing.

3. If the parties are unable to reach resolution regarding any dispute concerning the interpretation of this Protocol or compliance with same, such disputes may be presented for judicial resolution. No party may seek judicial relief concerning this Protocol unless it first has conferred with the applicable Producing or Requesting Party.

4. If the Court determines that any counsel or party in a case has failed to cooperate and participate in good faith in the meet and confer process, the Court may require additional meet and confer discussions, if appropriate.

Respectfully submitted,

**Dated: February \_\_, 2021**

**HENDLER FLORES LAW, PLLC.**

---

Rebecca Ruth Webber  
Attorneys for Plaintiffs

**Dated: February \_\_, 2021**

**Butler Snow, LLP**

---

Eric J.R. Nichols  
Attorney for Officer Defendants

**Dated: February \_\_, 2021**

**Butler Snow, LLP**

---

Karson Thompson  
Attorney for Officer Defendants

**Dated: February \_\_, 2021**

**Butler Snow, LLP**

---

Gray Laird  
Attorney for City of Austin

57216693.v2

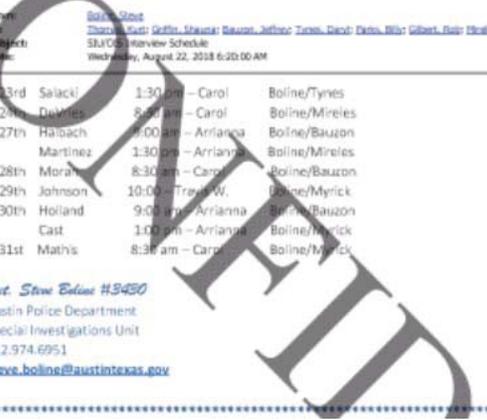
# **Exhibit B**

**From:** [Rebecca Webber](#)  
**To:** [Laird, Gray](#); [Chavez, Priscilla](#)  
**Subject:** Ross: City's initial disclosures  
**Date:** Monday, May 17, 2021 5:23:06 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)

\*\*\* External Email - Exercise Caution \*\*\*

Gray, I'm writing to confer about the City's initial disclosures in Ross v. cast.

1. I cannot review the SIU case file because the "Confidential" mark is so dark, it obscures the text and images. Will you please lighten the mark and/or put it next to the bates number at the bottom? Is it reasonable to ask you to re-produce the information marked "confidential" in a more readable format by 5/31/21? Here's a few examples of how the mark obscures the information:



From: [Steve Bolino](#)  
To: [Theresa West](#); [Gailin Mearns](#); [Raouf, Jeffrey](#); [Tamm, David](#); [Tatro, Bill](#); [Gilbert, Bob](#); [Hobbs, Gerald](#); [Tyne, Ray](#); [Marr, Brian](#)  
Subject: SIU's Interview Schedule  
Date: Wednesday, August 22, 2018 6:30:00 AM

---

8/23rd	Salecki	1:30 pm - Carol	Boline/Tyres
8/24th	DeMiles	8:30 am - Carol	Boline/Mireles
8/27th	Harbach	9:00 am - Arrianna	Boline/Bauzon
	Martinez	1:30 pm - Arrianna	Boline/Mireles
8/28th	Morales	8:30 am - Carol	Boline/Bauzon
8/29th	Johnson	10:00 - Tracy W.	Boline/Myrick
8/30th	Holland	9:00 am - Arrianna	Boline/Bauzon
	Cast	1:00 pm - Arrianna	Boline/Myrick
8/31st	Mathis	8:30 am - Carol	Boline/Myrick

*Det. Steve Bolino #5450*  
Austin Police Department  
Special Investigations Unit  
512.974.6951  
[steve.bolino@austintexas.gov](mailto:steve.bolino@austintexas.gov)

---

**Incident Detail Report**

Date/Location: 06/08/2021  
 Incident Number: 0011550  
 Case Number: 0011550  
 Report Date: 06/08/2021

**Incident Information**  
 Incident Type: ...  
 Priority: ...  
 Date/Time: ...  
 Location: ...  
 Address: ...  
 City: ...  
 State: ...  
 Zip: ...

**Officer Information**  
 Officer Name: ...  
 Officer ID: ...  
 Officer Status: ...  
 Officer Type: ...

**Vehicle Information**  
 Make: ...  
 Model: ...  
 Year: ...  
 Color: ...  
 License: ...

**Officer Assignments**  
 Officer Name: ...  
 Officer ID: ...  
 Officer Status: ...  
 Officer Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

**Call Log**  
 Call Number: ...  
 Call Time: ...  
 Call Status: ...  
 Call Type: ...

NAME	ADDRESS	CITY N STATE	ZIP CODE	COLOR	MAKE	MODEL	YEAR	License	Expires	PLI
GLORIA DELONE	3883 CHEPPEWA STREET	BATON ROUGE LA	70806	GLD	NSG	DST	1997	SG7861	05/2013	00001118V000001
SHALYNA GRIFFIN	3887 CHEPPEWA STREET	BATON ROUGE LA	70806	GLD	CHEV	BUC	2008	SLJ2071	06/30/11	00110011000000000000
GLORIA G DELONE	3883 CHEPPEWA ST	BATON ROUGE LA	70806	GRN	FORD		1999	V1102027	01/2003	00110118V000001
GLORIA DELONE	3883 CHEPPEWA ST	BATON ROUGE LA	70806	BLK	NSG	BUR	2002	701824	01/2014	00000000000000000000
ARHOLA M POLK AND SHALYNA ROSS	3883 CHEPPEWA STREET	BATON ROUGE LA	70806	BLK	FORD	NPL	2001	21644E	06/2010	00000000000000000000
DA MAC GRIFFIN	3883 CHEPPEWA ST	BATON ROUGE LA	70806	BLK	CHEV	C18	2004	LV2388	03/2018	00000000000000000000
DA MAC GRIFFIN	3883 CHEPPEWA ST	BATON ROUGE LA	70806	TAN	TOY	CAM	2004	182220	06/2010	00000000000000000000

**AD WRECKER FOUND REPORT**

18-229-0073      8-17-18

Offense Number      DATE & Time Notified:      Time Arrived:      Time Cleared

**POLICE ACTION**

IMPOUND     ROTATION     REQUEST     MOVED     HOLD     DETAIL

Reason for Tow: Indefinite-015    If Hold (name and emp # approving) Police 3430

Wrecker Type    Category A    Category B    Category C    Zone Rush Hour

REQUEST WRECKER: Name of Person/Driver Making Request: \_\_\_\_\_

OFFICER NOTES: \_\_\_\_\_

Vehicle Pick up Location: 300 Blk. Tustin

Vehicle Drop Location: (if other than VSF) South Side Lane

**VEHICLE INFORMATION:**

YEAR 07 MAKE Honda    MODEL \_\_\_\_\_    TYPE 4dr    COLOR White

LICENSE: HFH 1631    STATE TX    VIN HFA16848L080427

Driver: \_\_\_\_\_    Address: \_\_\_\_\_

Owner: Sonya Walker    Address: 11515 State St, Suite 14, Austin TX 78734

Vehicle damage prior to tow: cut rear bumper

Vehicle damaged during tow: \_\_\_\_\_

**VEHICLE INVENTORY:** \_\_\_\_\_

(Inventory of valuable property visible inside vehicle's passenger compartment.)

**TOWING COMPANY DISPOSITION:**

Towing Company/Wrecker Business name: \_\_\_\_\_

Address: \_\_\_\_\_    Phone No. 411-7094

VSF Location Vehicle Stored: \_\_\_\_\_

Wrecker category fee: \$ \_\_\_\_\_    Additional Charges: \$ \_\_\_\_\_    Wait Time / Extra Labor: \$ \_\_\_\_\_

List additional items above: \_\_\_\_\_    **TOTAL: \$ 11.75**

(The above charges do not include Storage Fees or other Fees allowed by State Law)

2. You've marked items "Confidential" that are public record. For instance: COA2037-2048, COA 3102-3105. Will you please remedy that by May 31, 2021?
3. Will you please clarify by the end of this week (by 5/21/21) whether you produced the SIU file in its entirety or whether you simply produced the parts you will rely on? I'm asking because the production did not include items that I would have expected to see such as taser downloads and the results of employee drug screens under GO 916.1.1(b)(2).
4. Finally, will you please re-produce pictures and screenshots from bodycam in their native format? The pdfs have less detail and quality and do not include date/time/location metadata. By way of example: COA 3114, COA 3570. I'd appreciate receiving the pictures in their native format by 5/31/21. Please let me know if it will take more than two weeks.

Thank you,  
Rebecca

**Rebecca Webber**  
**Hendler Flores Law**  
Partner | Direct: 512-439-3205  
[rwebber@hendlerlaw.com](mailto:rwebber@hendlerlaw.com)  
[www.hendlerlaw.com](http://www.hendlerlaw.com)

**CAUTION:** This email was received at the City of Austin, from an EXTERNAL source.

Please use caution when clicking links or opening attachments. If you believe this to be a malicious and/or phishing email, please forward this email to [cybersecurity@austintexas.gov](mailto:cybersecurity@austintexas.gov).

# **Exhibit C**

**From:** [Scott Hendler](#)  
**To:** [Eric Nichols](#); [Laird, Gray](#)  
**Cc:** [Laura Goettsche](#); [Karson Thompson](#); [Rebecca Webber](#); [Lakyn Segovia](#)  
**Subject:** RE: ESI protocols  
**Date:** Wednesday, June 2, 2021 5:50:22 PM  
**Attachments:** [image003.png](#)

---

Eric

I filed bc I felt we had to meet the deadline and I heard Karson say we were at an impasse, even though I'm willing to still try to find something we can all agree to. I will confer with my group before you have to respond and see if there's something we can streamline. However, as an example of why this order is important to establish certain standards, the email we received from the City is in pdf format. That prevents us from looking at the metadata. So, we need it in native format. That's one example. I don't want to have to deal with each issue piecemeal as they arise when we can address things like that at the outset. Despite that I will look at his further and circle back shortly. I'm happy to send a letter to the Court that notwithstanding our motion, the parties are continuing to confer and hope to reach an agreement. But I don't want to belabor it and if at the end of the day, we're not going to be able to come up with something close to what we have that will be agreeable, I don't see why I should spend more time on it and you and Gray should file your opposition. So let me know if my effort is worthwhile.

Scott.

**Scott Hendler**

**Hendler|Flores Law, PLLC**

CEO and Managing Partner

The Park Terrace Building

1301 West 25<sup>th</sup> Street, Suite 400

Austin, Texas 78705

Tel: 512-439-3202 | Fax: 512-439-3201 |

Mobile: 512-658-1938

[shendler@hendlerlaw.com](mailto:shendler@hendlerlaw.com)

[www.hendlerlaw.com](http://www.hendlerlaw.com)



---

**From:** Eric Nichols <[Eric.Nichols@butlersnow.com](mailto:Eric.Nichols@butlersnow.com)>

**Sent:** Wednesday, June 2, 2021 9:35 AM

**To:** Scott Hendler <[shendler@hendlerlaw.com](mailto:shendler@hendlerlaw.com)>; Laird, Gray <[gray.laird@austintexas.gov](mailto:gray.laird@austintexas.gov)>

**Cc:** Laura Goettsche <[lgoettsche@hendlerlaw.com](mailto:lgoettsche@hendlerlaw.com)>; Karson Thompson <[Karson.Thompson@butlersnow.com](mailto:Karson.Thompson@butlersnow.com)>; Rebecca Webber <[rwebber@hendlerlaw.com](mailto:rwebber@hendlerlaw.com)>; Lakyn Segovia <[LSegovia@hendlerlaw.com](mailto:LSegovia@hendlerlaw.com)>

**Subject:** RE: ESI protocols

Scott, I think where we left the conversation yesterday was that you were going to take another look at the redline we proposed back at the end of January. Let us know if you still intend to do that or whether you are "standing" on your current proposal that you filed yesterday.

To recap, the big picture issues I heard in our discussion yesterday are (1) whether the parties can or should agree to (or the Court should enter as an order) attempted restatements of the law and rules relating to preservation and spoliation; (2) whether it is appropriate to layer in reporting requirements and other deadlines with respect to discovery in the abstract, when no discovery issues have arisen; and (3) whether we are all comfortable with a format for production of ESI that allows everyone to produce discovery materials in the format in which they are received from respective clients, subject to a party's ability to raise questions/concerns/issues over particular production items as necessary.

Let us know if you intend to send us another draft proposal. Thanks.

Eric

**Eric J.R. Nichols**  
**Butler Snow LLP**

D: (737) 802-1807 | C: | F: (737) 802-1801  
1400 Lavaca Street, Suite 1000, Austin, TX 78701  
[Eric.Nichols@butlersnow.com](mailto:Eric.Nichols@butlersnow.com) | [vCard](#) | [Bio](#)

FOR BUTLER SNOW'S COVID-19 RESOURCE HUB, [CLICK HERE](#)

[Twitter](#) | [LinkedIn](#) | [Facebook](#) | [YouTube](#)

---

**From:** Scott Hendler <[shendler@hendlerlaw.com](mailto:shendler@hendlerlaw.com)>  
**Sent:** Tuesday, June 1, 2021 9:32 PM  
**To:** Laird, Gray <[gray.laird@austintexas.gov](mailto:gray.laird@austintexas.gov)>  
**Cc:** Laura Goettsche <[lgoettsche@hendlerlaw.com](mailto:lgoettsche@hendlerlaw.com)>; Eric Nichols <[Eric.Nichols@butlersnow.com](mailto:Eric.Nichols@butlersnow.com)>; Karson Thompson <[Karson.Thompson@butlersnow.com](mailto:Karson.Thompson@butlersnow.com)>; Rebecca Webber <[rwebber@hendlerlaw.com](mailto:rwebber@hendlerlaw.com)>; Lakyn Segovia <[LSegovia@hendlerlaw.com](mailto:LSegovia@hendlerlaw.com)>  
**Subject:** Re: ESI protocols

Guys,

We had to file a motion today bc I realized at 8:00 pm that we had a deadline to submit one to the court. I'm willing continue to discuss this if you think we can resolve anything further and I'd so, I'm agreeable to submitting a revised proposed ESI Order.

Scott

**PLEASE NOTE OUR NEW ADDRESS BELOW.  
PHONE AND EMAIL REMAIN THE SAME**

Scott Hendler  
CEO and Managing Partner  
Hendler Flores Law, PLLC

901 S. MoPac Expressway  
Building 1, Suite 300  
Austin, Texas 78746  
Tel: 512-439-3202 | Fax: 512-439-3201 |  
Mobile: 512-658-1938  
[shendler@hendlerlaw.com](mailto:shendler@hendlerlaw.com)  
[www.hendlerlaw.com](http://www.hendlerlaw.com)

This message is intended only for the use of the addressee and may contain information that is PRIVILEGED and CONFIDENTIAL, and/or may contain ATTORNEY WORK PRODUCT. Dissemination of this communication is strictly prohibited. If you have received this communication in error, please delete all electronic copies of the message and its attachments, if any, destroy any hard copies you may have created, and please notify us immediately.

Thank you.

Sent from my iPhone so please excuse errors and typos from autocorrect (and clumsy thumbs).

On May 27, 2021, at 14:09, Laird, Gray <[gray.laird@austintexas.gov](mailto:gray.laird@austintexas.gov)> wrote:

Tuesday at 9:30 works for me. thanks

---

**From:** Laura Goettsche <[lgoettsche@hendlerlaw.com](mailto:lgoettsche@hendlerlaw.com)>  
**Sent:** Thursday, May 27, 2021 10:48 AM  
**To:** Eric Nichols <[Eric.Nichols@butlersnow.com](mailto:Eric.Nichols@butlersnow.com)>; Laird, Gray <[gray.laird@austintexas.gov](mailto:gray.laird@austintexas.gov)>  
**Cc:** Karson Thompson <[Karson.Thompson@butlersnow.com](mailto:Karson.Thompson@butlersnow.com)>; Scott Hendler <[shendler@hendlerlaw.com](mailto:shendler@hendlerlaw.com)>; Rebecca Webber <[rwebber@hendlerlaw.com](mailto:rwebber@hendlerlaw.com)>; Lakyn Segovia <[LSegovia@hendlerlaw.com](mailto:LSegovia@hendlerlaw.com)>  
**Subject:** RE: ESI protocols

How does Tuesday morning, maybe 9:30 AM, sound for everyone?

Laura

**Laura A. Goettsche**

Associate Attorney | Direct: 512-439-3223 (Ext 3223)

<image002.png>

---

**From:** Eric Nichols <[Eric.Nichols@butlersnow.com](mailto:Eric.Nichols@butlersnow.com)>  
**Sent:** Thursday, May 27, 2021 9:37 AM  
**To:** 'Laird, Gray' <[gray.laird@austintexas.gov](mailto:gray.laird@austintexas.gov)>; Laura Goettsche <[lgoettsche@hendlerlaw.com](mailto:lgoettsche@hendlerlaw.com)>  
**Cc:** Karson Thompson <[Karson.Thompson@butlersnow.com](mailto:Karson.Thompson@butlersnow.com)>; Scott Hendler <[shendler@hendlerlaw.com](mailto:shendler@hendlerlaw.com)>; Rebecca Webber <[rwebber@hendlerlaw.com](mailto:rwebber@hendlerlaw.com)>; Lakyn Segovia <[LSegovia@hendlerlaw.com](mailto:LSegovia@hendlerlaw.com)>  
**Subject:** RE: ESI protocols

We can also be available for a call next week. Let us know what works for others.

Eric

**Eric J.R. Nichols**  
**Butler Snow LLP**

D: (737) 802-1807 | C: | F: (737) 802-1801  
1400 Lavaca Street, Suite 1000, Austin, TX 78701  
[Eric.Nichols@butlersnow.com](mailto:Eric.Nichols@butlersnow.com) | [vCard](#) | [Bio](#)

-

[<image003.png>](#)

[Twitter](#) | [LinkedIn](#) | [Facebook](#) | [YouTube](#)

---

**From:** Laird, Gray <[gray.laird@austintexas.gov](mailto:gray.laird@austintexas.gov)>  
**Sent:** Thursday, May 27, 2021 8:50 AM  
**To:** Laura Goettsche <[lgoettsche@hendlerlaw.com](mailto:lgoettsche@hendlerlaw.com)>  
**Cc:** Eric Nichols <[Eric.Nichols@butlersnow.com](mailto:Eric.Nichols@butlersnow.com)>; Karson Thompson <[Karson.Thompson@butlersnow.com](mailto:Karson.Thompson@butlersnow.com)>; Scott Hendler <[shendler@hendlerlaw.com](mailto:shendler@hendlerlaw.com)>; Rebecca Webber <[rwebber@hendlerlaw.com](mailto:rwebber@hendlerlaw.com)>; Lakyn Segovia <[LSegovia@hendlerlaw.com](mailto:LSegovia@hendlerlaw.com)>  
**Subject:** Re: ESI protocols

I am out on a personal matter today and tomorrow but have some availability next week. Gray

On May 27, 2021, at 8:32 AM, Laura Goettsche <[lgoettsche@hendlerlaw.com](mailto:lgoettsche@hendlerlaw.com)> wrote:

All,

Checking in on the ESI protocols. We are coming up on the Kirsch stip deadline early next week.

Would y'all be available to touch base on Rebecca's counter-counter proposal for the ESI protocols in *Ross v. Cast* and *Kirsch v. CoA* this afternoon?

Laura

**Laura A. Goettsche**  
Associate Attorney  
901 S. MoPac Expressway

<image001.png>

Bldg. 1, Suite #300  
Austin, Texas 78746  
Direct 512-439-3212  
Fax 512-439-3201  
[lgoettsche@hendlerlaw.com](mailto:lgoettsche@hendlerlaw.com)  
[www.hendlerlaw.com](http://www.hendlerlaw.com)



Please consider the environment before printing this email. Think green...

This message is intended only for the use of the addressee and may contain information that is **PRIVILEGED** and **CONFIDENTIAL**, and/or may contain **ATTORNEY WORK PRODUCT**. If you are not the intended recipient, you are hereby notified that any dissemination of this communication is strictly prohibited. If you have received this communication in error, please delete all electronic copies of the message and its attachments, if any, destroy any hard copies you may have created, and notify us immediately. Thank you.

---

**From:** Rebecca Webber <[rwebber@hendlerlaw.com](mailto:rwebber@hendlerlaw.com)>  
**Sent:** Tuesday, May 25, 2021 10:59 AM  
**To:** Eric Nichols <[Eric.Nichols@butlersnow.com](mailto:Eric.Nichols@butlersnow.com)>  
**Cc:** Scott Hendler <[shendler@hendlerlaw.com](mailto:shendler@hendlerlaw.com)>; Laura Goettsche <[lgoettsche@hendlerlaw.com](mailto:lgoettsche@hendlerlaw.com)>; Karson Thompson <[Karson.Thompson@butlersnow.com](mailto:Karson.Thompson@butlersnow.com)>; Laird, Gray <[gray.laird@austintexas.gov](mailto:gray.laird@austintexas.gov)>  
**Subject:** RE: ESI protocols

Eric, I cannot find that you ever responded to my email below about your availability. If I missed it, I apologize. When are you available to discuss my April 30 counter-counterproposal?

FYI - we've calculated the ESI stip deadline in Kirsch as next Tuesday, June 1.

Rebecca

---

**From:** Rebecca Webber  
**Sent:** Wednesday, May 12, 2021 9:35 AM  
**To:** Eric Nichols <[Eric.Nichols@butlersnow.com](mailto:Eric.Nichols@butlersnow.com)>  
**Cc:** Scott Hendler <[shendler@hendlerlaw.com](mailto:shendler@hendlerlaw.com)>; Laura Goettsche <[lgoettsche@hendlerlaw.com](mailto:lgoettsche@hendlerlaw.com)>; Karson Thompson <[Karson.Thompson@butlersnow.com](mailto:Karson.Thompson@butlersnow.com)>; Laird, Gray <[gray.laird@austintexas.gov](mailto:gray.laird@austintexas.gov)>  
**Subject:** RE: ESI protocols

I think Gray is available 1:00-3:00pm on Wednesday and that works for me. Does that work for you, Eric?

I assume that whatever we work out will apply to Ross v. Cast and Kirsch v. CoA. Please let me know if I am incorrect on that.

Rebecca

---

**From:** Laird, Gray <[gray.laird@austintexas.gov](mailto:gray.laird@austintexas.gov)>  
**Sent:** Wednesday, May 12, 2021 7:33 AM  
**To:** Eric Nichols <[Eric.Nichols@butlersnow.com](mailto:Eric.Nichols@butlersnow.com)>  
**Cc:** Rebecca Webber <[rwebber@hendlerlaw.com](mailto:rwebber@hendlerlaw.com)>; Scott Hendler <[shendler@hendlerlaw.com](mailto:shendler@hendlerlaw.com)>; Laura Goettsche <[lgoettsche@hendlerlaw.com](mailto:lgoettsche@hendlerlaw.com)>; Karson Thompson <[Karson.Thompson@butlersnow.com](mailto:Karson.Thompson@butlersnow.com)>  
**Subject:** RE: ESI protocols

Works for me. I'm available any time on Tuesday.

---

**From:** Eric Nichols <[Eric.Nichols@butlersnow.com](mailto:Eric.Nichols@butlersnow.com)>  
**Sent:** Wednesday, May 12, 2021 7:30 AM  
**To:** Laird, Gray <[gray.laird@austintexas.gov](mailto:gray.laird@austintexas.gov)>  
**Cc:** Rebecca Webber <[rwebber@hendlerlaw.com](mailto:rwebber@hendlerlaw.com)>; Scott Hendler <[shendler@hendlerlaw.com](mailto:shendler@hendlerlaw.com)>; Laura Goettsche <[lgoettsche@hendlerlaw.com](mailto:lgoettsche@hendlerlaw.com)>; Karson Thompson <[Karson.Thompson@butlersnow.com](mailto:Karson.Thompson@butlersnow.com)>  
**Subject:** Re: ESI protocols

How about a call on Tuesday?

Eric

Eric Nichols

On May 12, 2021, at 6:34 AM, Laird, Gray <[gray.laird@austintexas.gov](mailto:gray.laird@austintexas.gov)> wrote:

Rebecca,

I will be on the road on Friday but have some availability next week. Gray

---

**From:** Rebecca Webber <[rwebber@hendlerlaw.com](mailto:rwebber@hendlerlaw.com)>  
**Sent:** Tuesday, May 11, 2021 2:15 PM  
**To:** Laird, Gray <[gray.laird@austintexas.gov](mailto:gray.laird@austintexas.gov)>; Eric Nichols <[Eric.Nichols@butlersnow.com](mailto:Eric.Nichols@butlersnow.com)>  
**Cc:** Scott Hendler <[shendler@hendlerlaw.com](mailto:shendler@hendlerlaw.com)>; Laura Goettsche <[lgoettsche@hendlerlaw.com](mailto:lgoettsche@hendlerlaw.com)>; Karson Thompson <[Karson.Thompson@butlersnow.com](mailto:Karson.Thompson@butlersnow.com)>  
**Subject:** FW: ESI protocols

\*\*\* External Email - Exercise Caution \*\*\*

Good Afternoon, are you all available Friday morning or afternoon to discuss my counter-counterproposal?

Rebecca

---

**From:** Rebecca Webber  
**Sent:** Friday, April 30, 2021 4:28 PM  
**To:** Laird, Gray <[gray.laird@austintexas.gov](mailto:gray.laird@austintexas.gov)>; [eric.nichols@butlersnow.com](mailto:eric.nichols@butlersnow.com)  
**Cc:** Scott Hendler <[shendler@hendlerlaw.com](mailto:shendler@hendlerlaw.com)>; Laura Goettsche <[lgoettsche@hendlerlaw.com](mailto:lgoettsche@hendlerlaw.com)>; [karson.thompson@butlersnow.com](mailto:karson.thompson@butlersnow.com)  
**Subject:** ESI protocols

Dear Gray and Eric,

I'm writing to confer about ESI protocols in Ross v. Cast and Kirsch v. CoA. Thank you for your counterproposal of 1/29/21 (the attached pdf file). I reinserted some of the deletions as a counter-counterproposal (the attached docx file). But I also accepted many of your proposed simplifications and other redlines. For example, I accepted: lengthening the timeline for disputes about search terms (Redline p. 8–9); jettisoning the Previously Produced Data process (p. 9); recasting the Protocol as an agreement instead of a Court order (passim); and so on in addition to a few stylistic changes.

But other edits, such as the wholesale deletion of Standard of Preservation (Section B) and Standard for Addressing Privilege (Section C), were not clear to me. Also not apparent were the reasons for striking almost all of the specific forms of redaction. I would be open to deleting or modifying some of these proposed changes if I understood the reasoning. I just currently don't understand.

Please consider these reasons why these sections (that you deleted in your counterproposal) will make our lives much easier. First, the section on the standard of preservation. This section merely tracks the common law standard and operationalizes it in flexible detail—most notably providing a list of lost ESI. If we agree now to what is to be preserved, it is

less likely one party will lose something valuable to the other. Also, by disclosing what is already lost, we will be able to head off futile discovery requests.

Second, the standard for addressing privilege does four things: (1) encourages parties to confer to set up a standard for privilege logs; (2) simplifies privilege log requirements; (3) clarifies when privilege disclosures should be made; and (4) encourages parties to return inadvertent disclosures. Again, it's hard to understand what is objectionable about any of these four things. One and two will reduce the amount of work for both sides in creating privilege logs. Three eliminates potential ambiguities that could create disputes. And four is a basic professional courtesy.

Third, the general production protocols mainly describe how each type of ESI should be produced. This would settle many things to argue about. As we explained in our Reply in Support of Our Motion for ESI Order (Doc. 27) at 4–5, most of this section clarifies what Rule 34(b)(2)(E)(i) requires.

I look forward to your response.

Best,  
Rebecca Webber

--

**Rebecca Webber**  
**Hendler Flores Law**  
Partner | Direct: 512-439-3205  
[rwebber@hendlerlaw.com](mailto:rwebber@hendlerlaw.com)  
[www.hendlerlaw.com](http://www.hendlerlaw.com)

**CAUTION:** This email was received at the City of Austin, from an EXTERNAL source. Please use caution when clicking links or opening attachments. If you believe this to be a malicious and/or phishing email, please forward this email to [cybersecurity@austintexas.gov](mailto:cybersecurity@austintexas.gov).

---

CONFIDENTIALITY NOTE: This e-mail and any attachments may be confidential and protected by legal privilege. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the e-mail or any attachment is prohibited. If you have received this e-mail in error,

please notify us immediately by replying to the sender and deleting this copy and the reply from your system. Thank you for your cooperation.

---

CONFIDENTIALITY NOTE: This e-mail and any attachments may be confidential and protected by legal privilege. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the e-mail or any attachment is prohibited. If you have received this e-mail in error, please notify us immediately by replying to the sender and deleting this copy and the reply from your system. Thank you for your cooperation.

---

CONFIDENTIALITY NOTE: This e-mail and any attachments may be confidential and protected by legal privilege. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the e-mail or any attachment is prohibited. If you have received this e-mail in error, please notify us immediately by replying to the sender and deleting this copy and the reply from your system. Thank you for your cooperation.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

**SAM KIRSCH,**

**Plaintiff,**

v.

**THE CITY OF AUSTIN and  
ROLAN ROMAN RAST,**

**Defendants.**

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

**CIVIL ACTION NO. 1:20-CV-01113-RP**

**ORDER**

Before the Court is Plaintiff’s Motion for ESI Order (Dkt. 18). Having considered the motion, response, any reply, any arguments of counsel, the applicable law, and the case file as a whole, the Court enters the following orders:

**IT IS ORDERED THAT** Plaintiff’s Motion for ESI Order is **DENIED**.

SIGNED on \_\_\_\_\_.

\_\_\_\_\_  
HON. ROBERT PITMAN  
UNITED STATES DISTRICT JUDGE

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

<b>SAM KIRSCH,</b>	§	
<b>Plaintiff,</b>	§	
<b>v.</b>	§	
	§	
<b>CITY OF AUSTIN and ROLAN ROMAN RAST,</b>	§	<b>A-20-CV-1113-RP</b>
<b>Defendants.</b>	§	
	§	

**ORDER**

Before the court is Plaintiff’s Motion for ESI Order (“Motion”) (Dkt. #18) and Defendants’ Joint Response to Plaintiff’s Motion for ESI Order (Dkt. #20).<sup>1</sup> Plaintiff failed to favor the Court with a reply. After reviewing the parties’ briefing, the entire record and the relevant case law, the court enters the following order.

An issue should not be resolved by a comparison of the number of pages and words in a motion versus a competing response. Nonetheless, a comparison of the effort put forth by Plaintiff in crafting the Motion to the effort of the Defendants in preparing a response is telling.

Plaintiff’s Motion consists of a short request and a verbose certificate of conference. In fact, Plaintiff’s entire motion consist of the following:

Plaintiff respectfully requests the Court enter the ESI Order attached as Exhibit 1. The Parties conferred on two occasions regarding the protocols in the proposed order however the Parties have been unable to reach an agreement.

Dkt. #18 at 1.

Plaintiff fails to cite any statutory or case authority in support of its requested ESI order.

In fact, Plaintiff fails to make any argument whatsoever.

---

<sup>1</sup> On July 8, 2021, via text order, this motion was referred by United States District Judge Robert Pitman for resolution pursuant to 28 U.S.C. § 636(b)(1)(A), Rule 72 of the Federal Rules of Civil Procedure, and Rule 1(c) of Appendix C of the Local Rules of the United States District Court for the Western District of Texas.

Meanwhile, Defendants filed a 12-page response specifically noting that the Motion “merely attaches a proposed ‘ESI Order,’ without any explanation or authority for why it should be entered.” Dkt. #20 at 1. Defendants respond forcefully to the Motion and in doing so identify a number of issues and potential deficiencies. Defendants note that the burden of establishing the need for such an order is on the Plaintiff. Defendants also note that Plaintiff’s proposed order is inconsistent with similar orders issued in similar cases by courts in the Austin Division of the Western District of Texas.

With such a woefully inadequate motion, it was even more critical for Plaintiff to reply to the issues raised by Defendants in their responsive briefing. Plaintiff failed to file such a reply.

This court has already spent more time and energy crafting this short order than Plaintiff apparently did in fashioning the motion.

Plaintiff’s Motion for ESI Order (Dkt. #18) is **DENIED**.

SIGNED August 4, 2021.

  
\_\_\_\_\_  
MARK LANE  
UNITED STATES MAGISTRATE JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

SAM KIRSCH,

Plaintiff,

v.

THE CITY OF AUSTIN and  
ROLAN ROMAN RAST,

Defendants.

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

CIVIL ACTION NO. 1:20-CV-01113-RP

**DEFENDANT ROLAN RAST’S MOTION TO STAY FURTHER PROCEEDINGS**

Defendant Officer Rolan Rast (“Officer Rast”) files this motion to stay further proceedings, including remaining discovery, dispositive motion deadlines, and trial, until Officer Rast’s parallel criminal proceeding in state court is resolved. As part of the broader request for relief, Officer Rast also seeks a protective order with respect to his deposition, which Plaintiff unilaterally noticed for June 22, 2022.

**SUMMARY**

Austin Police Department Officer Rast is under indictment—as one of a host of criminal cases highly publicized by the Travis County District Attorney’s Office—for alleged actions taken in response to conduct by protesters in May 2020. The Travis County District Attorney announced the indictment of Officer Rast (and 18 other APD officers) publicly in February of this year, among other ways through a frequently updated press release that contains the introduction:

The following is a list of each officer-involved use of force or other misconduct matter involving injury to any person currently pending in the Office’s Civil Rights Unit.

*See, e.g., Ex. E*, at 1. The criminal case pending against Officer Rast unequivocally involves the same conduct at issue in this civil case.

The criminal case against Officer Rast remains pending on backlogged Travis County criminal dockets.

This civil case was filed on November 9, 2020, naming the City and a “John Doe” officer. (Dkt. 1.). Plaintiff alleged the “John Doe” was either Officer Jeffrey Teng or Officer Eric Heim. (Dkt. 1, ¶3). Plaintiff amended his pleading in January 2021 to substitute Officer Rast for the “John Doe” defendant. (Dkt. 4). The Travis County DA’s Office subsequently updated its regular press release, in May 2021, to name Officer Rast as the officer under investigation with respect to the protest incident involving Plaintiff. *See Ex. E*, at 43 (May 7, 2021 press release). (Prior to that time, the DA’s Office press release referred as early as January 2021—just days after the current elected DA first took office—to the protest-related matter involving Plaintiff as being under investigation through his office, with the description “SUBJECT OFFICER: NOT IDENTIFIED.” *See id.* at 5, 11.)

Officer Rast did not file a motion to stay this civil case in light of the pending criminal investigation and later indictment until his rights and ability to defend himself in this civil litigation—while maintaining his rights against self-incrimination—including his ability to develop a record on and present a qualified immunity defense came to be in jeopardy. That time of jeopardy has now arrived. Paper and deposition discovery concerning materials available through the City, over such things as personnel and training records, City policies, and the APD internal investigation of the incident, has been conducted. Plaintiff now seeks to take the deposition of Officer Rast, as well as other officers who worked alongside him in response to the protests on May 31, 2020. The purpose of such depositions—to solicit invocations of self-incrimination privilege—is apparent. Everyone understands Officer Rast—and potentially others on duty with him on the day of the incident whom Plaintiff seeks to depose—will assert federal

and state-law privileges against self-incrimination, *see Ex. B (Toland Dec.)*, including a Fifth Amendment right which exists to “protect *innocent* men who otherwise might be ensnared by ambiguous circumstances,” *Ohio v. Reiner*, 532 U.S. 17, 21 (2001) (cleaned up).

Asserting that privilege is not only the officer’s constitutional right; it is also a necessary defense to avoid giving a prosecutor additional evidence to use for the prosecution, or an otherwise unobtainable window into the officer’s criminal defense strategy. Everyone understands, or should understand, that Plaintiff will gain no useful knowledge about the underlying facts of the case from additional discovery he seeks, including Officer Rast’s deposition, but will instead merely generate invocations of the privilege to be used by Plaintiff or others to seek to imply guilt or civil liability. Furthermore, because of the simultaneous criminal and civil proceedings over the same conduct, Officer Rast is being deprived of the opportunity and right to develop a record on which he can establish and assert his defense of qualified immunity from this civil suit.

Officer Rast therefore asks this Court to stay this case, as this Court and other federal courts across Texas have done in similar circumstances. The stay is important not only for Officer Rast, but also for the City as well as non-defendant officers who may still face potential criminal liability arising out of the incident made the basis of this lawsuit.

### **BACKGROUND**

This is a civil rights case brought under 42 U.S.C. § 1983. Plaintiff has brought free speech and excessive force claims arising out of injuries he sustained while participating in protests in 2020. Plaintiff’s live complaint alleges that Officer Rast shot him in the head with a beanbag projectile while Plaintiff was demonstrating at those protests.

Travis County District Attorney Jose Garza (“DA Garza”), who took office on January 1, 2021, publicly campaigned on prosecution of law enforcement officers. *See, e.g.*, “Law

Enforcement Accountability Policy,” Jose for DA, available at <https://www.joseforda.com/law-enforcement-accountability>. Campaign ads for DA Garza included footage from Austin’s May 2020 protests, showing protestors displaying signs reading “ACAB” (“All Cops Are Bastards”) while DA Garza provides voiceover criticizing the incumbent District Attorney for failing to prosecute law enforcement. *E.g.*, “Jose Garza for Travis County District Attorney,” Bernie Sanders YouTube (June 16, 2020), available at <https://www.youtube.com/watch?v=yMtzEAYWAuI>. Protestors like Kirsch volunteered and helped DA Garza get elected on this platform. **Ex. F** (Plaintiff’s resume identifying work as a “Volunteer Field Organizer” for the Garza campaign).

DA Garza followed through on his campaign promises to prosecute law enforcement officers. DA Garza has trumpeted a number of indictments against members of law enforcement, including many arising out of the May 2020 protests. *See, e.g.*, Travis County DA Jose Garza discusses cases related to May 2020 protests,” KXAN (Feb. 17, 2022), available at <https://www.youtube.com/watch?v=yWY1bugSBIQ>; **Ex. G** (“19 Austin police officers accused of excessive force during 2020 protests are indicted”); **Ex. Q** (“Here’s what we know about APD officers facing charges for using beanbag rounds in 2020 protests”). DA Garza has also implemented policies within his office to put law enforcement conduct before grand juries as a matter of course. *See, e.g.*, **Ex. H** (describing DA Garza’s “promise to [the community] to take all officer involved excessive force cases to the grand jury”); **Ex. I** (reporting on recruiting email from Travis County DA’s Office supervisor reading “I am reaching out in the hopes that you may be looking to prosecute police officers or that you know someone who is”).

The criminal prosecution of Officer Rast (among others) fell in line with the campaign promises and the actions taken by DA Garza immediately upon taking office. The incident

involving Plaintiff was included as a matter under investigation in the first “list of each officer-involved use of force or other misconduct matter involving injury to any person currently pending in the Office’s Civil Rights Unit,” as first compiled and broadcast by the Travis County DA’s Office on January 11, 2021. **Ex. E**, at 1. The incident involving Plaintiff continued to be included in the publicly issued list—which has often been updated more than once a month—and in April 2021 DA Garza identified Officer Rast by name as being a person under criminal investigation in connection with that incident. *Id.* at 36. Through the paper discovery taken in this matter it has since become clear that Plaintiff’s counsel has been involved in communications with the Travis County DA’s Office about the incident, even putting an incident reconstruction expert they retained in touch with the prosecutor’s office. **Ex. L**.

Based on a grand jury presentation that remains secret under Texas law—such that it is impossible to know what evidence, if any, the Travis County DA’s Office presented to that grand jury—a Travis County grand jury returned an indictment against Officer Rast in February 2022 for allegedly firing the non-lethal round that struck Plaintiff. **Ex. A**. The Travis County DA’s Office then updated the list of “officer-involved use of force and other misconduct” press release to reflect the addition of the indictment against Officer Rast, among others. **Ex. E**, at 112 (March 7, 2022 press release).<sup>1</sup>

Following the indictment, limited discovery in this civil case continued. That limited discovery included the deposition of another APD officer on duty with Officer Rast on the day of the incident. Notwithstanding the allegations in both that indictment and Kirsch’s own complaint,

---

<sup>1</sup>DA Garza’s zeal to make good on campaign promises to prosecute law enforcement officers for their conduct in connection with the May 2020 protests is also reflected in the fact that Officer Rast is not even properly named in the updated press releases, which to this day provide a description of the case brought against Officer Rast that includes not Officer Rast’s name, but that of another APD officer. *See, e.g.*, **Ex. E**, at 112, 123, 131, 142, 149, 158.

Kirsch's counsel took the position that Officer Rast did *not* shoot Kirsch. Here is Kirsch's counsel proclaiming she "know[s] who shot Sam Kirsch" and pointing to *someone other than Officer Rast* as having fired the round that struck Plaintiff:

24 | Q. Okay. You shot Sam Kirsch, and so I'm  
25 | wondering why you know you didn't?

1 | MR. LAIRD: Well, what --

2 | MS. WEBBER: Excuse me.

3 | MR. LAIRD: If -- if you stop --

4 | MS. WEBBER: No. No. No. No.

5 | MR. LAIRD: Oh, yes. Yes. Yes.

6 | MS. WEBBER: Do you have an objection,  
7 | sir?

8 | MR. LAIRD: Well, if you've -- if you've  
9 | got some evidence that shows it, then, I mean --

0 | MS. WEBBER: That I -- you really want to  
1 | see it; don't you? Like, that's not an objection, Gray.  
2 | I know who shot Sam Kirsch.

3 | Q. (By Ms. Webber) Detective, you're sure it  
4 | wasn't you, right?

5 | A. From my vantage point, I was targeting the  
6 | individual described in my report.

See **Ex. D** (B. Pietrowski Depo., 4/20/2022), at 189:24-190:16. Moments later, during the same deposition, during a discussion about video footage of the underlying incident, Plaintiff's counsel explained that DA Garza got the "wrong guy" indicted for the incident involving Plaintiff:

2 MS. WEBBER: Boline did this, too. He  
3 testified that he synched these videos, so you can get  
4 it from him. This is --

5 MR. LAIRD: The synched videos that --  
6 well --

7 MS. WEBBER: Well, he did a crap job, and  
8 that's why --

9 MR. LAIRD: We can --

10 MS. WEBBER: -- you know, Officer Rast  
11 got indicted. The wrong guy got indicted, but that  
12 doesn't mean that I have to give you my work product  
13 just because it's better.

*Id.* at 196:2-13. Just a few weeks ago counsel told this Court the same thing, explaining in a pleading that the video footage “belies [the other officer’s] firm belief that he did not shoot Sam.” *See* Pl.’s Resp. to City’s Motion to Compel (Dkt. 44), at 8. In a recent meet-and-confer on this motion, Plaintiff’s counsel affirmed that they have now changed their position again, and that they once again contend that Officer Rast fired the non-lethal munition that struck Plaintiff.

Throughout the flip-flopping on who fired the non-lethal munition that struck Plaintiff, Officer Rast’s position throughout this litigation has been consistent and clear: while he has not opposed all discovery in the case, he has always opposed any effort to force him to testify (whether through written discovery responses or deposition) while his criminal case is pending. He has also been consistent and clear—as was obvious to all participants in the civil case—that he had and has a right to defend himself in this civil case, including by making a record on and presenting through appropriate motions his defense of qualified immunity. *See* Officer Rast’s Original Answer (Dkt. 9), at 6.

Until recently, the parties had proceeded with discovery under this understanding of Officer Rast's position, and Plaintiff and the City have engaged in document discovery and limited depositions, including the one quoted from above. During a recent meet-and-confer call regarding the parties' request to extend the dispositive motions deadline, counsel for Plaintiff and Officer Rast again discussed Officer Rast's position that any deposition should be delayed until after the resolution of the parallel criminal proceeding. Counsel agreed that Plaintiff would notice Officer Rast's deposition for a date in July after the parties' scheduled July 12 mediation, with the understanding that if the case continued after mediation Officer Rast would seek relief from the Court to prevent his deposition from moving forward. On May 26, 2022, Plaintiff noticed Officer Rast's deposition for July 20, 2022.

On June 2, 2022, Plaintiff unilaterally re-noticed Officer Rast's deposition for June 22, 2022. *See Ex. C* (Plaintiff's First Amended Notice of Video Deposition of Rolan Rast). The purported basis for rescheduling Officer Rast's deposition was that Officer Rast is a named plaintiff in a separate civil lawsuit filed in state court against the City of Austin and various other defendants, including DA Garza, related to the same 2020 protests.<sup>2</sup> Accordingly, Officer Rast now seeks the relief that all parties understood would be requested from the Court once his rights to defend himself in this civil case were precluded by the pendency of the parallel criminal proceeding.

---

<sup>2</sup>Although that case was apparently filed at the latest possible time to avoid statute of limitations issues, the original petition filed on behalf of Officer Rast and others itself includes a request to stay the suit pending the outcome of the named plaintiff officers' criminal trials. *See* Pls.' Original Petition, *Jackson v. City of Austin*, No. D-1-GN-22-002502 (201st Dist. Ct., Travis Cnty., Tex.) (filed May 31, 2022, 11:50 PM), copy attached as **Exhibit J**. The need to invoke self-incrimination protections obviously does not foreclose Officer Rast's ability to protect his right to pursue such affirmative claims. *E.g., Wehling v. Columbia Broadcasting System*, 608 F.2d 1084, 1086-88 (5th Cir. 1979).

## ARGUMENT

Under controlling Fifth Circuit precedent, Officer Rast is entitled to a complete stay of this case pending resolution of his parallel criminal proceeding. Officer Rast did not file this motion preemptively, while the incident was on DA Garza's list of "unindicted" "officer-involved use of force or other misconduct" cases. This allowed the parties to make progress in paper discovery and limited deposition discovery without directly implicating Officer Rast's rights to defend himself in the case. Now that this non-infringing discovery has been completed, and now that Plaintiff is pressing for Officer Rast's deposition, Officer Rast now seeks a stay to prevent his and other depositions from occurring and to prevent the case from progressing to and past critical deadlines, including disclosures of experts, dispositive motions, and trial, before Officer Rast can prepare and mount a fulsome defense to the civil allegations against him.

### **I. This Court has the authority to stay discovery.**

As this Court knows, federal courts often stay civil proceedings to allow overlapping and parallel criminal proceedings to run their course. Judges in the Austin Division have encountered this issue with increasing frequency in the last few years and have issued such stays. Last year, Judge Yeakel stayed a civil suit arising from the death of Javier Ambler so that criminal proceedings arising from Ambler's death could be resolved first. *See Javier Ambler et al. v. Williamson County et al.*, No. 1:20-CV-1068-LY, Order Staying Case (Dkt. 89) (W.D. Tex. July 27, 2021) (copy attached as **Ex. K**). A few months ago, Magistrate Judge Hightower stayed all discovery in a civil case arising from the death of Mauris DeSilva so that criminal proceedings arising from that incident could be resolved first. *DeSilva v. Taylor*, No. 1:21:cv-00129-RP, 2022 WL 545063 (W.D. Tex. Feb. 23, 2022). Sister courts throughout the Western District have recently stayed discovery on this basis. *See, e.g., SEC v. Mueller*, No. 21-cv-00785-XR, 2022 WL

818678, at \*4 (W.D. Tex. Mar. 17, 2022) (staying discovery against individual defendant facing parallel criminal investigation). Other federal courts in the state have done the same. *See, e.g., Jean v. City of Dallas, Texas*, No. 3:18-CV-2862-M, 2019 WL 4597580, at \*5 (N.D. Tex. Sept. 22, 2019) (staying civil case against officer indicted for and eventually convicted of murder of Botham Jean). This case presents the same issue and also warrants a stay.

Federal district courts have “broad discretion to stay proceedings as an incident to [their] power to control [their] own docket[s].” *Clinton v. Jones*, 520 U.S. 681, 707 (1997). The United States Supreme Court has recognized that there are “special circumstances” in which “the interests of justice” support or even require temporary stays. *United States v. Kordel*, 397 U.S. 1, 12 & n.27 (1970); *SEC v. First Fin. Grp. of Tex., Inc.*, 659 F.2d 660, 668 (5th Cir. 1981) (stays may be necessary “to prevent a party from suffering substantial and irreparable prejudice”). In particular, stays are “common practice” when civil and criminal liability arise from the same incident because “criminal prosecutions often take priority over civil actions.” *Wallace v. Kato*, 549 U.S. 384, 394 (2007); *In re Grand Jury Subpoena*, 866 F.3d 231, 234 (5th Cir. 2017); *Kmart Corp v. Aronds*, 123 F.3d 297, 300 (5th Cir. 1997).

The existence of parallel civil and criminal proceedings poses a unique constitutional danger to a civil litigant because every person facing criminal liability has the constitutional right against self-incrimination provided by the Fifth Amendment. *Wehling v. Columbia Broadcasting Sys.*, 608 F.2d 1084, 1087-88 (5th Cir. 1979). At the same time, every person facing civil liability has a due process right to have that matter fully and fairly adjudicated. *Id.* Courts must avoid scenarios that “require a party to surrender one constitutional right in order to assert another.” *Id.* at 1088. A civil defendant invoking his Fifth Amendment rights “should suffer no penalty for his silence.” *Id.* (citing *Spevack v. Klein*, 385 U.S. 511, 515 (1967)). Temporary stays protect these

competing rights by allowing the criminal process to resolve before the civil process. *Id.* at 1089 (reversing district court for refusing to stay case “for approximately three years” while criminal process was resolved).

When tasked with determining the propriety of a stay in these situations, courts generally consider six factors: “(1) the extent to which the issues in the criminal case overlap with those presented in the civil case; (2) the status of the criminal case, including whether the defendants have been indicted; (3) the private interests of the plaintiffs in proceeding expeditiously, weighed against the prejudice to the plaintiffs caused by the delay; (4) the private interests of and burden on the defendants; (5) the interests of the courts; and (6) the public interest.” *Bean v. Alcorta*, 220 F.3d 772, 775 (W.D. Tex. 2016); *Meyers v. Pamerleau*, No. 5:15-CV-524-DAE, 2016 WL 393552, at \*5 (W.D. Tex. Feb. 1, 2016); *Shaw v. Hardberger*, No. SA-06-CA-751-XR, 2007 WL 1465850, at \*2 (W.D. Tex. May 16, 2007).

## **II. The Court should stay discovery to protect Officer Rast’s constitutional rights.**

Each of the six factors identified above supports a temporary stay of discovery in this case. As in *Ambler*, *DeSilva*, and other cases in which stays have been granted, the individual law enforcement officer named as a defendant here is facing criminal prosecution regarding the same conduct at issue in the civil case. *See Ambler* Order, **Ex. K**; *DeSilva*, 2022 WL 545063, at \*3. Forcing the officer to choose between asserting one constitutional right in defense of his criminal case or enforcing another constitutional right in his civil case is unnecessary, prejudicial, and wholly avoidable.

### **A. There is complete overlap between the civil and criminal cases.**

There can be no dispute that there is complete overlap between Plaintiff’s allegations in this case and the allegations that form the basis of Officer Rast’s indictment. Plaintiff alleges

Officer Rast “shot him in the head” at a protest on May 31, 2020 causing serious injury. *E.g.*, Pl.’s 1st Am. Compl. (Dkt. 4), ¶¶ 8-14. The indictment similarly alleges that on that same date, Officer Rast shot Plaintiff with a firearm, causing bodily injury. *See Ex. A.* This overlap in theories is also reflected in the fact that Plaintiff’s counsel helped DA Garza’s office coordinate with at least one of Plaintiff’s retained experts prior to the return of the indictment against Officer Rast. *See Ex. L.*

This complete overlap of subject matter supports a stay because “[w]here there is significant overlap, self-incrimination is more likely” and Fifth Amendment concerns are at their greatest. *Bean*, 220 F. Supp. 3d at 776 (“significant and perhaps even complete overlap” between criminal and civil proceedings “weighs strongly in favor of staying the case”); *Meyers*, 2016 WL 393552, at \*6 (factor favored stay where civil and criminal lawsuits arose “from the same facts”); *Shaw*, 2007 WL 1465850, at \*2 (civil and criminal allegations “aris[ing] from the same set of operative facts . . . weighs heavily in favor of granting a stay”). For this reason, courts often describe this factor as the “most important” consideration for issuing a stay. *E.g.*, *DeSilva*, 2022 WL 545063, at \*3 (“Because there is significant overlap between the issue presented in this case and Defendants’ criminal proceedings . . . [t]he first and most important factor weighs strongly in favor of staying the case.”); *Frierson v. City of Terrell*, No. 3:02CV2340-H, 2003 WL 21355969, at \*3 (N.D. Tex. June 6, 2003) (staying case); *Librado v. M.S. Carriers, Inc.*, No. 3:02-CV-2095D, 2002 WL 31495988, at \*2 (N.D. Tex. Nov. 5, 2002) (staying case).

**B. Officer Rast was indicted and still faces criminal liability.**

Officer Rast was indicted in February 2022 for the same conduct that forms the basis of Plaintiff’s claims in this case. **Ex. A.** “A stay of a civil case is more appropriate where a party to the civil case has already been indicted for the same conduct.” *Bean*, 220 F. Supp. 3d at 776

(staying case where defendant's criminal conviction was pending on appeal); *DeSilva*, 2022 WL 545063, at \*3 (“Because [the officer defendants] have been indicted, the second factor also weighs in favor of a stay.”); *Meyers*, 2016 WL 393552, at \*6 (staying case where defendant was indicted); *Shaw*, 2007 WL 1465850, at \*2 (staying case where plaintiffs were indicted).

**C. Plaintiff will suffer no prejudice beyond mere delay.**

Stays by their very nature delay proceedings. To avoid a stay, courts require plaintiffs to (among other things) demonstrate “more prejudice than simply a delay” in resolving their pending claims. *DeSilva*, 2022 WL 545063, at \*3; *Bean*, 220 F. Supp. 3d at 776; *Meyers*, 2016 WL 393552, at \*6. To meet this burden, a plaintiff could identify some specific “discovery that is available now but would be unavailable later should a stay be granted,” or identify specific “witnesses [who] will be unable to testify” after a stay is lifted. *DeSilva*, 2022 WL 545063, at \*3. There is no such discovery here. Moreover, any such discovery concerns are mitigated by the discovery the parties have already conducted in the case. This includes production of the available documentary and video records of the incident and subsequent investigation and deposition testimony from the Austin Police Department's lead investigator as well as from an officer Plaintiff's counsel alleged during the deposition actually fired the round that struck Plaintiff. **Ex. D.**

Furthermore, any claims of prejudice to Plaintiff from such a delay should ring hollow. Plaintiff's counsel have actively encouraged and participated in DA Garza's efforts to prosecute Officer Rast along with other officers on duty during the May 2020 protests. Having encouraged prosecution, Plaintiff cannot effectively argue against delay in the resolution of his civil claims resulting from that criminal prosecution.

Officer Rast and his counsel cannot predict with certainty how long the stay will need to last to allow the criminal process to complete. The Travis County criminal district courts resumed

in-person criminal jury trials in March 2022, after a nearly two-year-long hiatus. **Ex. M** (“Travis County District Attorney’s Office Restarts In-Person Criminal Jury Trials”). Officer Rast’s case has not been set for trial. **Ex. B.** A stay of remaining discovery and deadlines is appropriate under these circumstances. The Fifth Circuit has reversed a district court for refusing to stay a case even when the delay caused by the stay would have been *three years*. *Wehling*, 608 F.2d at 1089. Any mere delay caused by a stay of this case is not so prejudicial as to weigh against a stay. *DeSilva*, 2022 WL 545063, at \*3.

**D. Proceeding with civil discovery is highly prejudicial and potentially wasteful.**

One of the fundamental goals of stays in this context is avoiding the natural prejudice that arises from forcing parties to defend litigation while simultaneously asserting their Fifth Amendment rights. The Fifth Amendment “privileges [a person] not to answer official questions put to him in any other proceeding, civil or criminal, formal or informal, where the answers might incriminate him in future criminal proceedings.” *Baxter v. Palmigiano*, 425 U.S. 308, 316 (1976). A person cannot be compelled “to answer deposition questions, over a valid assertion of his Fifth Amendment right.” *Pillsbury Co. v. Conboy*, 459 U.S. 248, 256–57 (1983).

If this case continues, including through deposition of Officer Rast and on to disclosures of experts, filing of dispositive motions, and trial, these Fifth Amendment concerns will be directly implicated. Officer Rast will face “a conflict between asserting his Fifth Amendment rights and fulfilling his legal obligations as a witness” and defendant in this civil case. *DeSilva*, 2022 WL 545063, at \*4. Officer Rast has an interest in preventing his defense in this civil case from providing evidence that the Travis County DA’s Office may use in his prosecution, and from prematurely disclosing to DA Garza’s office his defense in the criminal case. *Id.* (“Defendants have an interest in staying the civil trial to avoid exposing their criminal defense strategies to the

prosecution.”). This factor weighs in favor of a stay. *Id.*; *Bean*, 220 F. Supp. 3d at 777; *Meyers*, 2016 WL 393552, at \*7 & n.3 (noting the potential for plaintiffs to use civil discovery as a means of prejudicing criminal defendants); *Librado*, 2002 WL 31495988 at \*3.

**E. A stay supports the Court’s interests.**

A stay also favors judicial economy and this Court’s management of its docket. *Bean*, 220 F. Supp. 3d at 777; *Meyers*, 2016 WL 393552, at \*7; *Librado*, 2002 WL 31495988, at \*3. If the civil case continues, Officer Rast will be placed in a position to assert his Fifth Amendment rights. If the prospect of criminal liability has been eliminated by the time of trial, he would likely then be in a position of withdrawing the privilege and testifying in his own defense. *Davis-Lynch, Inc. v. Moreno*, 667 F.3d 539, 547-48 (5th Cir. 2012) (discussing circumstances in which “a party may withdraw its assertion of the Fifth Amendment privilege, even at a late stage in the litigation”). That withdrawal may raise new concerns of prejudice and delay, the prospect of additional depositions, extensions of expert discovery or *Daubert* deadlines, and more. *See id.* This Court can avoid any need to raise or resolve those legal questions by temporarily staying the proceedings. *See DeSilva*, 2022 WL 545063, at \*4 (noting the possibility that resolution of the criminal case may also resolve or eliminate issues in the civil trial).

**F. A stay supports the public’s interests.**

The public “has an interest in protecting the constitutional rights of criminal defendants” as well as in seeing both civil and criminal cases resolved promptly. *Bean*, 220 F. Supp. 3d at 778. The public interest factor weighs against a stay “only where, unlike here, a civil case is pending and no criminal investigation has begun.” *DeSilva*, 2022 WL 545063, at \*4; *Meyers*, 2016 WL 393552, at \*7. Here, the public’s interests are best served by temporarily staying civil discovery until the criminal process concludes so Officer Rast’s constitutional rights can be protected, along

with the City's rights to defend the City against claims for damages with all available evidence, including evidence from Officer Rast. *DeSilva*, 2022 WL 545063, at \*4; *Bean*, 220 F. Supp. 3d at 778; *Meyers*, 2016 WL 393552, at \*7; *Shaw*, 2007 WL 1465850, at \*2; *Librado*, 2002 WL 31495988.

The public is also served by both criminal and civil matters being resolved fairly and accurately. DA Garza has told the public that it is important to ensure his office is "bringing the right person to trial with the right charges." *See Ex. N*. For example, the Travis County DA's Office previously dismissed an indictment it obtained against an officer after a prosecutor apparently "uncovered" exculpatory evidence from the prosecution's own expert opining that the officer's conduct was "justified and lawful." *See Ex. O; Ex. P* (DA Garza offering previously indicted officer his "sincere apologies" for wrongfully indicting him). Similarly, in this case, the same civil plaintiff who worked to get DA Garza elected, and whose counsel encouraged the indictment of Officer Rast, has claimed that DA Garza indicted the "wrong guy." *See Ex. D; Ex. F; Ex. L*. The public has an interest in seeing these accusations against the City, against Officer Rast, and against other non-defendant officers resolved based on all the evidence, not based on a rush to prosecute, much less inaccurate allegations or inferences drawn from assertions of constitutional rights. That can only occur if the criminal process is allowed to play out first.

**III. The Court should stay these proceedings so that Officer Rast can defend himself, including through developing and presenting qualified immunity defense.**

As the Court knows, the defense of qualified immunity "provides government officials with immunity from suit so long as they do not violate clearly established statutory or constitutional rights of which a reasonable person would have known." *Hutcheson v. Dallas Cnty., Tex.*, 994 F.3d 477, 480 (5th Cir. 2021) (internal quotations omitted). Officer Rast will be entitled to qualified immunity unless Plaintiff can prove both (1) that Officer Rast violated his

constitutional rights, and (2) that Officer Rast's actions were objectively unreasonable in light of clearly established law at the time. *Id.* This qualified immunity analysis obviously includes a consideration of what actions Officer Rast actually took on the day in question: a matter on which he has knowledge, but to which he cannot testify without abrogating his rights against self-incrimination in light of the ongoing criminal case.

In addition, one of the constitutional rights Plaintiff alleges Officer Rast violated was his First Amendment right to freedom of speech. Plaintiff's First Amendment retaliation claim requires him to prove (1) that he was engaged in a constitutionally protected activity; (2) that Officer Rast's actions caused him to suffer an injury that would chill a person of ordinary firmness from continuing to engage in that activity; and (3) that Officer Rast's actions were "substantially motivated" against Plaintiff's exercise of his constitutionally protected conduct. *Keenan v. Tejada*, 290 F.3d 252, 258 (5th Cir. 2002). The last element is critically important to the qualified immunity analysis, because the fifth Circuit has held that "government retaliation against a private citizen for exercise of First Amendment rights cannot be objectively reasonable." *Id.* at 261 & n.7.

To establish his qualified immunity defense, then, Officer Rast must present evidence of (1) what his actions on the day in question were, and (2) that if he in fact fired the shot that hit Kirsch, he was *not* "substantially motivated" by Kirsch's legitimate activities as a protestor. *See, e.g., Singleton v. Darby*, 609 Fed. App'x 190, 194 (5th Cir. 2015) (unpublished) (qualified immunity warranted where evidence showed officer pepper sprayed protestors "not because they were protesting, but because they were blocking traffic in violation of Texas law"). Officer Rast cannot develop that evidentiary record, such as through a declaration or answers in a deposition, prior to the resolution of the parallel criminal case, without sacrificing his rights against self-incrimination.

**IV. As part of the broader stay, the Court should grant protection against Officer Rast's deposition moving forward pending the resolution of the criminal case.**

Federal Rule of Civil Procedure 26(c) authorizes “[a] party . . . from whom discovery is sought [to] move for a protective order” to forbid or specify terms for a sought deposition. FED. R. CIV. P. 26(c)(1). A court may place restrictions on discovery “for good cause . . . to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense.” *Cazorla v. Koch Foods of Miss., LLC*, 838 F.3d 540, 549 (5th Cir. 2016) (quoting FED. R. CIV. P. 26(c)(1)).

As part of the broader stay of proceedings and further discovery, Officer Rast is entitled to protection from his deposition occurring prior to the resolution of the parallel criminal proceeding for the reasons explained above. Even if that were not enough—which it is—Officer Rast would otherwise be entitled to protection from the deposition occurring on the noticed date of June 22, 2022. Plaintiff noticed the deposition for that date unilaterally, without agreement from Officer Rast, three hours after requesting by email that Officer Rast be made available for deposition that week. Officer Rast was and is scheduled to be out of the country from June 20 through July 11, 2022, as his counsel informed Plaintiff's counsel following issuance of the notice. Thus, Officer Rast would not be available to participate in any deposition on the noticed June 22, 2022 date, regardless of the broader requested stay of proceedings and discovery in the case.

**CONCLUSION**

For the foregoing reasons, Officer Rast respectfully requests the Court grant this motion and stay all further proceedings in this matter, including but not limited to the noticed deposition of Officer Rast, until after the resolution of the pending parallel criminal proceeding styled *The State of Texas v. Rolan Rast*, No. D-1-DC-20-900080 (331st Crim. Dist. Ct., Travis Cnty., Tex.). Officer Rast would also respectfully request that the Court conduct a hearing on this motion,

following the completion of briefing, and all other relief to which he may show himself to be entitled in connection with this motion.

Respectfully submitted,

**BUTLER SNOW LLP**

By: /s/ Karson Thompson  
Eric J.R. Nichols  
State Bar No. 14994900  
[eric.nichols@butlersnow.com](mailto:eric.nichols@butlersnow.com)  
Karson Thompson  
State Bar No. 24083966  
[karson.thompson@butlersnow.com](mailto:karson.thompson@butlersnow.com)  
1400 Lavaca Street, Suite 1000  
Austin, Texas 78701  
Tel: (737) 802-1800  
Fax: (737) 802-1801

**ATTORNEYS FOR DEFENDANT  
ROLAN RAST**

**CERTIFICATE OF CONFERENCE**

I hereby certify that I have repeatedly conferred with counsel for Plaintiff about the relief sought in this motion by Zoom video conference. Most recently, meet-and-confer discussions were held on June 14, 2022 and on June 8, 2022. Following those discussions, Plaintiff remains opposed to the relief sought in this motion and remains opposed to withdrawing the notice for Officer Rast's deposition to occur on June 22, 2022. I have also conferred with counsel for Defendant the City of Austin, and the City does not oppose the relief requested in the motion.

/s/ Eric J.R. Nichols  
Eric J.R. Nichols

**CERTIFICATE OF SERVICE**

I hereby certify that on June 15, 2022, a true and correct copy of the foregoing document was served on all counsel of record by filing with the Court's CM/ECF system.

/s/ Karson Thompson  
Karson Thompson

# **EXHIBIT A**

D.A. #D1DC20900080 MNI # 7973550 TRN:

DPS: 13150010 Court: 390th

The State of Texas v. ROLAN RAST

**INDICTMENT**

**COUNT I -AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) - F1  
(OFFENSE CODE: 13150010)**

**COUNT II - AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) -  
F1 (OFFENSE CODE: 13150010)**

Bond \$

---

In The 390th Judicial District Court (Special) of Travis County, Texas

---

---

**IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS:**

**THE GRAND JURY**, for the County of Travis, State of Texas, duly selected, empaneled, sworn, charged, and organized as such at the July Term, 2021, of the 390th Judicial District Court (Special) for said County, upon its oath presents in and to said Court at said term, that ROLAN RAST, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause serious bodily injury to SAMUEL KIRSCH, by shooting Stanley Kirsch with a firearm; to wit, a shotgun, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment,

Paragraph B

The Grand Jury further presents that ROLAN RAST, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause bodily injury to SAMUEL KIRSCH, by shooting Samuel Kirsch with a firearm; to wit, a shotgun, and the Defendant did use and exhibit a deadly weapon, a firearm; to wit, a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under the color of his office and employment,

COUNT II

The Grand Jury further presents that ROLAN RAST, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally and knowingly threaten SAMUEL KIRSCH, with imminent bodily injury by discharging a firearm; to wit, a shotgun, at and in the direction of Samuel Kirsch, and the Defendant did use and exhibit a deadly weapon, a firearm, to-wit; a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment, against the peace and dignity of the State,

2/17/2022 | 10:29 AM CST

DocuSigned by:

 Filed in the District Court  
Of Travis County, Texas  
Velva L. Price District Clerk

DS

LE

DocuSigned by:

*Jose Alvarado*

7AB8BC812DCE4FD...

Foreperson of the Grand Jury

# **EXHIBIT B**

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

SAM KIRSCH,

Plaintiff,

v.

THE CITY OF AUSTIN and  
ROLAN ROMAN RAST,

Defendants.

§  
§  
§  
§  
§  
§  
§  
§  
§

CIVIL ACTION NO. 1:20-CV-01113-RP

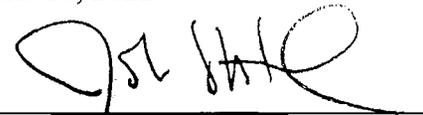
**DECLARATION OF STEVE TOLAND**

I, John Stephen Toland, declare as follows:

1. "My name is John Stephen Toland. I declare under penalty of perjury that I am over 18 years of age, of sound mind, have never been convicted of a felony or crime of moral turpitude, and am capable of making this declaration. The facts stated in this declaration are within my personal knowledge and are true and correct.
2. I am counsel of record for Rolan Roman Rast in connection with the Travis County District Attorney's Office's efforts to prosecute him, including through the matter styled *State of Texas v. Rolan Roman Rast*, No. D-1-DC-20-900080.
3. As of the date of this declaration, the criminal case against Officer Rast remains pending in the Travis County District Court. The criminal case has not been assigned a trial date.
4. If called upon to testify in a civil lawsuit concerning his actions, conduct, and/or mental state with respect to the events of May 31, 2020, Officer Rast would assert his Fifth Amendment and Texas constitutional rights against self-incrimination.

My name John Stephen Toland. My business address is 1214 E. 7th Street, Austin, Texas 78702. I declare under penalty of perjury that the foregoing is true and correct."

Executed in Travis County, State of Texas, on June 15, 2022.



John Stephen Toland

# **EXHIBIT C**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

**SAM KIRSCH,**  
*Plaintiff,*

v.

**CITY OF AUSTIN AND ROLAN RAST,**  
*Defendants.*

§  
§  
§  
§  
§  
§  
§

**CIVIL ACTION NO. 1:20-cv-01113-RP**

**PLAINTIFF'S FIRST AMENDED NOTICE OF VIDEO DEPOSITION OF  
DETECTIVE ROLAN RAST, APD #8221**

**TO: ALL COUNSEL OF RECORD**

**PERSON TO BE EXAMINED: ROLAN RAST #8221**

**TIME & DATE OF TAKING: June 22, 2022 at 10:00 am (CST)**

**COURT REPORTER: MAGNA LEGAL SERVICES**

**VIDEOGRAPHER: MAGNA LEGAL SERVICES**

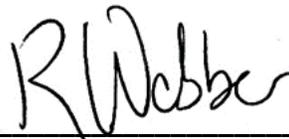
**PLEASE TAKE NOTICE** that, in accordance with the Federal Rule of Civil Procedure 30, Plaintiff's attorney will take the remote deposition of the above-listed individual.

This deposition is to be conducted via Zoom Video Conference and will be recorded stenographically before a court reporter and videotaped before a videographer from Magna Legal Services – 700 Milam, Suite 1300, Houston, TX 77002; (866) 624-6221.

This deposition will continue day to day until complete. You are invited to attend and participate. The Zoom Video Conference link for this deposition will be circulated to all counsel prior to the start of the deposition. If you do not receive the Link, please contact Robin Hubbard at [rhubbard@hendlerlaw.com](mailto:rhubbard@hendlerlaw.com).

**Dated: June 2, 2022**

**RESPECTFULLY SUBMITTED,  
WEBBER LAW**



---

Rebecca Ruth Webber  
[rwebber@rebweblaw.com](mailto:rwebber@rebweblaw.com)  
4228 Threadgill Street  
Austin, Texas 78723  
Tel: (512) 669-9506

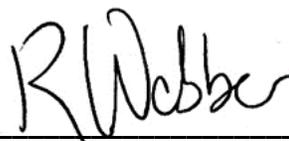
*-And-*

**HENDLER FLORES LAW, PLLC**  
Scott M. Hendler  
[shendler@hendlerlaw.com](mailto:shendler@hendlerlaw.com)  
901 S. MoPac Expressway  
Bldg. 1, Suite #300  
Austin, Texas 78746  
Tel: 512-439-3202  
Fax: 512-439-3201

***ATTORNEYS FOR PLAINTIFF***

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been served to all know counsel of record via electronic mail on June 2, 2022.



---

Rebecca Ruth Webber

# **EXHIBIT D**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

SAM KIRSCH, )  
)  
Plaintiff, )  
) CIVIL ACTION  
VS. ) NO. 1:20-cv-01113-RP  
)  
CITY OF AUSTIN AND ROLAN )  
RAST, )  
)  
Defendants. )

\*\*\*\*\*  
ORAL AND VIDEOTAPE DEPOSITION OF  
BRYAN ANDREW PIETROWSKI, APD #5362  
April 20, 2022  
Volume 1  
(Reported Remotely.)

\*\*\*\*\*

ORAL AND VIDEOTAPE DEPOSITION of BRYAN ANDREW  
PIETROWSKI, APD #5362, produced as a witness at the  
instance of Plaintiff, and duly sworn, was taken in the  
above-styled and numbered cause on the 20th day of  
April, 2-22, from 9:03 a.m. to 2:59 p.m., before Vicki  
L. Smith, CSR in and for the State of Texas, reported by  
machine shorthand, in Austin, Texas, pursuant to the  
Federal Rules of Civil Procedure and The Current  
Emergency Orders Regarding the COVID-19 State of  
Disaster, and the provisions state on the record or  
attached hereto.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

A P P E A R A N C E S

FOR THE PLAINTIFF:

Ms. Rebecca Ruth Webber  
Ms. Lauren Goettsche  
Mr. Donald Puckett  
Ms. Alexis Lopez, Paralegal  
Webber Law  
4228 Threadgill Street  
Austin, Texas 78723  
(512) 439-3202 (Office)  
E-mail: rwebber@rebweblaw.com

FOR THE DEFENDANT CITY OF AUSTIN:

Mr. Henry Gray Laird  
Ms. Priscilla Chavez, Paralegal  
City of Austin, Legal Department  
P.O. Box 1088  
Austin, Texas 78767  
(512) 974-1342 (Office)  
E-mail: gray.laird@austintexas.gov

FOR THE DEFENDANT ROLAN RAST:

Mr. Karson Karl Thompson  
Butler Snow, LLP  
1400 Lavaca Street  
Suite 1000  
Austin, Texas 78701  
(737) 802-1808 (Office)  
E-mail: karson.thompson@butlersnow.com

ALSO PRESENT:

Ms. Emma Bailey, Videographer

1 number of people behind the person that you say you shot  
2 at, but, you know, how do you -- how do you explain that  
3 there was no one near him?

4 MR. LAIRD: Object to the form.

5 A. That would be showing a -- an angle that I  
6 could not have possibly even seen --

7 Q. (By Ms. Webber) Uh-huh.

8 A. -- from my vantage point of being on the  
9 highway.

10 Q. Okay. Okay. I think -- I mean, like, I think  
11 that's the nut of it. You did not see anyone near the  
12 man you shot at, correct?

13 A. Correct.

14 Q. You considered as per policy the angle and  
15 distance that he was, and you determined that you had a  
16 clear shot, correct?

17 A. Correct.

18 Q. And while you don't know if you shot him, you  
19 are absolutely certain that you didn't shoot anyone  
20 else, correct?

21 A. Right. From that vantage point that I had  
22 there, I did not see anything that would indicate that I  
23 hit any other bystanders.

24 Q. Okay. You shot Sam Kirsch, and so I'm  
25 wondering why you know you didn't?

1 MR. LAIRD: Well, what --

2 MS. WEBBER: Excuse me.

3 MR. LAIRD: If -- if you stop --

4 MS. WEBBER: No. No. No. No.

5 MR. LAIRD: Oh, yes. Yes. Yes.

6 MS. WEBBER: Do you have an objection,  
7 sir?

8 MR. LAIRD: Well, if you've -- if you've  
9 got some evidence that shows it, then, I mean --

10 MS. WEBBER: That I -- you really want to  
11 see it; don't you? Like, that's not an objection, Gray.  
12 I know who shot Sam Kirsch.

13 Q. (By Ms. Webber) Detective, you're sure it  
14 wasn't you, right?

15 A. From my vantage point, I was targeting the  
16 individual described in my report.

17 Q. And there's no chance that you shot Sam Kirsch?  
18 In your mind, no chance?

19 A. I targeted the individual that --

20 Q. Just is there a chance that you shot Sam?

21 A. Yeah. I never.

22 Q. None?

23 A. No. I targeted the individual in my report.

24 Q. Uh-huh.

25 A. It's an accurate weapons system.

1 deposition.

2 MS. WEBBER: Boline did this, too. He  
3 testified that he synched these videos, so you can get  
4 it from him. This is --

5 MR. LAIRD: The synched videos that --  
6 well --

7 MS. WEBBER: Well, he did a crap job, and  
8 that's why --

9 MR. LAIRD: We can --

10 MS. WEBBER: -- you know, Officer Rast  
11 got indicted. The wrong guy got indicted, but that  
12 doesn't mean that I have to give you my work product  
13 just because it's better.

14 MR. LAIRD: We can argue about whether  
15 you should have produced it or not. I feel strongly  
16 that you should have before questioning the witness.

17 MS. WEBBER: And I feel strongly that you  
18 shouldn't have a loud this man to come here today and  
19 testify under oath when he was considered as someone who  
20 shot Sam Kirsch.

21 MR. LAIRD: You've said -- a -- listening  
22 as a potential subject officer is -- is completely  
23 different, but we can argue about that at -- on another  
24 date, as well. So we can move forward if you -- if you  
25 have other subjects you want to question him about.

# **EXHIBIT E**



## OFFICE OF THE DISTRICT ATTORNEY

P.O. Box 1748, Austin, TX 78767

Telephone 512/854-9400

Telefax 512/854-4206

**JOSÉ P. GARZA**  
DISTRICT ATTORNEY

**TRUDY STRASSBURGER**  
FIRST ASSISTANT

### Travis County District Attorney's Civil Rights Unit Case Summaries

The following is a list of each officer-involved use of force or other misconduct matter involving injury to any person currently pending in the Office's Civil Rights Unit. The list provides an update on the status of the investigation.

#### INDICTED CASES

**INDICTED: STATE OF TEXAS VS MARCUS REED, D-1-DC-19-904052, D-1-DC-19-904030, D-1-DC-19-900065:** At the time of the incident, Mr. Reed, then a licensed peace officer, was employed as an Investigator with the Austin Fire Department. Mr. Reed was indicted and charged with the commission of Sexual Assault, Official Oppression, and Aggravated Perjury. Mr. Reed's case was tried on August 12, 2019 in the 167<sup>th</sup> District Court and the jury returned a guilty verdict on the Aggravated Perjury charge. The jury was unable to reach a verdict on the Sexual Assault and Official Oppression charges and the judge declared a mistrial on both charges. The retrial of the Sexual Assault and Official Oppression charges is set for January 25, 2021 in the 167<sup>th</sup> District Court.

Mr. Reed also has a pending Indecency with a Child by Sexual Contact case, which was indicted on June 7, 2019. This case is also scheduled for jury trial on January 25, 2021 in the 167<sup>th</sup> District Court. Mr. Reed is alleged to have engaged in sexual contact with a child younger than 17 years of age.

**INDICTED: STATE OF TEXAS VS NATHANIEL STALLINGS, D-1-DC-19-904051, D-1-DC-19-904052:** At the time of the incident, Mr. Stallings, then a licensed peace officer, was employed as a police officer with the Austin Police Department. On October 6, 2017, while on duty and in uniform in a fully-marked Austin Police Department patrol vehicle, Mr. Stallings is alleged to have caused bodily injury to a civilian. Mr. Stallings was indicted on June 25, 2018 and charged with Assault and Abuse of Official Capacity. Both cases are pending a jury trial on April 19, 2021 in the 450<sup>th</sup> District Court.

**INDICTED: STATE OF TEXAS VS LANDO HALL, D-1-DC-900105:** At the time of the incident, Mr. Hall was employed as a police officer with the Austin Police Department. On Monday, January 4, 2021, APD Officer Lando Hall was indicted for the felony offense of Misuse of Official Information, a third degree felony under Section 39.06(b) of the Texas Penal Code by the 147<sup>th</sup> Special Grand Jury – Extended July 2020 term. The case is pending in the 403<sup>rd</sup> Judicial District Court.

*Note: Due to COVID-19 restrictions there are currently no criminal jury trials in Travis County.*

**UNINDICTED**

**DECEDENT: AQUINTIS GRIFFIN/SUBJECT OFFICERS: ALBERT MARTINEZ; CHRISTOPHER SALACKI; DANIEL MATHIS; JOSEPH CAST; JOSEPH MORAN; JUSTIN HALBACH; LEWIS HOLLAND; STEPHEN JOHNSON & WESLEY DEVRIES (Date of Incident: 08/18/2018):** Mr. Aquantis Griffin died as a result of multiple gunshot wounds fired by Austin Police Department officers on August 18, 2018.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: ISAIAH HUTCHINSON SUBJECT OFFICERS: DANE O'NEIL, ZACHARY WOODS, DEANDRE WRIGHT, TREY NELSON (Date of Incident: 03/17/2019):** On March 17, 2019, Mr. Hutchinson died from multiple gunshot wounds fired by four Austin Police Department officers assigned to various units working downtown during the South by Southwest Festival.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: JAVIER AMBLER / SUBJECT OFFICERS: MICHAEL NISSEN, JAMES JOHNSON, ZACHARY CAMDEN, PATRICK NELSON (Date of Incident: 03/28/2019):** Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence. This case is expected to be presented to a Travis County grand jury before the expiration of the current grand jury's term in March of this year.

**DECEDENT: JAVIER AMBLER / SUBJECT OFFICERS: ROBERT CHODY, JASSON NASSOUR (Date of Incident: 03/28/2019):** Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence. This case is expected to be presented to a Travis County grand jury before the expiration of the current grand jury's term in March of this year.

**COMPLAINANT: GIORGIO TAYLOR / SUBJECT OFFICER: SHANNON OWENS (Date of Incident: 04/22/2019):** At the time of the incident, Mr. Owens was a licensed corrections officer with the Travis County Sheriff's Office. On April 22, 2019, while on duty and in uniform, Mr. Owens is alleged to have presented a false sworn affidavit for warrant of arrest and detention. This case is expected to be presented to a Travis County grand jury before the expiration of the current grand jury's term in March of this year.

**DECEDENT: CARLOS DODERO / SUBJECT OFFICERS: HUGH BUTLER, WILLIAM BERTELSON (Date of Incident: 04/28/2019):** Mr. Carlos Dodero died as a result of multiple gunshot wounds fired by the Austin Police Department on April 28, 2019. At the time of the shooting incident, the Austin Police Department responded to multiple calls to 911 for a disturbance occurring on the Pennybacker Bridge.

The case is currently under investigation in a joint investigation conducted by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: MAURIS DESILVA / SUBJECT OFFICERS: CHRISTOPHER TAYLOR, KARL KRYCIA (Date of Incident: 07/31/2019):** Mr. DeSilva died from multiple gunshot wounds fired by two Austin Police Department officers on July 31, 2019.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: TYLER GRIST / SUBJECT OFFICERS: OSVALDO HERNANDEZ, RICHARD MARTINEZ, ALEXANDER ANTILLON, ANTHONY CARDINAL, ANTONIO SERNA (Date of Incident: 08/31/2019):** Mr. Tyler Grist's death occurred while in custody in the Travis County jail on unrelated charges. Mr. Grist was found unconscious by Travis County Sheriff's Office's staff. The case is currently under investigation in a joint investigation conducted by the Travis County Sheriff's Office, Texas Department of Public Safety, and the Travis County District Attorney Office's Civil Rights Unit.

**DECEDENT: FRED BABCOCK / SUBJECT OFFICER: MATTHEW HARMATUK (Date of Incident: 09/22/2019):** Mr. Fred Babcock died as a result of a gunshot wound fired by the Austin Police Department on September 22, 2019.

The case is currently under investigation in a joint investigation conducted by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence.

We expect that this case will be presented to a grand jury in early fall 2021.

**DECEDENT: ENRIQUE QUIROZ / SUBJECT OFFICERS: EDUARDO PINEDA, SPENCER HANNA, ZANE DOWDELL, LUCAS PARKER, MARK YALETCHKO and TRINITHAD GARCIA (Date of Incident: 03/21/2020):** Mr. Quiroz died while in custody of the Austin Police Department after an encounter with multiple officers on March 31, 2020.

We expect that this case will be presented to a grand jury in early fall 2021.

**COMPLAINANT: F. ZIMMERMAN (Pseudonym) / SUBJECT OFFICER: WALTER DODDS (Date of Incident: 04/18/2020):** On April 18, 2020, while responding to a service call involving Ms. Zimmerman, Mr. Dodds, then an Austin Police Department officer encountered Ms. Zimmerman and is alleged to have later returned to her residence and alleged to have sexually assaulted her.

This case is expected to be presented to a Travis County grand jury before the expiration of the current grand jury's term in March.

**DECEDENT: MICHAEL RAMOS / SUBJECT OFFICERS: CHRISTOPHER TAYLOR, MITCHELL PIEPER (Date of Incident: 04/24/2020):** Mr. Michael Ramos died as a result of multiple gunshot wounds fired by an Austin Police Department officer on April 24, 2020.

The case is currently under investigation in a joint investigation conducted by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. This case is expected to be presented to a Travis County grand jury before the expiration of the current grand jury's term in March.

**COMPLAINANT: NAME WITHHELD DUE TO BEING A MINOR / SUBJECT OFFICERS: NICHOLAS GEBHART and JOHN NICKLASON (Date of Incident: 05/30/2020):** On May 30, 2020, Complainant, a Minor, was attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos that occurred in downtown Austin and was struck with "bean bag" ammunition and "rubber bullets".

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: BOMANI RAY BARTON / SUBJECT OFFICER: KYU AN (Date of Incident: 05/30/2020):** On May 31, 2020, Mr. Barton, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck with “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: GEMICAH VOLTER-JONES / SUBJECT OFFICER: DERRICK LEHMAN (Date of Incident: 5/30/2020):** On May 30, 2020, Mr. Volter-Jones, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: MEREDITH WILLIAMS / SUBJECT OFFICER: JOSEPH CAST (Date of Incident: 5/30/2020):** On May 30, 2020, Ms. Williams, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: NICOLE UNDERWOOD / SUBJECT OFFICER: JOHN SIEGEL (Date of Incident: 5/30/2020):** On May 30, 2020, Mr. Underwood, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: MEREDITH DRAKE / SUBJECT OFFICER: CHANCE BRETCHES (Date of Incident: 05/31/2020):** On May 31, 2020, Mr. Drake, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: ANTHONY EVANS / SUBJECT OFFICER: KYLE FELTON (Date of Incident: 05/31/2020):** On May 31, 2020, Mr. Evans, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: JUSTIN HOWELL / SUBJECT OFFICER: KYLE FELTON (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Howell, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: SAMUEL KIRSCH / SUBJECT OFFICER: NOT IDENTIFIED (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Kirsch, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: CHRISTEN WARKOCZEWSKI / SUBJECT OFFICERS: JUSTIN BERRY; ALEXANDER LOMOSTEV & TODD GIBLERTSON (Date of Incident: 5/31/2020):** On May 31, 2020, Ms. Williams, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: DYLAN POLINSKI / SUBJECT INVOLVED OFFICERS: JAVIER RODRIGUEZ AND KAMOWA REYNOLDS (Date of Incident: 01/04/2021):** On January 4, 2021, Mr. Dylan Polinski survived an incident in which he was shot by one Austin Police Department officer and “tased” with a conducted electrical weapon, commonly known as a “TASER” during an encounter with police officers at a local hotel.

The case is currently under investigation in a joint investigation involving the Austin Police Department’s Special Investigations Unit and the Travis County District Attorney Office’s Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early fall of this year.

**DECEDENT: ALEXANDER GONZALEZ / SUBJECT OFFICER: LUIS SERRATO (Date of Incident: 01/05/2021):** On January 5, 2021, Mr. Alexander Gonzalez died as a result of multiple gunshot wounds in an incident involving an off-duty Austin Police Department officer and another officer who was on duty, both of whom discharged their weapons striking Mr. Gonzalez.

The case is currently under investigation in a joint investigation involving the Austin Police Department’s Special Investigations Unit and the Travis County District Attorney Office’s Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early fall of this year.



## OFFICE OF THE DISTRICT ATTORNEY

P.O. Box 1748, Austin, TX 78767

Telephone 512/854-9400

Telefax 512/854-4206

**JOSÉ P. GARZA**  
DISTRICT ATTORNEY

**TRUDY STRASSBURGER**  
FIRST ASSISTANT

### Travis County DA Civil Rights Unit Case Summaries – January 29, 2021

The following is a current list of each officer-involved use of force or other misconduct matter involving injury to any person currently pending in the Office's Civil Rights Unit.

#### INDICTED CASES

**INDICTED: STATE OF TEXAS VS MARCUS REED, D-1-DC-19-904028, D-1-DC-19-904030, D-1-DC-19-900065:** At the time of the incident, Mr. Reed, then a licensed peace officer, was employed as an Investigator with the Austin Fire Department. Mr. Reed was indicted and charged with the commission of Sexual Assault, Official Oppression, and Aggravated Perjury. Mr. Reed's case was tried on August 12, 2019 in the 167<sup>th</sup> District Court and the jury returned a guilty verdict on the Aggravated Perjury charge. The jury was unable to reach a verdict on the Sexual Assault and Official Oppression charges and the judge declared a mistrial on both charges. The retrial of the Sexual Assault and Official Oppression charges is set for January 25, 2021 in the 167<sup>th</sup> District Court.

Mr. Reed also has a pending Indecency with a Child by Sexual Contact case, which was indicted on June 7, 2019. This case is also scheduled for jury trial on January 25, 2021 in the 167<sup>th</sup> District Court. Mr. Reed is alleged to have engaged in sexual contact with a child younger than 17 years of age.

The next court setting is February 22, 2021.

**INDICTED: STATE OF TEXAS VS NATHANIEL STALLINGS, D-1-DC-19-904051, D-1-DC-19-904052:** At the time of the incident, Mr. Stallings, then a licensed peace officer, was employed as a police officer with the Austin Police Department. On October 6, 2017, while on duty and in uniform in a fully marked Austin Police Department patrol vehicle, Mr. Stallings is alleged to have caused bodily injury to a civilian. Mr. Stallings was indicted on June 25, 2018 and charged with Assault and Abuse of Official Capacity. Both cases are pending a jury trial on April 19, 2021 in the 450<sup>th</sup> District Court.

This next court setting is April 19, 2021

**INDICTED: STATE OF TEXAS VS LANDO HALL, D-1-DC-19-900105:** At the time of the incident, Mr. Hall was employed as a police officer with the Austin Police Department. On Monday, January 4, 2021, APD Officer Lando Hall was indicted for the felony offense of Misuse of Official Information, a third-degree felony under Section 39.06(b) of the Texas Penal Code by the 147<sup>th</sup> Special Grand Jury – Extended July 2020 term. The case is pending in the 403<sup>rd</sup> Judicial District Court.

The next court setting is February 24, 2021

**INDICTED: STATE OF TEXAS VS. SHANNON OWENS, D-1-DC-20-90003:** At the time of the incident, Mr. Owens was employed as a corrections officer with the Travis County Sherriff's Office. On Wednesday, December 16, 2020, TCSO Deputy Owens was indicted with Aggravated Perjury, a third-degree felony, and Tampering with Governmental Record with the intent to defraud or harm another, a state jail felony by the 147<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is February 5, 2021.

**INDICTED: STATE OF TEXAS VS. CHANCE BRETCHES, D-1-DC-20-900091:** At the time of the incident, Mr. Bretches was employed as a police officer with the Austin Police Department. On Wednesday, January 20, 2021, Officer Bretches was indicted with Aggravated Assault by a Public Servant, Serious Bodily Injury/Deadly Weapon, a first-degree felony by the extended 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is March 18, 2021.

**INDICTED: STATE OF TEXAS VS. GREGORY GENTRY, D-1-DC-20-900092:** At the time of the incident, Mr. Gentry was employed as a police officer with the Austin Police Department. On Wednesday, January 20, 2021, Officer Gentry was indicted with Aggravated Assault by a Public Servant, Serious Bodily Injury/Deadly Weapon, a first-degree felony by the extended 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is March 18, 2021.

**INDICTED: STATE OF TEXAS VS. AUSTIN JOHNSTON, D-1-DC-19-900021:** At the time of the incident, Mr. Johnston was employed as a trooper with the Department of Public Safety. On Friday, August 21, 2020, Trooper Johnston was indicted with Aggravated Assault by Public, a first-degree felony, Deadly Conduct, third-degree felony and Tampering with Physical Evidence, third-degree felony by the 460<sup>th</sup> Extended Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is February 26, 2021.

*Note: Due to COVID-19 restrictions there are currently no criminal jury trials in Travis County.*

**UNINDICTED**

**DECEDENT: AQUINTIS GRIFFIN/SUBJECT OFFICERS: ALBERT MARTINEZ; CHRISTOPHER SALACKI; DANIEL MATHIS; JOSEPH CAST; JOSEPH MORAN; JUSTIN HALBACH; LEWIS HOLLAND; STEPHEN JOHNSON & WESLEY DEVRIES (Date of Incident: 08/18/2018):** Mr. Aquantis Griffin died as a result of multiple gunshot wounds fired by Austin Police Department officers on August 18, 2018.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: ISAIAH HUTCHINSON SUBJECT OFFICERS: DANE O'NEIL, ZACHARY WOODS, DEANDRE WRIGHT, TREY NELSON (Date of Incident: 03/17/2019):** On March 17, 2019, Mr. Hutchinson died from multiple gunshot wounds fired by four Austin Police Department officers assigned to various units working downtown during the South by Southwest Festival.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: JAVIER AMBLER / SUBJECT OFFICERS: MICHAEL NISSEN, JAMES JOHNSON, ZACHARY CAMDEN, PATRICK NELSON (Date of Incident: 03/28/2019):** Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence. This case is expected to be presented to a Travis County grand jury before the expiration of the current grand jury's term in March of this year.

**DECEDENT: JAVIER AMBLER / SUBJECT OFFICERS: ROBERT CHODY, JASSON NASSOUR (Date of Incident: 03/28/2019):** Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence. This case is expected to be presented to a Travis County grand jury before the expiration of the current grand jury's term in March of this year.

**COMPLAINANT: GIORGIO TAYLOR / SUBJECT OFFICER: SHANNON OWENS (Date of Incident: 04/22/2019):** At the time of the incident, Mr. Owens was a licensed corrections officer with the Travis County Sheriff's Office. On April 22, 2019, while on duty and in uniform, Mr. Owens is alleged to have presented a false sworn affidavit for warrant of arrest and detention. This case is expected to be presented to a Travis County grand jury before the expiration of the current grand jury's term in March of this year.

**DECEDENT: CARLOS DODERO / SUBJECT OFFICERS: HUGH BUTLER, WILLIAM BERTELSON (Date of Incident: 04/28/2019):** Mr. Carlos Dodero died as a result of multiple gunshot wounds fired by the Austin Police Department on April 28, 2019. At the time of the shooting incident, the Austin Police Department responded to multiple calls to 911 for a disturbance occurring on the Pennybacker Bridge.

The case is currently under investigation in a joint investigation conducted by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: MAURIS DESILVA / SUBJECT OFFICERS: CHRISTOPHER TAYLOR, KARL KRYCIA (Date of Incident: 07/31/2019):** Mr. DeSilva died from multiple gunshot wounds fired by two Austin Police Department officers on July 31, 2019.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: TYLER GRIST / SUBJECT OFFICERS: OSVALDO HERNANDEZ, RICHARD MARTINEZ, ALEXANDER ANTILLON, ANTHONY CARDINAL, ANTONIO SERNA (Date of**

**Incident: 08/31/2019):** Mr. Tyler Grist's death occurred while in custody in the Travis County jail on unrelated charges. Mr. Grist was found unconscious by Travis County Sheriff's Office's staff. The case is currently under investigation in a joint investigation conducted by the Travis County Sheriff's Office, Texas Department of Public Safety, and the Travis County District Attorney Office's Civil Rights Unit.

**DECEDENT: FRED BABCOCK / SUBJECT OFFICER: MATTHEW HARMATUK (Date of Incident: 09/22/2019):** Mr. Fred Babcock died as a result of a gunshot wound fired by the Austin Police Department on September 22, 2019.

The case is currently under investigation in a joint investigation conducted by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence.

We expect that this case will be presented to a grand jury in early fall 2021.

**DECEDENT: ENRIQUE QUIROZ / SUBJECT OFFICERS: EDUARDO PINEDA, SPENCER HANNA, ZANE DOWDELL, LUCAS PARKER, MARK YALETCHKO and TRINITHAD GARCIA (Date of Incident: 03/21/2020):** Mr. Quiroz died while in custody of the Austin Police Department after an encounter with multiple officers on March 31, 2020.

We expect that this case will be presented to a grand jury in early fall 2021.

**COMPLAINANT: F. ZIMMERMAN (Pseudonym) / SUBJECT OFFICER: WALTER DODDS (Date of Incident: 04/18/2020):** On April 18, 2020, while responding to a service call involving Ms. Zimmerman, Mr. Dodds, then an Austin Police Department officer encountered Ms. Zimmerman and is alleged to have later returned to her residence and alleged to have sexually assaulted her.

This case is expected to be presented to a Travis County grand jury before the expiration of the current grand jury's term in March.

**DECEDENT: MICHAEL RAMOS / SUBJECT OFFICERS: CHRISTOPHER TAYLOR, MITCHELL PIEPER (Date of Incident: 04/24/2020):** Mr. Michael Ramos died as a result of multiple gunshot wounds fired by an Austin Police Department officer on April 24, 2020.

The case is currently under investigation in a joint investigation conducted by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. This case is expected to be presented to a Travis County grand jury before the expiration of the current grand jury's term in March.

**COMPLAINANT: NAME WITHHELD DUE TO BEING A MINOR / SUBJECT OFFICERS: NICHOLAS GEBHART (Date of Incident: 05/30/2020):** On May 30, 2020, Complainant, a Minor, was attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos that occurred in downtown Austin and was struck with "bean bag" ammunition and "rubber bullets".

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: BOMANI RAY BARTON / SUBJECT OFFICER: KYU AN (Date of Incident: 05/30/2020):** On May 31, 2020, Mr. Barton, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck with "bean bag" ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: GEMICAH VOLTER-JONES / SUBJECT OFFICER: DERRICK LEHMAN (Date of Incident: 5/30/2020):** On May 30, 2020, Mr. Volter-Jones, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: MEREDITH WILLIAMS / SUBJECT OFFICER: JOSEPH CAST (Date of Incident: 5/30/2020):** On May 30, 2020, Ms. Williams, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: NICOLE UNDERWOOD / SUBJECT OFFICER: JOHN SIEGEL (Date of Incident: 5/30/2020):** On May 30, 2020, Mr. Underwood, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: MEREDITH DRAKE / SUBJECT OFFICER: CHANCE BRETCHES (Date of Incident: 05/31/2020):** On May 31, 2020, Mr. Drake, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition. Officer Bretches was indicted on 1/20/2021 on Aggravated Assault by Public Servant on an unrelated case.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: ANTHONY EVANS / SUBJECT OFFICER: KYLE FELTON (Date of Incident: 05/31/2020):** On May 31, 2020, Mr. Evans, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: JUSTIN HOWELL / SUBJECT OFFICER: JEFFREY TENG (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Howell, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: SAMUEL KIRSCH / SUBJECT OFFICER: NOT IDENTIFIED (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Kirsch, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: CHRISTEN WARKOCZEWSKI / SUBJECT OFFICERS: JUSTIN BERRY; ALEXANDER LOMOSTEV, TODD GIBLERTSON, STANLEY VICK, CHRISTIAN IRWIN, JEREMY FISHER & JOSHUA JACKSON (Date of Incident: 5/31/2020):** On May 31, 2020, Ms. Williams, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: DYLAN POLINSKI / SUBJECT INVOLVED OFFICERS: NOT IDENTIFIED (Date of Incident: 01/04/2021):** On January 4, 2021, during an attempt to take Mr. Dylan Polinski into custody, Mr. Polinski was shot by one Austin Police Department officer and “tased” with a conducted electrical weapon, commonly known as a “TASER”.

The case is currently under investigation in a joint investigation involving the Austin Police Department’s Special Investigations Unit and the Travis County District Attorney Office’s Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early fall of 2021.

**DECEDENT: ALEXANDER GONZALEZ / SUBJECT OFFICER: LUIS SERRATO (Date of Incident: 01/05/2021):** On January 5, 2021, Mr. Alexander Gonzalez died as a result of multiple gunshot wounds in an incident involving an off-duty Austin Police Department officer and another officer who was on duty, both of whom discharged their weapons striking Mr. Gonzalez.

The case is currently under investigation in a joint investigation involving the Austin Police Department’s Special Investigations Unit and the Travis County District Attorney Office’s Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early fall of 2021.



## OFFICE OF THE DISTRICT ATTORNEY

P.O. Box 1748, Austin, TX 78767

Telephone 512/854-9400

Telefax 512/854-4206

**JOSÉ P. GARZA**  
DISTRICT ATTORNEY

**TRUDY STRASSBURGER**  
FIRST ASSISTANT

### Travis County DA Civil Rights Unit Case Summaries – February 26, 2021

The following is a current list of each officer-involved use of force or other misconduct matter involving injury to any person currently pending in the Office's Civil Rights Unit.

#### INDICTED CASES

**INDICTED: STATE OF TEXAS VS MARCUS REED, D-1-DC-19-904028, D-1-DC-19-904030, D-1-DC-19-900065:** At the time of the incident, Mr. Reed, then a licensed peace officer, was employed as an Investigator with the Austin Fire Department. Mr. Reed was indicted and charged with the commission of Sexual Assault, Official Oppression, and Aggravated Perjury. Mr. Reed's case was tried on August 12, 2019 in the 167<sup>th</sup> District Court and the jury returned a guilty verdict on the Aggravated Perjury charge. The jury was unable to reach a verdict on the Sexual Assault and Official Oppression charges and the judge declared a mistrial on both charges. The retrial of the Sexual Assault and Official Oppression is pending in the 167<sup>th</sup> District Court.

Mr. Reed also has a pending Indecency with a Child by Sexual Contact case, which was indicted on June 7, 2019. Mr. Reed is alleged to have engaged in sexual contact with a child younger than 17 years of age.

The next court setting is April 26, 2021.

**INDICTED: STATE OF TEXAS VS NATHANIEL STALLINGS, D-1-DC-19-904051, D-1-DC-19-904052:** At the time of the incident, Mr. Stallings, then a licensed peace officer, was employed as a police officer with the Austin Police Department. On October 6, 2017, while on duty and in uniform in a fully marked Austin Police Department patrol vehicle, Mr. Stallings is alleged to have caused bodily injury to a civilian. Mr. Stallings was indicted on June 25, 2018 and charged with Assault and Abuse of Official Capacity. Both cases are pending in the 450<sup>th</sup> District Court.

This next court setting is April 19, 2021

**INDICTED: STATE OF TEXAS VS LANDO HALL, D-1-DC-19-900105:** At the time of the incident, Mr. Hall was employed as a police officer with the Austin Police Department. On Monday, January 4, 2021, APD Officer Lando Hall was indicted for the felony offense of Misuse of Official Information, a third-degree felony under Section 39.06(b) of the Texas Penal Code by the 147<sup>th</sup> Special Grand Jury – Extended July 2020 term. The case is pending in the 403<sup>rd</sup> Judicial District Court.

The next court setting is March 31, 2021

**INDICTED: STATE OF TEXAS VS. SHANNON OWENS, D-1-DC-20-90003:** At the time of the incident, Mr. Owens was employed as a corrections officer with the Travis County Sherriff's Office. On Wednesday, December 16, 2020, TCSO Deputy Owens was indicted with Aggravated Perjury, a third-degree felony, and Tampering with Governmental Record with the intent to defraud or harm another, a state jail felony by the 147<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is March 11, 2021.

**INDICTED: STATE OF TEXAS VS. CHANCE BRETCHES, D-1-DC-20-900091:** At the time of the incident, Mr. Bretches was employed as a police officer with the Austin Police Department. On Wednesday, January 20, 2021, Officer Bretches was indicted with Aggravated Assault by a Public Servant, Serious Bodily Injury/Deadly Weapon, a first-degree felony by the extended 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is March 18, 2021.

**INDICTED: STATE OF TEXAS VS. GREGORY GENTRY, D-1-DC-20-900092:** At the time of the incident, Mr. Gentry was employed as a police officer with the Austin Police Department. On Wednesday, January 20, 2021, Officer Gentry was indicted with Aggravated Assault by a Public Servant, Serious Bodily Injury/Deadly Weapon, a first-degree felony by the extended 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is March 18, 2021.

**INDICTED: STATE OF TEXAS VS. AUSTIN JOHNSTON, D-1-DC-19-900021:** At the time of the incident, Mr. Johnston was employed as a trooper with the Department of Public Safety. On Friday, August 21, 2020, Trooper Johnston was indicted with Aggravated Assault by Public, a first-degree felony, Deadly Conduct, third-degree felony and Tampering with Physical Evidence, third-degree felony by the 460<sup>th</sup> Extended Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is March 22, 2021.

*Note: Due to COVID-19 restrictions there are currently no criminal jury trials in Travis County.*

**UNINDICTED**

**DECEDENT: AQUINTIS GRIFFIN/SUBJECT OFFICERS: ALBERT MARTINEZ; CHRISTOPHER SALACKI; DANIEL MATHIS; JOSEPH CAST; JOSEPH MORAN; JUSTIN HALBACH; LEWIS HOLLAND; STEPHEN JOHNSON & WESLEY DEVRIES (Date of Incident: 08/18/2018):** Mr. Aquantis Griffin died as a result of multiple gunshot wounds fired by Austin Police Department officers on August 18, 2018.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: ISAIAH HUTCHINSON SUBJECT OFFICERS: DANE O'NEIL, ZACHARY WOODS, DEANDRE WRIGHT, TREY NELSON (Date of Incident: 03/17/2019):** On March 17, 2019, Mr. Hutchinson died from multiple gunshot wounds fired by four Austin Police Department officers assigned to various units working downtown during the South by Southwest Festival.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: JAVIER AMBLER / SUBJECT OFFICERS: MICHAEL NISSEN, JAMES JOHNSON, ZACHARY CAMDEN, PATRICK NELSON (Date of Incident: 03/28/2019):** Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence. This case is expected to be presented to a Travis County grand jury before the expiration of the current grand jury's term in March of this year.

**DECEDENT: JAVIER AMBLER / SUBJECT OFFICERS: ROBERT CHODY, JASSON NASSOUR (Date of Incident: 03/28/2019):** Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence. This case is expected to be presented to a Travis County grand jury before the expiration of the current grand jury's term in March of this year.

**DECEDENT: CARLOS DODERO / SUBJECT OFFICERS: HUGH BUTLER, WILLIAM BERTELSON (Date of Incident: 04/28/2019):** Mr. Carlos Dodero died as a result of multiple gunshot wounds fired by the Austin Police Department on April 28, 2019. At the time of the shooting incident, the Austin Police Department responded to multiple calls to 911 for a disturbance occurring on the Pennybacker Bridge.

The case is currently under investigation in a joint investigation conducted by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: MAURIS DESILVA / SUBJECT OFFICERS: CHRISTOPHER TAYLOR, KARL KRYCIA (Date of Incident: 07/31/2019):** Mr. DeSilva died from multiple gunshot wounds fired by two Austin Police Department officers on July 31, 2019.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: TYLER GRIST / SUBJECT OFFICERS: OSVALDO HERNANDEZ, RICHARD MARTINEZ, ALEXANDER ANTILLON, ANTHONY CARDINAL, ANTONIO SERNA (Date of Incident: 08/31/2019):** Mr. Tyler Grist's death occurred while in custody in the Travis County jail on unrelated charges. Mr. Grist was found unconscious by Travis County Sheriff's Office's staff. The case is currently under investigation in a joint investigation conducted by the Travis County Sheriff's Office, Texas Department of Public Safety, and the Travis County District Attorney Office's Civil Rights Unit.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: FRED BABCOCK / SUBJECT OFFICER: MATTHEW HARMATUK (Date of Incident: 09/22/2019):** Mr. Fred Babcock died as a result of a gunshot wound fired by the Austin Police Department on September 22, 2019.

The case is currently under investigation in a joint investigation conducted by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence.

We expect that this case will be presented to a grand jury in early fall 2021.

**DECEDENT: ENRIQUE QUIROZ / SUBJECT OFFICERS: EDUARDO PINEDA, SPENCER HANNA, ZANE DOWDELL, LUCAS PARKER, MARK YALETCHKO and TRINITHAD GARCIA (Date of Incident: 03/21/2020):** Mr. Quiroz died while in custody of the Austin Police Department after an encounter with multiple officers on March 31, 2020.

We expect that this case will be presented to a grand jury in early fall 2021.

**COMPLAINANT: F. ZIMMERMAN (Pseudonym) / SUBJECT OFFICER: WALTER DODDS (Date of Incident: 04/18/2020):** On April 18, 2020, while responding to a service call involving Ms. Zimmerman, Mr. Dodds, then an Austin Police Department officer encountered Ms. Zimmerman and is alleged to have later returned to her residence and alleged to have sexually assaulted her.

The case is currently under investigation in a joint investigation conducted by the Travis County District Attorney's Sexual Assault Unit and the Civil Rights Unit. This case is expected to be presented to a Travis County grand jury before the expiration of the current grand jury's term in March.

**DECEDENT: MICHAEL RAMOS / SUBJECT OFFICERS: CHRISTOPHER TAYLOR, MITCHELL PIEPER (Date of Incident: 04/24/2020):** Mr. Michael Ramos died as a result of multiple gunshot wounds fired by an Austin Police Department officer on April 24, 2020.

The case is currently under investigation in a joint investigation conducted by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. This case is expected to be presented to a Travis County grand jury before the expiration of the current grand jury's term in March.

**COMPLAINANT: NAME WITHHELD DUE TO BEING A MINOR / SUBJECT OFFICERS: NICHOLAS GEBHART (Date of Incident: 05/30/2020):** On May 30, 2020, Complainant, a Minor, was attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos that occurred in downtown Austin and was struck with "bean bag" ammunition and "rubber bullets".

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: BOMANI RAY BARTON / SUBJECT OFFICER: KYU AN (Date of Incident: 05/30/2020):** On May 31, 2020, Mr. Barton, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck with "bean bag" ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: GEMICAH VOLTER-JONES / SUBJECT OFFICER: DERRICK LEHMAN (Date of Incident: 5/30/2020):** On May 30, 2020, Mr. Volter-Jones, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: MEREDITH WILLIAMS / SUBJECT OFFICER: JOSEPH CAST (Date of Incident: 5/30/2020):** On May 30, 2020, Ms. Williams, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: NICOLE UNDERWOOD / SUBJECT OFFICER: JOHN SIEGEL (Date of Incident: 5/30/2020):** On May 30, 2020, Mr. Underwood, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: MEREDITH DRAKE / SUBJECT OFFICER: CHANCE BRETCHES (Date of Incident: 05/31/2020):** On May 31, 2020, Mr. Drake, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition. Officer Bretches was indicted on 1/20/2021 on Aggravated Assault by Public Servant on an unrelated case.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: ANTHONY EVANS / SUBJECT OFFICER: KYLE FELTON (Date of Incident: 05/31/2020):** On May 31, 2020, Mr. Evans, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: JUSTIN HOWELL / SUBJECT OFFICER: JEFFREY TENG (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Howell, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: SAMUEL KIRSCH / SUBJECT OFFICER: NOT IDENTIFIED (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Kirsch, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: CHRISTEN WARKOCZEWSKI / SUBJECT OFFICERS: JUSTIN BERRY; ALEXANDER LOMOSTEV, TODD GIBLERTSON, STANLEY VICK, CHRISTIAN IRWIN, JEREMY FISHER & JOSHUA JACKSON (Date of Incident: 5/31/2020):** On May 31, 2020, Ms. Williams, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: DYLAN POLINSKI / SUBJECT INVOLVED OFFICERS: JAVIER RODRIGUEZ AND KAMOWA REYNOLDS (Date of Incident: 01/04/2021):** On January 4, 2021, Mr. Dylan Polinski survived an incident in which he was shot by one Austin Police Department officer and “tased” with a conducted electrical weapon, commonly known as a “TASER” during an encounter with police officers at a local hotel.

The case is currently under investigation in a joint investigation involving the Austin Police Department’s Special Investigations Unit and the Travis County District Attorney Office’s Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early fall of this year.

**DECEDENT: ALEXANDER GONZALEZ / SUBJECT OFFICER: LUIS SERRATO AND GABRIEL GUTIERREZ (Date of Incident: 01/05/2021):** On January 5, 2021, Mr. Alexander Gonzalez died as a result of multiple gunshot wounds in an incident involving an off-duty Austin Police Department officer and another officer who was on duty, both of whom discharged their weapons striking Mr. Gonzalez.

The case is currently under investigation in a joint investigation involving the Austin Police Department’s Special Investigations Unit and the Travis County District Attorney Office’s Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early fall of this year.

**COMPLAINANT: KELVIN SCOTT/ SUBJECT OFFICER: ANTHONY CAMPANA (Date of Incident: 11/20/2020):** On November 8, 2020, during an attempt to take Mr. Kelvin Scott into custody, Mr. Scott survived a gunshot wound fired by a Pflugerville Police Department officer.

The case is currently under investigation in a joint investigation involving the Texas Rangers and the Travis County District Attorney Office Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early fall of this year.



## OFFICE OF THE DISTRICT ATTORNEY

P.O. Box 1748, Austin, TX 78767

Telephone 512/854-9400

Telefax 512/854-4206

**JOSÉ P. GARZA**  
DISTRICT ATTORNEY

**TRUDY STRASSBURGER**  
FIRST ASSISTANT

### **Travis County DA Civil Rights Unit Case Summaries - March 26, 2021**

The following is a current list of each officer-involved use of force or other misconduct matter involving injury to any person currently pending in the Office's Civil Rights Unit.

#### **INDICTED CASES**

**INDICTED: STATE OF TEXAS VS MARCUS REED, D-1-DC-19-904028, D-1-DC-19-904030, D-1-DC-19-900065:** At the time of the incident, Mr. Reed, then a licensed peace officer, was employed as an Investigator with the Austin Fire Department. Mr. Reed was indicted and charged with the commission of Sexual Assault, Official Oppression, and Aggravated Perjury. Mr. Reed's case was tried on August 12, 2019 in the 167<sup>th</sup> District Court and the jury returned a guilty verdict on the Aggravated Perjury charge. The jury was unable to reach a verdict on the Sexual Assault and Official Oppression charges and the judge declared a mistrial on both charges. The retrial of the Sexual Assault and Official Oppression is pending in the 167<sup>th</sup> District Court.

Mr. Reed also has a pending Indecency with a Child by Sexual Contact case, which was indicted on June 7, 2019. Mr. Reed is alleged to have engaged in sexual contact with a child younger than 17 years of age.

The next court setting is April 26, 2021.

**INDICTED: STATE OF TEXAS VS NATHANIEL STALLINGS, D-1-DC-19-904051, D-1-DC-19-904052:** At the time of the incident, Mr. Stallings, then a licensed peace officer, was employed as a police officer with the Austin Police Department. On October 6, 2017, while on duty and in uniform in a fully marked Austin Police Department patrol vehicle, Mr. Stallings is alleged to have caused bodily injury to a civilian. Mr. Stallings was indicted on June 25, 2018 and charged with Assault and Abuse of Official Capacity. Both cases are pending in the 450<sup>th</sup> District Court.

This next court setting is April 19, 2021.

**INDICTED: STATE OF TEXAS VS LANDO HALL, D-1-DC-19-900105:** At the time of the incident, Mr. Hall was employed as a police officer with the Austin Police Department. On Monday, January 4, 2021, APD Officer Lando Hall was indicted for the felony offense of Misuse of Official Information, a third-degree felony under Section 39.06(b) of the Texas Penal Code by the 147<sup>th</sup> Special Grand Jury – Extended July 2020 term. The case is pending in the 403<sup>rd</sup> Judicial District Court.

The next court setting is March 31, 2021

**INDICTED: STATE OF TEXAS VS. SHANNON OWENS, D-1-DC-20-90003:** At the time of the incident, Mr. Owens was employed as a corrections officer with the Travis County Sherriff's Office. On Wednesday, December 16, 2020, TCSO Deputy Owens was indicted with Aggravated Perjury, a third-degree felony, and Tampering with Governmental Record with the intent to defraud or harm another, a state jail felony by the 147<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is April 29, 2021.

**INDICTED: STATE OF TEXAS VS. CHANCE BRETCHES, D-1-DC-20-900091:** At the time of the incident, Mr. Bretches was employed as a police officer with the Austin Police Department. On Wednesday, January 20, 2021, Officer Bretches was indicted with Aggravated Assault by a Public Servant, Serious Bodily Injury/Deadly Weapon, a first-degree felony by the extended 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is April 8, 2021.

**INDICTED: STATE OF TEXAS VS. GREGORY GENTRY, D-1-DC-20-900092:** At the time of the incident, Mr. Gentry was employed as a police officer with the Austin Police Department. On Wednesday, January 20, 2021, Officer Gentry was indicted with Aggravated Assault by a Public Servant, Serious Bodily Injury/Deadly Weapon, a first-degree felony by the extended 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is April 8, 2021.

**INDICTED: STATE OF TEXAS VS. AUSTIN JOHNSTON, D-1-DC-19-900021:** At the time of the incident, Mr. Johnston was employed as a trooper with the Department of Public Safety. On Friday, August 21, 2020, Trooper Johnston was indicted with Aggravated Assault by Public, a first-degree felony, Deadly Conduct, third-degree felony and Tampering with Physical Evidence, third-degree felony by the 460<sup>th</sup> Extended Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is May 6, 2021.

**INDICTED: STATE OF TEXAS VS. CHRISTOPHER TAYLOR, D-1-DC-20-900048:** At the time of the incident, Mr. Taylor was employed as an officer with the Austin Police Department. On, Wednesday, March 10, 2021, Officer Taylor was indicted with Murder, a first-degree felony by the 147<sup>th</sup> Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is April 9, 2021.

*Note: Due to COVID-19 restrictions there are currently no criminal jury trials in Travis County*

**UNINDICTED**

**DECEDENT: AQUINTIS GRIFFIN/SUBJECT OFFICERS: ALBERT MARTINEZ; CHRISTOPHER SALACKI; DANIEL MATHIS; JOSEPH CAST; JOSEPH MORAN; JUSTIN HALBACH; LEWIS HOLLAND; STEPHEN JOHNSON & WESLEY DEVRIES (Date of Incident: 08/18/2018):** Mr.

Aquantis Griffin died as a result of multiple gunshot wounds fired by Austin Police Department officers on August 18, 2018.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: ISAIAH HUTCHINSON SUBJECT OFFICERS: DANE O'NEIL, ZACHARY WOODS, DEANDRE WRIGHT, TREY NELSON (Date of Incident: 03/17/2019):** On March 17, 2019, Mr. Hutchinson died from multiple gunshot wounds fired by four Austin Police Department officers assigned to various units working downtown during the South by Southwest Festival.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: JAVIER AMBLER / SUBJECT OFFICERS: MICHAEL NISSEN, JAMES JOHNSON, ZACHARY CAMDEN, PATRICK NELSON (Date of Incident: 03/28/2019):** Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence. This case is expected to be presented to a Travis County grand jury before the expiration of the current grand jury's term in March of this year.

**DECEDENT: JAVIER AMBLER / SUBJECT OFFICERS: ROBERT CHODY, JASSON NASSOUR (Date of Incident: 03/28/2019):** Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence. This case is expected to be presented to a Travis County grand jury before the expiration of the current grand jury's term in March of this year.

**DECEDENT: CARLOS DODERO / SUBJECT OFFICERS: HUGH BUTLER, WILLIAM BERTELSON (Date of Incident: 04/28/2019):** Mr. Carlos Dodero died as a result of multiple gunshot wounds fired by the Austin Police Department on April 28, 2019. At the time of the shooting incident, the Austin Police Department responded to multiple calls to 911 for a disturbance occurring on the Pennybacker Bridge.

The case is currently under investigation in a joint investigation conducted by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: MAURIS DESILVA / SUBJECT OFFICERS: CHRISTOPHER TAYLOR, KARL KRYCIA (Date of Incident: 07/31/2019):** Mr. DeSilva died from multiple gunshot wounds fired by two Austin Police Department officers on July 31, 2019.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: TYLER GRIST / SUBJECT OFFICERS: OSVALDO HERNANDEZ, RICHARD MARTINEZ, ALEXANDER ANTILLON, ANTHONY CARDINAL, ANTONIO SERNA (Date of Incident: 08/31/2019):** Mr. Tyler Grist's death occurred while in custody in the Travis County jail on unrelated charges. Mr. Grist was found unconscious by Travis County Sheriff's Office's staff. The case is currently under investigation in a joint investigation conducted by the Travis County Sheriff's Office, Texas Department of Public Safety, and the Travis County District Attorney Office's Civil Rights Unit.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: FRED BABCOCK / SUBJECT OFFICER: MATTHEW HARMATUK (Date of Incident: 09/22/2019):** Mr. Fred Babcock died as a result of a gunshot wound fired by the Austin Police Department on September 22, 2019.

The case is currently under investigation in a joint investigation conducted by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence.

We expect that this case will be presented to a grand jury in early fall 2021.

**DECEDENT: ENRIQUE QUIROZ / SUBJECT OFFICERS: EDUARDO PINEDA, SPENCER HANNA, ZANE DOWDELL, LUCAS PARKER, MARK YALETCHKO and TRINITHAD GARCIA (Date of Incident: 03/21/2020):** Mr. Quiroz died while in custody of the Austin Police Department after an encounter with multiple officers on March 31, 2020.

We expect that this case will be presented to a grand jury in early fall 2021.

**COMPLAINANT: F. ZIMMERMAN (Pseudonym) / SUBJECT OFFICER: WALTER DODDS (Date of Incident: 04/18/2020):** On April 18, 2020, while responding to a service call involving Ms. Zimmerman, Mr. Dodds, then an Austin Police Department officer encountered Ms. Zimmerman and is alleged to have later returned to her residence and alleged to have sexually assaulted her.

The case is currently under investigation in a joint investigation conducted by the Travis County District Attorney's Sexual Assault Unit and the Civil Rights Unit. This case is expected to be presented to a Travis County grand jury before the expiration of the current grand jury's term in March.

**COMPLAINANT: NAME WITHHELD DUE TO BEING A MINOR / SUBJECT OFFICERS: NICHOLAS GEBHART (Date of Incident: 05/30/2020):** On May 30, 2020, Complainant, a Minor, was attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos that occurred in downtown Austin and was struck with "bean bag" ammunition and "rubber bullets".

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: BOMANI RAY BARTON / SUBJECT OFFICER: KYU AN (Date of Incident: 05/30/2020):** On May 31, 2020, Mr. Barton, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck with "bean bag" ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: GEMICAH VOLTER-JONES / SUBJECT OFFICER: DERRICK LEHMAN (Date of Incident: 5/30/2020):** On May 30, 2020, Mr. Volter-Jones, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by "bean bag" ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: MEREDITH WILLIAMS / SUBJECT OFFICER: JOSEPH CAST (Date of Incident: 5/30/2020):** On May 30, 2020, Ms. Williams, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: NICOLE UNDERWOOD / SUBJECT OFFICER: JOHN SIEGEL (Date of Incident: 5/30/2020):** On May 30, 2020, Mr. Underwood, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: MEREDITH DRAKE / SUBJECT OFFICER: CHANCE BRETCHES (Date of Incident: 05/31/2020):** On May 31, 2020, Mr. Drake, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition. Officer Bretches was indicted on 1/20/2021 on Aggravated Assault by Public Servant on an unrelated case.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: ANTHONY EVANS / SUBJECT OFFICER: KYLE FELTON (Date of Incident: 05/31/2020):** On May 31, 2020, Mr. Evans, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: JUSTIN HOWELL / SUBJECT OFFICER: JEFFREY TENG (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Howell, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: SAMUEL KIRSCH / SUBJECT OFFICER: NOT IDENTIFIED (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Kirsch, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: CHRISTEN WARKOCZEWSKI / SUBJECT OFFICERS: JUSTIN BERRY; ALEXANDER LOMOSTEV, TODD GIBLERTSON, STANLEY VICK, CHRISTIAN IRWIN, JEREMY FISHER & JOSHUA JACKSON (Date of Incident: 5/31/2020):** On May 31, 2020, Ms. Williams, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: DYLAN POLINSKI / SUBJECT INVOLVED OFFICERS: JAVIER RODRIGUEZ AND KAMOWA REYNOLDS (Date of Incident: 01/04/2021):** On January 4, 2021, Mr. Dylan Polinski survived an incident in which he was shot by one Austin Police Department officer and “tased” with a conducted electrical weapon, commonly known as a “TASER” during an encounter with police officers at a local hotel.

The case is currently under investigation in a joint investigation involving the Austin Police Department’s Special Investigations Unit and the Travis County District Attorney Office’s Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early fall of this year.

**DECEDENT: ALEXANDER GONZALEZ / SUBJECT OFFICER: LUIS SERRATO AND GABRIEL GUTIERREZ (Date of Incident: 01/05/2021):** On January 5, 2021, Mr. Alexander Gonzalez died as a result of multiple gunshot wounds in an incident involving an off-duty Austin Police Department officer and another officer who was on duty, both of whom discharged their weapons striking Mr. Gonzalez.

The case is currently under investigation in a joint investigation involving the Austin Police Department’s Special Investigations Unit and the Travis County District Attorney Office’s Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early fall of this year.

**COMPLAINANT: KELVIN SCOTT/ SUBJECT OFFICER: ANTHONY CAMPANA (Date of Incident: 11/20/2020):** On November 8, 2020, during an attempt to take Mr. Kelvin Scott into custody, Mr. Scott survived a gunshot wound fired by a Pflugerville Police Department officer.

The case is currently under investigation in a joint investigation involving the Texas Rangers and the Travis County District Attorney Office Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early fall of this year.

**DECEDENT: JORDAN WALTON/ SUBJECT OFFICERS: NOT IDENTIFIED (Date of Incident: 2/10/2021):** On February 10, 2021, Mr. Walton died as a result of a gunshot wound fired by an Austin Police Department officer on September 22, 2019.

The case is currently under investigation in a joint investigation involving the Texas Rangers and the Travis County District Attorney Office Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early winter of this year.



## OFFICE OF THE DISTRICT ATTORNEY

P.O. Box 1748, Austin, TX 78767

Telephone 512/854-9400

Telefax 512/854-4206

**JOSÉ P. GARZA**  
DISTRICT ATTORNEY

**TRUDY STRASSBURGER**  
FIRST ASSISTANT

### **Travis County DA Civil Rights Unit Case Summaries - April 9, 2021**

The following is a current list of each officer-involved use of force or other misconduct matter involving injury to any person currently pending in the Office's Civil Rights Unit.

#### **INDICTED CASES**

**INDICTED: STATE OF TEXAS VS MARCUS REED, D-1-DC-19-904028, D-1-DC-19-904030, D-1-DC-19-900065:** At the time of the incident, Mr. Reed, then a licensed peace officer, was employed as an Investigator with the Austin Fire Department. Mr. Reed was indicted and charged with the commission of Sexual Assault, Official Oppression, and Aggravated Perjury. Mr. Reed's case was tried on August 12, 2019 in the 167<sup>th</sup> District Court and the jury returned a guilty verdict on the Aggravated Perjury charge. The jury was unable to reach a verdict on the Sexual Assault and Official Oppression charges and the judge declared a mistrial on both charges. The retrial of the Sexual Assault and Official Oppression is pending in the 167<sup>th</sup> District Court.

Mr. Reed also has a pending Indecency with a Child by Sexual Contact case, which was indicted on June 7, 2019. Mr. Reed is alleged to have engaged in sexual contact with a child younger than 17 years of age.

The next court setting is April 26, 2021.

**INDICTED: STATE OF TEXAS VS NATHANIEL STALLINGS, D-1-DC-19-904051, D-1-DC-19-904052:** At the time of the incident, Mr. Stallings, then a licensed peace officer, was employed as a police officer with the Austin Police Department. On October 6, 2017, while on duty and in uniform in a fully marked Austin Police Department patrol vehicle, Mr. Stallings is alleged to have caused bodily injury to a civilian. Mr. Stallings was indicted on June 25, 2018 and charged with Assault and Abuse of Official Capacity. Both cases are pending in the 450<sup>th</sup> District Court.

This next court setting is August 16, 2021.

**INDICTED: STATE OF TEXAS VS LANDO HALL, D-1-DC-19-900105:** At the time of the incident, Mr. Hall was employed as a police officer with the Austin Police Department. On Monday, January 4, 2021, APD Officer Lando Hall was indicted for the felony offense of Misuse of Official Information, a third-degree felony under Section 39.06(b) of the Texas Penal Code by the 147<sup>th</sup> Special Grand Jury – Extended July 2020 term. The case is pending in the 403<sup>rd</sup> Judicial District Court.

The next court setting is May 5, 2021

**INDICTED: STATE OF TEXAS VS. SHANNON OWENS, D-1-DC-20-90003:** At the time of the incident, Mr. Owens was employed as a corrections officer with the Travis County Sherriff's Office. On Wednesday, December 16, 2020, TCSO Deputy Owens was indicted with Aggravated Perjury, a third-degree felony, and Tampering with Governmental Record with the intent to defraud or harm another, a state jail felony by the 147<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is April 29, 2021.

**INDICTED: STATE OF TEXAS VS. CHANCE BRETCHES, D-1-DC-20-900091:** At the time of the incident, Mr. Bretches was employed as a police officer with the Austin Police Department. On Wednesday, January 20, 2021, Officer Bretches was indicted with Aggravated Assault by a Public Servant, Serious Bodily Injury/Deadly Weapon, a first-degree felony by the extended 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is May 13, 2021.

**INDICTED: STATE OF TEXAS VS. GREGORY GENTRY, D-1-DC-20-900092:** At the time of the incident, Mr. Gentry was employed as a police officer with the Austin Police Department. On Wednesday, January 20, 2021, Officer Gentry was indicted with Aggravated Assault by a Public Servant, Serious Bodily Injury/Deadly Weapon, a first-degree felony by the extended 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is May 13, 2021.

**INDICTED: STATE OF TEXAS VS. AUSTIN JOHNSTON, D-1-DC-19-900021:** At the time of the incident, Mr. Johnston was employed as a trooper with the Department of Public Safety. On Friday, August 21, 2020, Trooper Johnston was indicted with Aggravated Assault by Public, a first-degree felony, Deadly Conduct, third-degree felony and Tampering with Physical Evidence, third-degree felony by the 460<sup>th</sup> Extended Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is May 6, 2021.

**INDICTED: STATE OF TEXAS VS. CHRISTOPHER TAYLOR, D-1-DC-20-900048:** At the time of the incident, Mr. Taylor was employed as an officer with the Austin Police Department. On, Wednesday, March 10, 2021, Officer Taylor was indicted with Murder, a first-degree felony by the 147<sup>th</sup> Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is May 25, 2021.

**INDICTED: STATE OF TEXAS VS. JAMES JOHNSON, D-1-DC-20-900070:** At the time of the incident, Mr. Johnson was employed as a deputy with the Williamson County Sheriff's Office. On Monday, March 29, 2021, Deputy Johnson was indicted with Manslaughter, a second-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is May 6, 2021.

**INDICTED: STATE OF TEXAS VS. ZACHARY CAMDEN, D-1-DC-20-900069:** At the time of the incident, Mr. Camden was employed as a deputy with the Williamson County Sheriff's Office. On Monday, March 29, 2021, Deputy Camden was indicted with Manslaughter, a second-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is May 6, 2021.

**INDICTED: STATE OF TEXAS VS. ROBERT CHODY, D-1-DC-20-900110:** At the time of the incident, Mr. Chody was employed as General Counsel for the Williamson County Office. On, Wednesday, March 31, 2021, Mr. Chody was indicted Tampering with Physical Evidence with Intent to Impair, a third-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is May 6, 2021.

**INDICTED: STATE OF TEXAS VS. JASSON NASSOUR, D-1-DC-20-900109:** At the time of the incident, Mr. Nassour was the elected Sheriff in Williamson County. On, Wednesday, March 31, 2021, Mr. Nassour was indicted Tampering with Physical Evidence with Intent to Impair, a third-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is May 6, 2021.

*Note: Due to COVID-19 restrictions there are currently no criminal jury trials in Travis County*

**UNINDICTED**

**DECEDENT: AQUANTIS GRIFFIN/SUBJECT OFFICERS: ALBERT MARTINEZ; CHRISTOPHER SALACKI; DANIEL MATHIS; JOSEPH CAST; JOSEPH MORAN; JUSTIN HALBACH; LEWIS HOLLAND; STEPHEN JOHNSON & WESLEY DEVRIES (Date of Incident: 08/18/2018):** Mr.

Aquantis Griffin died as a result of multiple gunshot wounds fired by Austin Police Department officers on August 18, 2018.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: ISAIAH HUTCHINSON SUBJECT OFFICERS: DANE O'NEIL, ZACHARY WOODS, DEANDRE WRIGHT, TREY NELSON (Date of Incident: 03/17/2019):** On March 17, 2019, Mr. Hutchinson died from multiple gunshot wounds fired by four Austin Police Department officers assigned to various units working downtown during the South by Southwest Festival.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: CARLOS DODERO / SUBJECT OFFICERS: HUGH BUTLER, WILLIAM BERTELSON (Date of Incident: 04/28/2019):** Mr. Carlos Dodero died as a result of multiple gunshot wounds fired by the Austin Police Department on April 28, 2019. At the time of the shooting incident, the Austin Police Department responded to multiple calls to 911 for a disturbance occurring on the Pennybacker Bridge.

The case is currently under investigation in a joint investigation conducted by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: MAURIS DESILVA / SUBJECT OFFICERS: CHRISTOPHER TAYLOR, KARL KRYCIA (Date of Incident: 07/31/2019):** Mr. DeSilva died from multiple gunshot wounds fired by two Austin Police Department officers on July 31, 2019.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: TYLER GRIST / SUBJECT OFFICERS: OSVALDO HERNANDEZ, RICHARD MARTINEZ, ALEXANDER ANTILLON, ANTHONY CARDINAL, ANTONIO SERNA (Date of Incident: 08/31/2019):** Mr. Tyler Grist's death occurred while in custody in the Travis County jail on unrelated charges. Mr. Grist was found unconscious by Travis County Sheriff's Office's staff. The case is currently under investigation in a joint investigation conducted by the Travis County Sheriff's Office, Texas Department of Public Safety, and the Travis County District Attorney Office's Civil Rights Unit.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: FRED BABCOCK / SUBJECT OFFICER: MATTHEW HARMATUK (Date of Incident: 09/22/2019):** Mr. Fred Babcock died as a result of a gunshot wound fired by the Austin Police Department on September 22, 2019.

The case is currently under investigation in a joint investigation conducted by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence.

We expect that this case will be presented to a grand jury in early fall 2021.

**DECEDENT: ENRIQUE QUIROZ / SUBJECT OFFICERS: EDUARDO PINEDA, SPENCER HANNA, ZANE DOWDELL, LUCAS PARKER, MARK YALETCHKO and TRINITHAD GARCIA (Date of Incident: 03/21/2020):** Mr. Quiroz died while in custody of the Austin Police Department after an encounter with multiple officers on March 31, 2020.

We expect that this case will be presented to a grand jury in early fall 2021.

**COMPLAINANT: F. ZIMMERMAN (Pseudonym) / SUBJECT OFFICER: WALTER DODDS (Date of Incident: 04/18/2020):** On April 18, 2020, while responding to a service call involving Ms. Zimmerman, Mr. Dodds, then an Austin Police Department officer encountered Ms. Zimmerman and is alleged to have later returned to her residence and alleged to have sexually assaulted her.

The case is currently under investigation in a joint investigation conducted by the Travis County District Attorney's Sexual Assault Unit and the Civil Rights Unit. This case is expected to be presented to a Travis County grand jury before the expiration of the current grand jury's term in March.

**COMPLAINANT: NAME WITHHELD DUE TO BEING A MINOR / SUBJECT OFFICERS: NICHOLAS GEBHART (Date of Incident: 05/30/2020):** On May 30, 2020, Complainant, a Minor, was attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos that occurred in downtown Austin and was struck with "bean bag" ammunition and "rubber bullets".

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: BOMANI RAY BARTON / SUBJECT OFFICER: KYU AN (Date of Incident: 05/30/2020):** On May 31, 2020, Mr. Barton, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck with "bean bag" ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: GEMICAH VOLTER-JONES / SUBJECT OFFICER: DERRICK LEHMAN (Date of Incident: 5/30/2020):** On May 30, 2020, Mr. Volter-Jones, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by "bean bag" ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: MEREDITH WILLIAMS / SUBJECT OFFICER: JOSEPH CAST (Date of Incident: 5/30/2020):** On May 30, 2020, Ms. Williams, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by "bean bag" ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: NICOLE UNDERWOOD / SUBJECT OFFICER: JOHN SIEGEL (Date of Incident: 5/30/2020):** On May 30, 2020, Mr. Underwood, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by "bean bag" ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: MEREDITH DRAKE / SUBJECT OFFICER: CHANCE BRETCHES (Date of Incident: 05/31/2020):** On May 31, 2020, Mr. Drake, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition. Officer Bretches was indicted on 1/20/2021 on Aggravated Assault by Public Servant on an unrelated case.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: ANTHONY EVANS / SUBJECT OFFICER: KYLE FELTON (Date of Incident: 05/31/2020):** On May 31, 2020, Mr. Evans, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: JUSTIN HOWELL / SUBJECT OFFICER: JEFFREY TENG (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Howell, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: SAMUEL KIRSCH / SUBJECT OFFICER: NOT IDENTIFIED (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Kirsch, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: CHRISTEN WARKOCZEWSKI / SUBJECT OFFICERS: JUSTIN BERRY; ALEXANDER LOMOSTEV, TODD GIBLERTSON, STANLEY VICK, CHRISTIAN IRWIN, JEREMY FISHER & JOSHUA JACKSON (Date of Incident: 5/31/2020):** On May 31, 2020, Ms. Williams, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: DYLAN POLINSKI / SUBJECT INVOLVED OFFICERS: JAVIER RODRIGUEZ AND KAMOWA REYNOLDS (Date of Incident: 01/04/2021):** On January 4, 2021, Mr. Dylan Polinski survived an incident in which he was shot by one Austin Police Department officer and “tased” with a conducted electrical weapon, commonly known as a “TASER” during an encounter with police officers at a local hotel.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early fall of this year.

**DECEDENT: ALEXANDER GONZALEZ / SUBJECT OFFICER: LUIS SERRATO AND GABRIEL GUTIERREZ (Date of Incident: 01/05/2021):** On January 5, 2021, Mr. Alexander Gonzalez died as a result of multiple gunshot wounds in an incident involving an off-duty Austin Police Department officer and another officer who was on duty, both of whom discharged their weapons striking Mr. Gonzalez.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early fall of this year.

**COMPLAINANT: KELVIN SCOTT/ SUBJECT OFFICER: ANTHONY CAMPANA (Date of Incident: 11/20/2020):** On November 8, 2020, during an attempt to take Mr. Kelvin Scott into custody, Mr. Scott survived a gunshot wound fired by a Pflugerville Police Department officer.

The case is currently under investigation in a joint investigation involving the Texas Rangers and the Travis County District Attorney Office Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early fall of this year.

**DECEDENT: JORDAN WALTON/ SUBJECT OFFICERS: NOT IDENTIFIED (Date of Incident: 2/10/2021):** On February 10, 2021, Mr. Walton died as a result of a gunshot wound fired by an Austin Police Department officer on September 22, 2019.

The case is currently under investigation in a joint investigation involving the Texas Rangers and the Travis County District Attorney Office Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early winter of this year.



**OFFICE OF THE  
DISTRICT ATTORNEY**

P.O. Box 1748, Austin, TX 78767

Telephone 512/854-9400

Telefax 512/854-4206

**JOSÉ P. GARZA**  
DISTRICT ATTORNEY

**TRUDY STRASSBURGER**  
FIRST ASSISTANT

**Travis County DA Civil Rights Unit Case Summaries - April 26, 2021**

The following is a current list of each officer-involved use of force or other misconduct matter involving injury to any person currently pending in the Office's Civil Rights Unit.

**INDICTED CASES**

**INDICTED: STATE OF TEXAS VS MARCUS REED, D-1-DC-19-904028, D-1-DC-19-904030, D-1-DC-19-900065:** At the time of the incident, Mr. Reed, then a licensed peace officer, was employed as an Investigator with the Austin Fire Department. Mr. Reed was indicted and charged with the commission of Sexual Assault, Official Oppression, and Aggravated Perjury. Mr. Reed's case was tried on August 12, 2019 in the 167<sup>th</sup> District Court and the jury returned a guilty verdict on the Aggravated Perjury charge. The jury was unable to reach a verdict on the Sexual Assault and Official Oppression charges and the judge declared a mistrial on both charges. The retrial of the Sexual Assault and Official Oppression is pending in the 167<sup>th</sup> District Court.

Mr. Reed also has a pending Indecency with a Child by Sexual Contact case, which was indicted on June 7, 2019. Mr. Reed is alleged to have engaged in sexual contact with a child younger than 17 years of age.

The next court setting is April 26, 2021.

**INDICTED: STATE OF TEXAS VS NATHANIEL STALLINGS, D-1-DC-19-904051, D-1-DC-19-904052:** At the time of the incident, Mr. Stallings, then a licensed peace officer, was employed as a police officer with the Austin Police Department. On October 6, 2017, while on duty and in uniform in a fully marked Austin Police Department patrol vehicle, Mr. Stallings is alleged to have caused bodily injury to a civilian. Mr. Stallings was indicted on June 25, 2018 and charged with Assault and Abuse of Official Capacity. Both cases are pending in the 450<sup>th</sup> District Court.

This next court setting is August 16, 2021.

**INDICTED: STATE OF TEXAS VS LANDO HALL, D-1-DC-19-900105:** At the time of the incident, Mr. Hall was employed as a police officer with the Austin Police Department. On Monday, January 4, 2021, APD Officer Lando Hall was indicted for the felony offense of Misuse of Official Information, a third-degree felony under Section 39.06(b) of the Texas Penal Code by the 147<sup>th</sup> Special Grand Jury – Extended July 2020 term. The case is pending in the 403<sup>rd</sup> Judicial District Court.

The next court setting is May 5, 2021

**INDICTED: STATE OF TEXAS VS. SHANNON OWENS, D-1-DC-20-90003:** At the time of the incident, Mr. Owens was employed as a corrections officer with the Travis County Sheriff's Office. On Wednesday, December 16, 2020, TCSO Deputy Owens was indicted with Aggravated Perjury, a third-degree felony, and Tampering with Governmental Record with the intent to defraud or harm another, a state jail felony by the 147<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is April 29, 2021.

**INDICTED: STATE OF TEXAS VS. CHANCE BRETCHES, D-1-DC-20-900091:** At the time of the incident, Mr. Bretches was employed as a police officer with the Austin Police Department. On Wednesday, January 20, 2021, Officer Bretches was indicted with Aggravated Assault by a Public Servant, Serious Bodily Injury/Deadly Weapon, a first-degree felony by the extended 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is May 13, 2021.

**INDICTED: STATE OF TEXAS VS. GREGORY GENTRY, D-1-DC-20-900092:** At the time of the incident, Mr. Gentry was employed as a police officer with the Austin Police Department. On Wednesday, January 20, 2021, Officer Gentry was indicted with Aggravated Assault by a Public Servant, Serious Bodily Injury/Deadly Weapon, a first-degree felony by the extended 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is May 13, 2021.

**INDICTED: STATE OF TEXAS VS. AUSTIN JOHNSTON, D-1-DC-19-900021:** At the time of the incident, Mr. Johnston was employed as a trooper with the Department of Public Safety. On Friday, August 21, 2020, Trooper Johnston was indicted with Aggravated Assault by Public, a first-degree felony, Deadly Conduct, third-degree felony and Tampering with Physical Evidence, third-degree felony by the 460<sup>th</sup> Extended Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is May 6, 2021.

**INDICTED: STATE OF TEXAS VS. CHRISTOPHER TAYLOR, D-1-DC-20-900048:** At the time of the incident, Mr. Taylor was employed as an officer with the Austin Police Department. On, Wednesday, March 10, 2021, Officer Taylor was indicted with Murder, a first-degree felony by the 147<sup>th</sup> Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is May 25, 2021.

**INDICTED: STATE OF TEXAS VS. JAMES JOHNSON, D-1-DC-20-900070:** At the time of the incident, Mr. Johnson was employed as a deputy with the Williamson County Sheriff's Office. On Monday, March 29, 2021, Deputy Johnson was indicted with Manslaughter, a second-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is May 6, 2021.

**INDICTED: STATE OF TEXAS VS. ZACHARY CAMDEN, D-1-DC-20-900069:** At the time of the incident, Mr. Camden was employed as a deputy with the Williamson County Sheriff's Office. On Monday, March 29, 2021, Deputy Camden was indicted with Manslaughter, a second-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is May 6, 2021.

**INDICTED: STATE OF TEXAS VS. ROBERT CHODY, D-1-DC-20-900110:** At the time of the incident, Mr. Chody was employed as General Counsel for the Williamson County Office. On, Wednesday, March 31, 2021, Mr. Chody was indicted Tampering with Physical Evidence with Intent to Impair, a third-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is May 6, 2021.

**INDICTED: STATE OF TEXAS VS. JASSON NASSOUR, D-1-DC-20-900109:** At the time of the incident, Mr. Nassour was the elected Sheriff in Williamson County. On, Wednesday, March 31, 2021, Mr. Nassour was indicted Tampering with Physical Evidence with Intent to Impair, a third-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is May 6, 2021.

*Note: Due to COVID-19 restrictions there are currently no criminal jury trials in Travis County*

**UNINDICTED**

**DECEDENT: AQUANTIS GRIFFIN/SUBJECT OFFICERS: ALBERT MARTINEZ; CHRISTOPHER SALACKI; DANIEL MATHIS; JOSEPH CAST; JOSEPH MORAN; JUSTIN HALBACH; LEWIS HOLLAND; STEPHEN JOHNSON & WESLEY DEVRIES (Date of Incident: 08/18/2018):** Mr.

Aquantis Griffin died as a result of multiple gunshot wounds fired by Austin Police Department officers on August 18, 2018.

We expect this case will be presented to a grand jury in early summer 2021.

**DECEDENT: ISAIAH HUTCHINSON SUBJECT OFFICERS: DANE O'NEIL, ZACHARY WOODS, DEANDRE WRIGHT, TREY NELSON (Date of Incident: 03/17/2019):** On March 17, 2019, Mr. Hutchinson died from multiple gunshot wounds fired by four Austin Police Department officers assigned to various units working downtown during the South by Southwest Festival.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: CARLOS DODERO / SUBJECT OFFICERS: HUGH BUTLER, WILLIAM BERTELSON (Date of Incident: 04/28/2019):** Mr. Carlos Dodero died as a result of multiple gunshot wounds fired by the Austin Police Department on April 28, 2019. At the time of the shooting incident, the Austin Police Department responded to multiple calls to 911 for a disturbance occurring on the Pennybacker Bridge.

The case is currently under investigation in a joint investigation conducted by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: MAURIS DESILVA / SUBJECT OFFICERS: CHRISTOPHER TAYLOR, KARL KRYCIA (Date of Incident: 07/31/2019):** Mr. DeSilva died from multiple gunshot wounds fired by two Austin Police Department officers on July 31, 2019.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: TYLER GRIST / SUBJECT OFFICERS: OSVALDO HERNANDEZ, RICHARD MARTINEZ, ALEXANDER ANTILLON, ANTHONY CARDINAL, ANTONIO SERNA (Date of Incident: 08/31/2019):** Mr. Tyler Grist's death occurred while in custody in the Travis County jail on unrelated charges. Mr. Grist was found unconscious by Travis County Sheriff's Office's staff. The case is currently under investigation in a joint investigation conducted by the Travis County Sheriff's Office, Texas Department of Public Safety, and the Travis County District Attorney Office's Civil Rights Unit.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: FRED BABCOCK / SUBJECT OFFICER: MATTHEW HARMATUK (Date of Incident: 09/22/2019):** Mr. Fred Babcock died as a result of a gunshot wound fired by the Austin Police Department on September 22, 2019.

The case is currently under investigation in a joint investigation conducted by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence.

We expect that this case will be presented to a grand jury in early fall 2021.

**DECEDENT: ENRIQUE QUIROZ / SUBJECT OFFICERS: EDUARDO PINEDA, SPENCER HANNA, ZANE DOWDELL, LUCAS PARKER, MARK YALETCHKO and TRINITHAD GARCIA (Date of Incident: 03/21/2020):** Mr. Quiroz died while in custody of the Austin Police Department after an encounter with multiple officers on March 31, 2020.

We expect that this case will be presented to a grand jury in early fall 2021.

**COMPLAINANT: F. ZIMMERMAN (Pseudonym) / SUBJECT OFFICER: WALTER DODDS (Date of Incident: 04/18/2020):** On April 18, 2020, while responding to a service call involving Ms. Zimmerman, Mr. Dodds, then an Austin Police Department officer encountered Ms. Zimmerman and is alleged to have later returned to her residence and alleged to have sexually assaulted her.

The case is currently under investigation in a joint investigation conducted by the Travis County District Attorney's Sexual Assault Unit and the Civil Rights Unit. This case is expected to be presented to a Travis County grand jury early summer of 2021.

**COMPLAINANT: NAME WITHHELD DUE TO BEING A MINOR / SUBJECT OFFICERS: NICHOLAS GEBHART (Date of Incident: 05/30/2020):** On May 30, 2020, Complainant, a Minor, was attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos that occurred in downtown Austin and was struck with "bean bag" ammunition and "rubber bullets".

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: BOMANI RAY BARTON / SUBJECT OFFICER: KYU AN (Date of Incident: 05/30/2020):** On May 31, 2020, Mr. Barton, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck with "bean bag" ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: GEMICAH VOLTER-JONES / SUBJECT OFFICER: DERRICK LEHMAN (Date of Incident: 5/30/2020):** On May 30, 2020, Mr. Volter-Jones, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by "bean bag" ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: MEREDITH WILLIAMS / SUBJECT OFFICER: JOSEPH CAST (Date of Incident: 5/30/2020):** On May 30, 2020, Ms. Williams, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by "bean bag" ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: NICOLE UNDERWOOD / SUBJECT OFFICER: JOHN SIEGEL (Date of Incident: 5/30/2020):** On May 30, 2020, Mr. Underwood, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by "bean bag" ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: MEREDITH DRAKE / SUBJECT OFFICER: CHANCE BRETCHES (Date of Incident: 05/31/2020):** On May 31, 2020, Mr. Drake, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition. Officer Bretches was indicted on 1/20/2021 on Aggravated Assault by Public Servant on an unrelated case.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: ANTHONY EVANS / SUBJECT OFFICER: KYLE FELTON (Date of Incident: 05/31/2020):** On May 31, 2020, Mr. Evans, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: JUSTIN HOWELL / SUBJECT OFFICER: JEFFREY TENG (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Howell, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: SAMUEL KIRSCH / SUBJECT OFFICER: Officer Rolan Rast (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Kirsch, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: CHRISTEN WARKOCZEWSKI / SUBJECT OFFICERS: JUSTIN BERRY; ALEXANDER LOMOSTEV, TODD GIBLERTSON, STANLEY VICK, CHRISTIAN IRWIN, JEREMY FISHER & JOSHUA JACKSON (Date of Incident: 5/31/2020):** On May 31, 2020, Ms. Williams, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: DYLAN POLINSKI / SUBJECT INVOLVED OFFICERS: JAVIER RODRIGUEZ AND KAMOWA REYNOLDS (Date of Incident: 01/04/2021):** On January 4, 2021, Mr. Dylan Polinski survived an incident in which he was shot by one Austin Police Department officer and “tased” with a conducted electrical weapon, commonly known as a “TASER” during an encounter with police officers at a local hotel.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early winter of this year.

**DECEDENT: ALEXANDER GONZALEZ / SUBJECT OFFICER: LUIS SERRATO AND GABRIEL GUTIERREZ (Date of Incident: 01/05/2021):** On January 5, 2021, Mr. Alexander Gonzalez died as a result of multiple gunshot wounds in an incident involving an off-duty Austin Police Department officer and another officer who was on duty, both of whom discharged their weapons striking Mr. Gonzalez.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early winter of this year.

**COMPLAINANT: KELVIN SCOTT/ SUBJECT OFFICER: ANTHONY CAMPANA (Date of Incident: 11/20/2020):** On November 8, 2020, during an attempt to take Mr. Kelvin Scott into custody, Mr. Scott survived a gunshot wound fired by a Pflugerville Police Department officer.

The case is currently under investigation in a joint investigation involving the Texas Rangers and the Travis County District Attorney Office Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early winter of this year.

**DECEDENT: JORDAN WALTON/ SUBJECT OFFICERS: JEFFREY HUTCHINSON/Ryan NICHOLS (Date of Incident: 2/10/2021):** On February 10, 2021, Mr. Walton died as a result of a gunshot wound fired by an Austin Police Department officer on September 22, 2019.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early winter of this year.

**COMPLAINANT: GREGORIO SARMIENTO/SUBJECT OFFICERS: JON RIORDAN AND KINGLY KONG (Date of Incident: 4/9/2021):** On April 9, 2021, during the interaction with Mr. Sarmiento, Mr. Sarmiento survived a gunshot wound fired by Austin Police Department Officers. Mr. Sarmiento is charged with two counts of Attempted Capital Murder and Aggravated Assault with Deadly Weapon that arose from this incident. The investigation for Mr. Sarmiento's charges will be led by the Office's Trial Court Division.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early winter of this year.



## OFFICE OF THE DISTRICT ATTORNEY

P.O. Box 1748, Austin, TX 78767

Telephone 512/854-9400

Telefax 512/854-4206

**JOSÉ P. GARZA**  
DISTRICT ATTORNEY

**TRUDY STRASSBURGER**  
FIRST ASSISTANT

### **Travis County DA Civil Rights Unit Case Summaries - May 7, 2021**

The following is a current list of each officer-involved use of force or other misconduct matter involving injury to any person currently pending in the Office's Civil Rights Unit.

#### **INDICTED CASES**

**INDICTED: STATE OF TEXAS VS MARCUS REED, D-1-DC-19-904028, D-1-DC-19-904030, D-1-DC-19-900065:** At the time of the incident, Mr. Reed, then a licensed peace officer, was employed as an Investigator with the Austin Fire Department. Mr. Reed was indicted and charged with the commission of Sexual Assault, Official Oppression, and Aggravated Perjury. Mr. Reed's case was tried on August 12, 2019 in the 167<sup>th</sup> District Court and the jury returned a guilty verdict on the Aggravated Perjury charge. The jury was unable to reach a verdict on the Sexual Assault and Official Oppression charges and the judge declared a mistrial on both charges. The retrial of the Sexual Assault and Official Oppression is pending in the 167<sup>th</sup> District Court.

Mr. Reed also has a pending Indecency with a Child by Sexual Contact case, which was indicted on June 7, 2019. Mr. Reed is alleged to have engaged in sexual contact with a child younger than 17 years of age.

The next court setting is June 21, 2021.

**INDICTED: STATE OF TEXAS VS NATHANIEL STALLINGS, D-1-DC-19-904051, D-1-DC-19-904052:** At the time of the incident, Mr. Stallings, then a licensed peace officer, was employed as a police officer with the Austin Police Department. On October 6, 2017, while on duty and in uniform in a fully marked Austin Police Department patrol vehicle, Mr. Stallings is alleged to have caused bodily injury to a civilian. Mr. Stallings was indicted on June 25, 2018 and charged with Assault and Abuse of Official Capacity. Both cases are pending in the 450<sup>th</sup> District Court.

This next court setting is August 16, 2021.

**INDICTED: STATE OF TEXAS VS LANDO HALL, D-1-DC-19-900105:** At the time of the incident, Mr. Hall was employed as a police officer with the Austin Police Department. On Monday, January 4, 2021, APD Officer Lando Hall was indicted for the felony offense of Misuse of Official Information, a third-degree felony under Section 39.06(b) of the Texas Penal Code by the 147<sup>th</sup> Special Grand Jury – Extended July 2020 term. The case is pending in the 403<sup>rd</sup> Judicial District Court.

The next court setting is June 9, 2021

**INDICTED: STATE OF TEXAS VS. SHANNON OWENS, D-1-DC-20-900003:** At the time of the incident, Mr. Owens was employed as a corrections officer with the Travis County Sherriff's Office. On Wednesday, December 16, 2020, TCSO Deputy Owens was indicted with Aggravated Perjury, a third-degree felony, and Tampering with Governmental Record with the intent to defraud or harm another, a state jail felony by the 147<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is June 17, 2021.

**INDICTED: STATE OF TEXAS VS. CHANCE BRETCHES, D-1-DC-20-900091:** At the time of the incident, Mr. Bretches was employed as a police officer with the Austin Police Department. On Wednesday, January 20, 2021, Officer Bretches was indicted with Aggravated Assault by a Public Servant, Serious Bodily Injury/Deadly Weapon, a first-degree felony by the extended 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is May 13, 2021.

**INDICTED: STATE OF TEXAS VS. GREGORY GENTRY, D-1-DC-20-900092:** At the time of the incident, Mr. Gentry was employed as a police officer with the Austin Police Department. On Wednesday, January 20, 2021, Officer Gentry was indicted with Aggravated Assault by a Public Servant, Serious Bodily Injury/Deadly Weapon, a first-degree felony by the extended 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is May 13, 2021.

**INDICTED: STATE OF TEXAS VS. AUSTIN JOHNSTON, D-1-DC-19-900021:** At the time of the incident, Mr. Johnston was employed as a trooper with the Department of Public Safety. On Friday, August 21, 2020, Trooper Johnston was indicted with Aggravated Assault by Public, a first-degree felony, Deadly Conduct, third-degree felony and Tampering with Physical Evidence, third-degree felony by the 460<sup>th</sup> Extended Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is July 8, 2021.

**INDICTED: STATE OF TEXAS VS. CHRISTOPHER TAYLOR, D-1-DC-20-900048:** At the time of the incident, Mr. Taylor was employed as an officer with the Austin Police Department. On, Wednesday, March 10, 2021, Officer Taylor was indicted with Murder, a first-degree felony by the 147<sup>th</sup> Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is May 25, 2021.

**INDICTED: STATE OF TEXAS VS. JAMES JOHNSON, D-1-DC-20-900070:** At the time of the incident, Mr. Johnson was employed as a deputy with the Williamson County Sheriff's Office. On Monday, March 29, 2021, Deputy Johnson was indicted with Manslaughter, a second-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is June 17, 2021.

**INDICTED: STATE OF TEXAS VS. ZACHARY CAMDEN, D-1-DC-20-900069:** At the time of the incident, Mr. Camden was employed as a deputy with the Williamson County Sheriff's Office. On Monday, March 29, 2021, Deputy Camden was indicted with Manslaughter, a second-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is June 17, 2021.

**INDICTED: STATE OF TEXAS VS. ROBERT CHODY, D-1-DC-20-900110:** At the time of the incident, Mr. Chody was the elected Sheriff in Williamson County. On, Wednesday, March 31, 2021, Mr. Chody was indicted Tampering with Physical Evidence with Intent to Impair, a third-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is June 17, 2021.

**INDICTED: STATE OF TEXAS VS. JASSON NASSOUR, D-1-DC-20-900109:** At the time of the incident, Mr. Nassour was employed as General Counsel for the Williamson County Office. On, Wednesday, March 31, 2021, Mr. Nassour was indicted Tampering with Physical Evidence with Intent to Impair, a third-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is June 17, 2021.

*Note: Due to COVID-19 restrictions there are currently no criminal jury trials in Travis County*

**UNINDICTED**

**DECEDENT: AQUANTIS GRIFFIN/SUBJECT OFFICERS: ALBERT MARTINEZ; CHRISTOPHER SALACKI; DANIEL MATHIS; JOSEPH CAST; JOSEPH MORAN; JUSTIN HALBACH; LEWIS HOLLAND; STEPHEN JOHNSON & WESLEY DEVRIES (Date of Incident: 08/18/2018):** Mr. Aquantis Griffin died as a result of multiple gunshot wounds fired by Austin Police Department officers on August 18, 2018.

We expect this case will be presented to a grand jury in early summer 2021.

**DECEDENT: ISAIAH HUTCHINSON SUBJECT OFFICERS: DANE O'NEIL, ZACHARY WOODS, DEANDRE WRIGHT, TREY NELSON (Date of Incident: 03/17/2019):** On March 17, 2019, Mr. Hutchinson died from multiple gunshot wounds fired by four Austin Police Department officers assigned to various units working downtown during the South by Southwest Festival.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: CARLOS DODERO / SUBJECT OFFICERS: HUGH BUTLER, WILLIAM BERTELSON (Date of Incident: 04/28/2019):** Mr. Carlos Dodero died as a result of multiple gunshot wounds fired by the Austin Police Department on April 28, 2019. At the time of the shooting incident, the Austin Police Department responded to multiple calls to 911 for a disturbance occurring on the Pennybacker Bridge.

The case is currently under investigation in a joint investigation conducted by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: MAURIS DESILVA / SUBJECT OFFICERS: CHRISTOPHER TAYLOR, KARL KRYCIA (Date of Incident: 07/31/2019):** Mr. DeSilva died from multiple gunshot wounds fired by two Austin Police Department officers on July 31, 2019.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: TYLER GRIST / SUBJECT OFFICERS: OSVALDO HERNANDEZ, RICHARD MARTINEZ, ALEXANDER ANTILLON, ANTHONY CARDINAL, ANTONIO SERNA (Date of Incident: 08/31/2019):** Mr. Tyler Grist's death occurred while in custody in the Travis County jail on unrelated charges. Mr. Grist was found unconscious by Travis County Sheriff's Office's staff. The case is currently under investigation in a joint investigation conducted by the Travis County Sheriff's Office, Texas Department of Public Safety, and the Travis County District Attorney Office's Civil Rights Unit.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: FRED BABCOCK / SUBJECT OFFICER: MATTHEW HARMATUK (Date of Incident: 09/22/2019):** Mr. Fred Babcock died as a result of a gunshot wound fired by the Austin Police Department on September 22, 2019.

The case is currently under investigation in a joint investigation conducted by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence.

We expect that this case will be presented to a grand jury in early fall 2021.

**DECEDENT: ENRIQUE QUIROZ / SUBJECT OFFICERS: EDUARDO PINEDA, SPENCER HANNA, ZANE DOWDELL, LUCAS PARKER, MARK YALETCHKO and TRINITHAD GARCIA (Date of Incident: 03/21/2020):** Mr. Quiroz died while in custody of the Austin Police Department after an encounter with multiple officers on March 31, 2020.

We expect that this case will be presented to a grand jury in early fall 2021.

**COMPLAINANT: F. ZIMMERMAN (Pseudonym) / SUBJECT OFFICER: WALTER DODDS (Date of Incident: 04/18/2020):** On April 18, 2020, while responding to a service call involving Ms. Zimmerman, Mr. Dodds, then an Austin Police Department officer encountered Ms. Zimmerman and is alleged to have later returned to her residence and alleged to have sexually assaulted her.

The case is currently under investigation in a joint investigation conducted by the Travis County District Attorney's Sexual Assault Unit and the Civil Rights Unit. This case is expected to be presented to a Travis County grand jury early summer of 2021.

**COMPLAINANT: NAME WITHHELD DUE TO BEING A MINOR / SUBJECT OFFICERS: NICHOLAS GEBHART (Date of Incident: 05/30/2020):** On May 30, 2020, Complainant, a Minor, was attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos that occurred in downtown Austin and was struck with "bean bag" ammunition and "rubber bullets".

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: BOMANI RAY BARTON / SUBJECT OFFICER: KYU AN (Date of Incident: 05/30/2020):** On May 31, 2020, Mr. Barton, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck with "bean bag" ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: GEMICAH VOLTER-JONES / SUBJECT OFFICER: DERRICK LEHMAN (Date of Incident: 5/30/2020):** On May 30, 2020, Mr. Volter-Jones, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by "bean bag" ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: MEREDITH WILLIAMS / SUBJECT OFFICER: JOSEPH CAST (Date of Incident: 5/30/2020):** On May 30, 2020, Ms. Williams, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by "bean bag" ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: NICOLE UNDERWOOD / SUBJECT OFFICER: JOHN SIEGEL (Date of Incident: 5/30/2020):** On May 30, 2020, Mr. Underwood, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by "bean bag" ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: MEREDITH DRAKE / SUBJECT OFFICER: CHANCE BRETCHES (Date of Incident: 05/31/2020):** On May 31, 2020, Mr. Drake, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition. Officer Bretches was indicted on 1/20/2021 on Aggravated Assault by Public Servant on an unrelated case.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: ANTHONY EVANS / SUBJECT OFFICER: KYLE FELTON (Date of Incident: 05/31/2020):** On May 31, 2020, Mr. Evans, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: JUSTIN HOWELL / SUBJECT OFFICER: JEFFREY TENG (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Howell, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: SAMUEL KIRSCH / SUBJECT OFFICER: Officer Rolan Rast (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Kirsch, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: CHRISTEN WARKOCZEWSKI / SUBJECT OFFICERS: JUSTIN BERRY; ALEXANDER LOMOSTEV, TODD GIBLERTSON, STANLEY VICK, CHRISTIAN IRWIN, JEREMY FISHER & JOSHUA JACKSON (Date of Incident: 5/31/2020):** On May 31, 2020, Ms. Williams, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: DYLAN POLINSKI / SUBJECT INVOLVED OFFICERS: JAVIER RODRIGUEZ AND KAMOWA REYNOLDS (Date of Incident: 01/04/2021):** On January 4, 2021, Mr. Dylan Polinski survived an incident in which he was shot by one Austin Police Department officer and “tased” with a conducted electrical weapon, commonly known as a “TASER” during an encounter with police officers at a local hotel.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early winter of this year.

**DECEDENT: ALEXANDER GONZALEZ / SUBJECT OFFICER: LUIS SERRATO AND GABRIEL GUTIERREZ (Date of Incident: 01/05/2021):** On January 5, 2021, Mr. Alexander Gonzalez died as a result of multiple gunshot wounds in an incident involving an off-duty Austin Police Department officer and another officer who was on duty, both of whom discharged their weapons striking Mr. Gonzalez.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early winter of this year.

**COMPLAINANT: KELVIN SCOTT/ SUBJECT OFFICER: ANTHONY CAMPANA (Date of Incident: 11/20/2020):** On November 8, 2020, during an attempt to take Mr. Kelvin Scott into custody, Mr. Scott survived a gunshot wound fired by a Pflugerville Police Department officer.

The case is currently under investigation in a joint investigation involving the Texas Rangers and the Travis County District Attorney Office Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early winter of this year.

**DECEDENT: JORDAN WALTON/ SUBJECT OFFICERS: JEFFREY HUTCHINSON/Ryan NICHOLS (Date of Incident: 2/10/2021):** On February 10, 2021, Mr. Walton died as a result of a gunshot wound fired by an Austin Police Department officer on September 22, 2019.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early winter of this year.

**COMPLAINANT: GREGORIO SARMIENTO/SUBJECT OFFICERS: JON RIORDAN AND KINGLY KONG (Date of Incident: 4/9/2021):** On April 9, 2021, during the interaction with Mr. Sarmiento, Mr. Sarmiento survived a gunshot wound fired by Austin Police Department Officers. Mr. Sarmiento is charged with two counts of Attempted Capital Murder and Aggravated Assault with Deadly Weapon that arose from this incident. The investigation for Mr. Sarmiento's charges will be led by the Office's Trial Court Division.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early winter of this year.



## OFFICE OF THE DISTRICT ATTORNEY

P.O. Box 1748, Austin, TX 78767

Telephone 512/854-9400

Telefax 512/854-4206

**JOSÉ P. GARZA**  
DISTRICT ATTORNEY

**TRUDY STRASSBURGER**  
FIRST ASSISTANT

### **Travis County DA Civil Rights Unit Case Summaries - May 21, 2021**

The following is a current list of each officer-involved use of force or other misconduct matter involving injury to any person currently pending in the Office's Civil Rights Unit.

#### **INDICTED CASES**

**INDICTED: STATE OF TEXAS VS MARCUS REED, D-1-DC-19-904028, D-1-DC-19-904030, D-1-DC-19-900065:** At the time of the incident, Mr. Reed, then a licensed peace officer, was employed as an Investigator with the Austin Fire Department. Mr. Reed was indicted and charged with the commission of Sexual Assault, Official Oppression, and Aggravated Perjury. Mr. Reed's case was tried on August 12, 2019 in the 167<sup>th</sup> District Court and the jury returned a guilty verdict on the Aggravated Perjury charge. The jury was unable to reach a verdict on the Sexual Assault and Official Oppression charges and the judge declared a mistrial on both charges. The retrial of the Sexual Assault and Official Oppression is pending in the 167<sup>th</sup> District Court.

Mr. Reed also has a pending Indecency with a Child by Sexual Contact case, which was indicted on June 7, 2019. Mr. Reed is alleged to have engaged in sexual contact with a child younger than 17 years of age.

The next court setting is June 21, 2021.

**INDICTED: STATE OF TEXAS VS NATHANIEL STALLINGS, D-1-DC-19-904051, D-1-DC-19-904052:** At the time of the incident, Mr. Stallings, then a licensed peace officer, was employed as a police officer with the Austin Police Department. On October 6, 2017, while on duty and in uniform in a fully marked Austin Police Department patrol vehicle, Mr. Stallings is alleged to have caused bodily injury to a civilian. Mr. Stallings was indicted on June 25, 2018 and charged with Assault and Abuse of Official Capacity. Both cases are pending in the 450<sup>th</sup> District Court.

This next court setting is August 16, 2021.

**INDICTED: STATE OF TEXAS VS LANDO HALL, D-1-DC-19-900105:** At the time of the incident, Mr. Hall was employed as a police officer with the Austin Police Department. On Monday, January 4, 2021, APD Officer Lando Hall was indicted for the felony offense of Misuse of Official Information, a third-degree felony under Section 39.06(b) of the Texas Penal Code by the 147<sup>th</sup> Special Grand Jury – Extended July 2020 term. The case is pending in the 403<sup>rd</sup> Judicial District Court.

The next court setting is June 9, 2021

**INDICTED: STATE OF TEXAS VS. SHANNON OWENS, D-1-DC-20-900003:** At the time of the incident, Mr. Owens was employed as a corrections officer with the Travis County Sherriff's Office. On Wednesday, December 16, 2020, TCSO Deputy Owens was indicted with Aggravated Perjury, a third-degree felony, and Tampering with Governmental Record with the intent to defraud or harm another, a state jail felony by the 147<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is June 17, 2021.

**INDICTED: STATE OF TEXAS VS. CHANCE BRETCHES, D-1-DC-20-900091:** At the time of the incident, Mr. Bretches was employed as a police officer with the Austin Police Department. On Wednesday, January 20, 2021, Officer Bretches was indicted with Aggravated Assault by a Public Servant, Serious Bodily Injury/Deadly Weapon, a first-degree felony by the extended 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is July 1, 2021.

**INDICTED: STATE OF TEXAS VS. GREGORY GENTRY, D-1-DC-20-900092:** At the time of the incident, Mr. Gentry was employed as a police officer with the Austin Police Department. On Wednesday, January 20, 2021, Officer Gentry was indicted with Aggravated Assault by a Public Servant, Serious Bodily Injury/Deadly Weapon, a first-degree felony by the extended 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is July 1, 2021.

**INDICTED: STATE OF TEXAS VS. AUSTIN JOHNSTON, D-1-DC-19-900021:** At the time of the incident, Mr. Johnston was employed as a trooper with the Department of Public Safety. On Friday, August 21, 2020, Trooper Johnston was indicted with Aggravated Assault by Public, a first-degree felony, Deadly Conduct, third-degree felony and Tampering with Physical Evidence, third-degree felony by the 460<sup>th</sup> Extended Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is July 8, 2021.

**INDICTED: STATE OF TEXAS VS. CHRISTOPHER TAYLOR, D-1-DC-20-900048:** At the time of the incident, Mr. Taylor was employed as an officer with the Austin Police Department. On, Wednesday, March 10, 2021, Officer Taylor was indicted with Murder, a first-degree felony by the 147<sup>th</sup> Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is May 25, 2021.

**INDICTED: STATE OF TEXAS VS. JAMES JOHNSON, D-1-DC-20-900070:** At the time of the incident, Mr. Johnson was employed as a deputy with the Williamson County Sheriff's Office. On Monday, March 29, 2021, Deputy Johnson was indicted with Manslaughter, a second-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is June 17, 2021.

**INDICTED: STATE OF TEXAS VS. ZACHARY CAMDEN, D-1-DC-20-900069:** At the time of the incident, Mr. Camden was employed as a deputy with the Williamson County Sheriff's Office. On Monday, March 29, 2021, Deputy Camden was indicted with Manslaughter, a second-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is June 17, 2021.

**INDICTED: STATE OF TEXAS VS. ROBERT CHODY, D-1-DC-20-900110:** At the time of the incident, Mr. Chody was the elected Sheriff in Williamson County. On, Wednesday, March 31, 2021, Mr. Chody was indicted Tampering with Physical Evidence with Intent to Impair, a third-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is June 17, 2021.

**INDICTED: STATE OF TEXAS VS. JASSON NASSOUR, D-1-DC-20-900109:** At the time of the incident, Mr. Nassour was employed as General Counsel for the Williamson County Office. On, Wednesday, March 31, 2021, Mr. Nassour was indicted Tampering with Physical Evidence with Intent to Impair, a third-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is June 17, 2021.

*Note: Due to COVID-19 restrictions there are currently no criminal jury trials in Travis County*

**UNINDICTED**

**DECEDENT: AQUANTIS GRIFFIN/SUBJECT OFFICERS: ALBERT MARTINEZ; CHRISTOPHER SALACKI; DANIEL MATHIS; JOSEPH CAST; JOSEPH MORAN; JUSTIN HALBACH; LEWIS HOLLAND; STEPHEN JOHNSON & WESLEY DEVRIES (Date of Incident: 08/18/2018):** Mr.

Aquantis Griffin died as a result of multiple gunshot wounds fired by Austin Police Department officers on August 18, 2018.

We expect this case will be presented to a grand jury in early summer 2021.

**DECEDENT: ISAIAH HUTCHINSON SUBJECT OFFICERS: DANE O'NEIL, ZACHARY WOODS, DEANDRE WRIGHT, TREY NELSON (Date of Incident: 03/17/2019):** On March 17, 2019, Mr. Hutchinson died from multiple gunshot wounds fired by four Austin Police Department officers assigned to various units working downtown during the South by Southwest Festival.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: CARLOS DODERO / SUBJECT OFFICERS: HUGH BUTLER, WILLIAM BERTELSON (Date of Incident: 04/28/2019):** Mr. Carlos Dodero died as a result of multiple gunshot wounds fired by the Austin Police Department on April 28, 2019. At the time of the shooting incident, the Austin Police Department responded to multiple calls to 911 for a disturbance occurring on the Pennybacker Bridge.

The case is currently under investigation in a joint investigation conducted by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: MAURIS DESILVA / SUBJECT OFFICERS: CHRISTOPHER TAYLOR, KARL KRYCIA (Date of Incident: 07/31/2019):** Mr. DeSilva died from multiple gunshot wounds fired by two Austin Police Department officers on July 31, 2019.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: TYLER GRIST / SUBJECT OFFICERS: OSVALDO HERNANDEZ, RICHARD MARTINEZ, ALEXANDER ANTILLON, ANTHONY CARDINAL, ANTONIO SERNA (Date of Incident: 08/31/2019):** Mr. Tyler Grist's death occurred while in custody in the Travis County jail on unrelated charges. Mr. Grist was found unconscious by Travis County Sheriff's Office's staff. The case is currently under investigation in a joint investigation conducted by the Travis County Sheriff's Office, Texas Department of Public Safety, and the Travis County District Attorney Office's Civil Rights Unit.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: FRED BABCOCK / SUBJECT OFFICER: MATTHEW HARMATUK (Date of Incident: 09/22/2019):** Mr. Fred Babcock died as a result of a gunshot wound fired by the Austin Police Department on September 22, 2019.

The case is currently under investigation in a joint investigation conducted by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence.

We expect that this case will be presented to a grand jury in early fall 2021.

**DECEDENT: ENRIQUE QUIROZ / SUBJECT OFFICERS: EDUARDO PINEDA, SPENCER HANNA, ZANE DOWDELL, LUCAS PARKER, MARK YALETCHKO and TRINITHAD GARCIA (Date of Incident: 03/21/2020):** Mr. Quiroz died while in custody of the Austin Police Department after an encounter with multiple officers on March 31, 2020.

We expect that this case will be presented to a grand jury in early fall 2021.

**COMPLAINANT: F. ZIMMERMAN (Pseudonym) / SUBJECT OFFICER: WALTER DODDS (Date of Incident: 04/18/2020):** On April 18, 2020, while responding to a service call involving Ms. Zimmerman, Mr. Dodds, then an Austin Police Department officer encountered Ms. Zimmerman and is alleged to have later returned to her residence and alleged to have sexually assaulted her.

The case is currently under investigation in a joint investigation conducted by the Travis County District Attorney's Sexual Assault Unit and the Civil Rights Unit. This case is expected to be presented to a Travis County grand jury early summer of 2021.

**COMPLAINANT: NAME WITHHELD DUE TO BEING A MINOR / SUBJECT OFFICERS: NICHOLAS GEBHART (Date of Incident: 05/30/2020):** On May 30, 2020, Complainant, a Minor, was attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos that occurred in downtown Austin and was struck with "bean bag" ammunition and "rubber bullets".

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: BOMANI RAY BARTON / SUBJECT OFFICER: KYU AN (Date of Incident: 05/30/2020):** On May 31, 2020, Mr. Barton, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck with "bean bag" ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: GEMICAH VOLTER-JONES / SUBJECT OFFICER: DERRICK LEHMAN (Date of Incident: 5/30/2020):** On May 30, 2020, Mr. Volter-Jones, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by "bean bag" ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: MEREDITH WILLIAMS / SUBJECT OFFICER: JOSEPH CAST (Date of Incident: 5/30/2020):** On May 30, 2020, Ms. Williams, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by "bean bag" ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: NICOLE UNDERWOOD / SUBJECT OFFICER: JOHN SIEGEL (Date of Incident: 5/30/2020):** On May 30, 2020, Mr. Underwood, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by "bean bag" ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: MEREDITH DRAKE / SUBJECT OFFICER: CHANCE BRETCHES (Date of Incident: 05/31/2020):** On May 31, 2020, Mr. Drake, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition. Officer Bretches was indicted on 1/20/2021 on Aggravated Assault by Public Servant on an unrelated case.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: ANTHONY EVANS / SUBJECT OFFICER: KYLE FELTON (Date of Incident: 05/31/2020):** On May 31, 2020, Mr. Evans, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: JUSTIN HOWELL / SUBJECT OFFICER: JEFFREY TENG (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Howell, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: SAMUEL KIRSCH / SUBJECT OFFICER: Officer Rolan Rast (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Kirsch, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: CHRISTEN WARKOCZEWSKI / SUBJECT OFFICERS: JUSTIN BERRY; ALEXANDER LOMOSTEV, TODD GIBLERTSON, STANLEY VICK, CHRISTIAN IRWIN, JEREMY FISHER & JOSHUA JACKSON (Date of Incident: 5/31/2020):** On May 31, 2020, Ms. Williams, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: DYLAN POLINSKI / SUBJECT INVOLVED OFFICERS: JAVIER RODRIGUEZ AND KAMOWA REYNOLDS (Date of Incident: 01/04/2021):** On January 4, 2021, Mr. Dylan Polinski survived an incident in which he was shot by one Austin Police Department officer and “tased” with a conducted electrical weapon, commonly known as a “TASER” during an encounter with police officers at a local hotel.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early winter of this year.

**DECEDENT: ALEXANDER GONZALEZ / SUBJECT OFFICER: LUIS SERRATO AND GABRIEL GUTIERREZ (Date of Incident: 01/05/2021):** On January 5, 2021, Mr. Alexander Gonzalez died as a result of multiple gunshot wounds in an incident involving an off-duty Austin Police Department officer and another officer who was on duty, both of whom discharged their weapons striking Mr. Gonzalez.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early winter of this year.

**COMPLAINANT: KELVIN SCOTT/ SUBJECT OFFICER: ANTHONY CAMPANA (Date of Incident: 11/20/2020):** On November 8, 2020, during an attempt to take Mr. Kelvin Scott into custody, Mr. Scott survived a gunshot wound fired by a Pflugerville Police Department officer.

The case is currently under investigation in a joint investigation involving the Texas Rangers and the Travis County District Attorney Office Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early winter of this year.

**DECEDENT: JORDAN WALTON/ SUBJECT OFFICERS: JEFFREY HUTCHINSON/RYAN NICHOLS (Date of Incident: 2/10/2021):** On February 10, 2021, Mr. Walton died as a result of a gunshot wound fired by an Austin Police Department officer on September 22, 2019.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early winter of this year.

**COMPLAINANT: GREGORIO SARMIENTO/SUBJECT OFFICERS: JON RIORDAN AND KINGLY KONG (Date of Incident: 4/9/2021):** On April 9, 2021, during the interaction with Mr. Sarmiento, Mr. Sarmiento survived a gunshot wound fired by Austin Police Department Officers. Mr. Sarmiento is charged with two counts of Attempted Capital Murder and Aggravated Assault with Deadly Weapon that arose from this incident. The investigation for Mr. Sarmiento's charges will be led by the Office's Trial Court Division.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early winter of this year.



**OFFICE OF THE  
DISTRICT ATTORNEY**

P.O. Box 1748, Austin, TX 78767

Telephone 512/854-9400

Telefax 512/854-4206

**JOSÉ P. GARZA**  
DISTRICT ATTORNEY

**TRUDY STRASSBURGER**  
FIRST ASSISTANT

**Travis County DA Civil Rights Unit Case Summaries - June 4, 2021**

The following is a current list of each officer-involved use of force or other misconduct matter involving injury to any person currently pending in the Office's Civil Rights Unit.

**INDICTED CASES**

**INDICTED: STATE OF TEXAS VS MARCUS REED, D-1-DC-19-904028, D-1-DC-19-904030, D-1-DC-19-900065:** At the time of the incident, Mr. Reed, then a licensed peace officer, was employed as an Investigator with the Austin Fire Department. Mr. Reed was indicted and charged with the commission of Sexual Assault, Official Oppression, and Aggravated Perjury. Mr. Reed's case was tried on August 12, 2019 in the 167<sup>th</sup> District Court and the jury returned a guilty verdict on the Aggravated Perjury charge. The jury was unable to reach a verdict on the Sexual Assault and Official Oppression charges and the judge declared a mistrial on both charges. The retrial of the Sexual Assault and Official Oppression is pending in the 167<sup>th</sup> District Court.

Mr. Reed also has a pending Indecency with a Child by Sexual Contact case, which was indicted on June 7, 2019. Mr. Reed is alleged to have engaged in sexual contact with a child younger than 17 years of age.

The next court setting is June 21, 2021.

**INDICTED: STATE OF TEXAS VS NATHANIEL STALLINGS, D-1-DC-19-904051, D-1-DC-19-904052:** At the time of the incident, Mr. Stallings, then a licensed peace officer, was employed as a police officer with the Austin Police Department. On October 6, 2017, while on duty and in uniform in a fully marked Austin Police Department patrol vehicle, Mr. Stallings is alleged to have caused bodily injury to a civilian. Mr. Stallings was indicted on June 25, 2018 and charged with Assault and Abuse of Official Capacity. Both cases are pending in the 450<sup>th</sup> District Court.

This next court setting is August 16, 2021.

**INDICTED: STATE OF TEXAS VS LANDO HALL, D-1-DC-19-900105:** At the time of the incident, Mr. Hall was employed as a police officer with the Austin Police Department. On Monday, January 4, 2021, APD Officer Lando Hall was indicted for the felony offense of Misuse of Official Information, a third-degree felony under Section 39.06(b) of the Texas Penal Code by the 147<sup>th</sup> Special Grand Jury – Extended July 2020 term. The case is pending in the 403<sup>rd</sup> Judicial District Court.

The next court setting is July 14, 2021

**INDICTED: STATE OF TEXAS VS. SHANNON OWENS, D-1-DC-20-900003:** At the time of the incident, Mr. Owens was employed as a corrections officer with the Travis County Sherriff's Office. On Wednesday, December 16, 2020, TCSO Deputy Owens was indicted with Aggravated Perjury, a third-degree felony, and Tampering with Governmental Record with the intent to defraud or harm another, a state jail felony by the 147<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is June 17, 2021.

**INDICTED: STATE OF TEXAS VS. CHANCE BRETCHES, D-1-DC-20-900091:** At the time of the incident, Mr. Bretches was employed as a police officer with the Austin Police Department. On Wednesday, January 20, 2021, Officer Bretches was indicted with Aggravated Assault by a Public Servant, Serious Bodily Injury/Deadly Weapon, a first-degree felony by the extended 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is July 1, 2021.

**INDICTED: STATE OF TEXAS VS. GREGORY GENTRY, D-1-DC-20-900092:** At the time of the incident, Mr. Gentry was employed as a police officer with the Austin Police Department. On Wednesday, January 20, 2021, Officer Gentry was indicted with Aggravated Assault by a Public Servant, Serious Bodily Injury/Deadly Weapon, a first-degree felony by the extended 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is July 1, 2021.

**INDICTED: STATE OF TEXAS VS. AUSTIN JOHNSTON, D-1-DC-19-900021:** At the time of the incident, Mr. Johnston was employed as a trooper with the Department of Public Safety. On Friday, August 21, 2020, Trooper Johnston was indicted with Aggravated Assault by Public, a first-degree felony, Deadly Conduct, third-degree felony and Tampering with Physical Evidence, third-degree felony by the 460<sup>th</sup> Extended Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is July 8, 2021.

**INDICTED: STATE OF TEXAS VS. CHRISTOPHER TAYLOR, D-1-DC-20-900048:** At the time of the incident, Mr. Taylor was employed as an officer with the Austin Police Department. On, Wednesday, March 10, 2021, Officer Taylor was indicted with Murder, a first-degree felony by the 147<sup>th</sup> Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is June 21, 2021.

**INDICTED: STATE OF TEXAS VS. JAMES JOHNSON, D-1-DC-20-900070:** At the time of the incident, Mr. Johnson was employed as a deputy with the Williamson County Sheriff's Office. On Monday, March 29, 2021, Deputy Johnson was indicted with Manslaughter, a second-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is June 17, 2021.

**INDICTED: STATE OF TEXAS VS. ZACHARY CAMDEN, D-1-DC-20-900069:** At the time of the incident, Mr. Camden was employed as a deputy with the Williamson County Sheriff's Office. On Monday, March 29, 2021, Deputy Camden was indicted with Manslaughter, a second-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is June 17, 2021.

**INDICTED: STATE OF TEXAS VS. ROBERT CHODY, D-1-DC-20-900110:** At the time of the incident, Mr. Chody was the elected Sheriff in Williamson County. On, Wednesday, March 31, 2021, Mr. Chody was indicted Tampering with Physical Evidence with Intent to Impair, a third-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is June 17, 2021.

**INDICTED: STATE OF TEXAS VS. JASSON NASSOUR, D-1-DC-20-900109:** At the time of the incident, Mr. Nassour was employed as General Counsel for the Williamson County Office. On, Wednesday, March 31, 2021, Mr. Nassour was indicted Tampering with Physical Evidence with Intent to Impair, a third-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is June 17, 2021.

*Note: Due to COVID-19 restrictions there are currently no criminal jury trials in Travis County*

**UNINDICTED**

**DECEDENT: AQUANTIS GRIFFIN/SUBJECT OFFICERS: ALBERT MARTINEZ; CHRISTOPHER SALACKI; DANIEL MATHIS; JOSEPH CAST; JOSEPH MORAN; JUSTIN HALBACH; LEWIS HOLLAND; STEPHEN JOHNSON & WESLEY DEVRIES (Date of Incident: 08/18/2018):** Mr. Aquantis Griffin died as a result of multiple gunshot wounds fired by Austin Police Department officers on August 18, 2018.

We expect this case will be presented to a grand jury in early summer 2021.

**DECEDENT: ISAIAH HUTCHINSON SUBJECT OFFICERS: DANE O'NEIL, ZACHARY WOODS, DEANDRE WRIGHT, TREY NELSON (Date of Incident: 03/17/2019):** On March 17, 2019, Mr. Hutchinson died from multiple gunshot wounds fired by four Austin Police Department officers assigned to various units working downtown during the South by Southwest Festival.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: CARLOS DODERO / SUBJECT OFFICERS: HUGH BUTLER, WILLIAM BERTELSON (Date of Incident: 04/28/2019):** Mr. Carlos Dodero died as a result of multiple gunshot wounds fired by the Austin Police Department on April 28, 2019. At the time of the shooting incident, the Austin Police Department responded to multiple calls to 911 for a disturbance occurring on the Pennybacker Bridge.

The case is currently under investigation in a joint investigation conducted by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: MAURIS DESILVA / SUBJECT OFFICERS: CHRISTOPHER TAYLOR, KARL KRYCIA (Date of Incident: 07/31/2019):** Mr. DeSilva died from multiple gunshot wounds fired by two Austin Police Department officers on July 31, 2019.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: TYLER GRIST / SUBJECT OFFICERS: OSVALDO HERNANDEZ, RICHARD MARTINEZ, ALEXANDER ANTILLON, ANTHONY CARDINAL, ANTONIO SERNA (Date of Incident: 08/31/2019):** Mr. Tyler Grist's death occurred while in custody in the Travis County jail on unrelated charges. Mr. Grist was found unconscious by Travis County Sheriff's Office's staff. The case is currently under investigation in a joint investigation conducted by the Travis County Sheriff's Office, Texas Department of Public Safety, and the Travis County District Attorney Office's Civil Rights Unit.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: FRED BABCOCK / SUBJECT OFFICER: MATTHEW HARMATUK (Date of Incident: 09/22/2019):** Mr. Fred Babcock died as a result of a gunshot wound fired by the Austin Police Department on September 22, 2019.

The case is currently under investigation in a joint investigation conducted by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence.

We expect that this case will be presented to a grand jury in early fall 2021.

**DECEDENT: ENRIQUE QUIROZ / SUBJECT OFFICERS: EDUARDO PINEDA, SPENCER HANNA, ZANE DOWDELL, LUCAS PARKER, MARK YALETCHKO and TRINITHAD GARCIA (Date of Incident: 03/21/2020):** Mr. Quiroz died while in custody of the Austin Police Department after an encounter with multiple officers on March 31, 2020.

We expect that this case will be presented to a grand jury in early fall 2021.

**COMPLAINANT: F. ZIMMERMAN (Pseudonym) / SUBJECT OFFICER: WALTER DODDS (Date of Incident: 04/18/2020):** On April 18, 2020, while responding to a service call involving Ms. Zimmerman, Mr. Dodds, then an Austin Police Department officer encountered Ms. Zimmerman and is alleged to have later returned to her residence and alleged to have sexually assaulted her.

The case is currently under investigation in a joint investigation conducted by the Travis County District Attorney's Sexual Assault Unit and the Civil Rights Unit. This case is expected to be presented to a Travis County grand jury early summer of 2021.

**COMPLAINANT: NAME WITHHELD DUE TO BEING A MINOR / SUBJECT OFFICERS: NICHOLAS GEBHART (Date of Incident: 05/30/2020):** On May 30, 2020, Complainant, a Minor, was attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos that occurred in downtown Austin and was struck with "bean bag" ammunition and "rubber bullets".

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: BOMANI RAY BARTON / SUBJECT OFFICER: KYU AN (Date of Incident: 05/30/2020):** On May 31, 2020, Mr. Barton, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck with "bean bag" ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: GEMICAH VOLTER-JONES / SUBJECT OFFICER: DERRICK LEHMAN (Date of Incident: 5/30/2020):** On May 30, 2020, Mr. Volter-Jones, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by "bean bag" ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: MEREDITH WILLIAMS / SUBJECT OFFICER: JOSEPH CAST (Date of Incident: 5/30/2020):** On May 30, 2020, Ms. Williams, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by "bean bag" ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: NICOLE UNDERWOOD / SUBJECT OFFICER: JOHN SIEGEL (Date of Incident: 5/30/2020):** On May 30, 2020, Mr. Underwood, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by "bean bag" ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: MEREDITH DRAKE / SUBJECT OFFICER: CHANCE BRETCHES (Date of Incident: 05/31/2020):** On May 31, 2020, Mr. Drake, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition. Officer Bretches was indicted on 1/20/2021 on Aggravated Assault by Public Servant on an unrelated case.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: ANTHONY EVANS / SUBJECT OFFICER: KYLE FELTON (Date of Incident: 05/31/2020):** On May 31, 2020, Mr. Evans, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: JUSTIN HOWELL / SUBJECT OFFICER: JEFFREY TENG (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Howell, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: SAMUEL KIRSCH / SUBJECT OFFICER: Officer Rolan Rast (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Kirsch, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: CHRISTEN WARKOCZEWSKI / SUBJECT OFFICERS: JUSTIN BERRY; ALEXANDER LOMOSTEV, TODD GIBLERTSON, STANLEY VICK, CHRISTIAN IRWIN, JEREMY FISHER & JOSHUA JACKSON (Date of Incident: 5/31/2020):** On May 31, 2020, Ms. Williams, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: DYLAN POLINSKI / SUBJECT INVOLVED OFFICERS: JAVIER RODRIGUEZ AND KAMOWA REYNOLDS (Date of Incident: 01/04/2021):** On January 4, 2021, Mr. Dylan Polinski survived an incident in which he was shot by one Austin Police Department officer and “tased” with a conducted electrical weapon, commonly known as a “TASER” during an encounter with police officers at a local hotel.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early winter of this year.

**DECEDENT: ALEXANDER GONZALEZ / SUBJECT OFFICER: LUIS SERRATO AND GABRIEL GUTIERREZ (Date of Incident: 01/05/2021):** On January 5, 2021, Mr. Alexander Gonzalez died as a result of multiple gunshot wounds in an incident involving an off-duty Austin Police Department officer and another officer who was on duty, both of whom discharged their weapons striking Mr. Gonzalez.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early winter of this year.

**COMPLAINANT: KELVIN SCOTT/ SUBJECT OFFICER: ANTHONY CAMPANA (Date of Incident: 11/20/2020):** On November 8, 2020, during an attempt to take Mr. Kelvin Scott into custody, Mr. Scott survived a gunshot wound fired by a Pflugerville Police Department officer.

The case is currently under investigation in a joint investigation involving the Texas Rangers and the Travis County District Attorney Office Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early winter of this year.

**DECEDENT: JORDAN WALTON/ SUBJECT OFFICERS: JEFFREY HUTCHINSON/RYAN NICHOLS (Date of Incident: 2/10/2021):** On February 10, 2021, Mr. Walton died as a result of a gunshot wound fired by an Austin Police Department officer on September 22, 2019.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early winter of this year.

**COMPLAINANT: GREGORIO SARMIENTO/SUBJECT OFFICERS: JON RIORDAN AND KINGLY KONG (Date of Incident: 4/9/2021):** On April 9, 2021, during the interaction with Mr. Sarmiento, Mr. Sarmiento survived a gunshot wound fired by Austin Police Department Officers. Mr. Sarmiento is charged with two counts of Attempted Capital Murder and Aggravated Assault with Deadly Weapon that arose from this incident. The investigation for Mr. Sarmiento's charges will be led by the Office's Trial Court Division.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early winter of this year.



## OFFICE OF THE DISTRICT ATTORNEY

P.O. Box 1748, Austin, TX 78767

Telephone 512/854-9400

Telefax 512/854-4206

**JOSÉ P. GARZA**  
DISTRICT ATTORNEY

**TRUDY STRASSBURGER**  
FIRST ASSISTANT

### **Travis County DA Civil Rights Unit Case Summaries - July 6, 2021**

The following is a current list of each officer-involved use of force or other misconduct matter involving injury to any person currently pending in the Office's Civil Rights Unit.

#### **INDICTED CASES**

**INDICTED: STATE OF TEXAS VS MARCUS REED, D-1-DC-19-904028, D-1-DC-19-904030, D-1-DC-19-900065:** At the time of the incident, Mr. Reed, then a licensed peace officer, was employed as an Investigator with the Austin Fire Department. Mr. Reed was indicted and charged with the commission of Sexual Assault, Official Oppression, and Aggravated Perjury. Mr. Reed's case was tried on August 12, 2019 in the 167<sup>th</sup> District Court and the jury returned a guilty verdict on the Aggravated Perjury charge. The jury was unable to reach a verdict on the Sexual Assault and Official Oppression charges and the judge declared a mistrial on both charges. The retrial of the Sexual Assault and Official Oppression is pending in the 167<sup>th</sup> District Court.

Mr. Reed also has a pending Indecency with a Child by Sexual Contact case, which was indicted on June 7, 2019. Mr. Reed is alleged to have engaged in sexual contact with a child younger than 17 years of age.

The next court setting is July 26, 2021.

**INDICTED: STATE OF TEXAS VS NATHANIEL STALLINGS, D-1-DC-19-904051, D-1-DC-19-904052:** At the time of the incident, Mr. Stallings, then a licensed peace officer, was employed as a police officer with the Austin Police Department. On October 6, 2017, while on duty and in uniform in a fully marked Austin Police Department patrol vehicle, Mr. Stallings is alleged to have caused bodily injury to a civilian. Mr. Stallings was indicted on June 25, 2018 and charged with Assault and Abuse of Official Capacity. Both cases are pending in the 450<sup>th</sup> District Court.

This next court setting is August 16, 2021.

**INDICTED: STATE OF TEXAS VS LANDO HALL, D-1-DC-19-900105:** At the time of the incident, Mr. Hall was employed as a police officer with the Austin Police Department. On Monday, January 4, 2021, APD Officer Lando Hall was indicted for the felony offense of Misuse of Official Information, a third-degree felony under Section 39.06(b) of the Texas Penal Code by the 147<sup>th</sup> Special Grand Jury – Extended July 2020 term. The case is pending in the 403<sup>rd</sup> Judicial District Court.

The next court setting is July 14, 2021

**INDICTED: STATE OF TEXAS VS. SHANNON OWENS, D-1-DC-20-900003:** At the time of the incident, Mr. Owens was employed as a corrections officer with the Travis County Sheriff's Office. On Wednesday, December 16, 2020, TCSO Deputy Owens was indicted with Aggravated Perjury, a third-degree felony, and Tampering with Governmental Record with the intent to defraud or harm another, a state jail felony by the 147<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is July 29, 2021.

**INDICTED: STATE OF TEXAS VS. CHANCE BRETCHES, D-1-DC-20-900091:** At the time of the incident, Mr. Bretches was employed as a police officer with the Austin Police Department. On Wednesday, January 20, 2021, Officer Bretches was indicted with Aggravated Assault by a Public Servant, Serious Bodily Injury/Deadly Weapon, a first-degree felony by the extended 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is August 12, 2021.

**INDICTED: STATE OF TEXAS VS. GREGORY GENTRY, D-1-DC-20-900092:** At the time of the incident, Mr. Gentry was employed as a police officer with the Austin Police Department. On Wednesday, January 20, 2021, Officer Gentry was indicted with Aggravated Assault by a Public Servant, Serious Bodily Injury/Deadly Weapon, a first-degree felony by the extended 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is August 12, 2021.

**INDICTED: STATE OF TEXAS VS. AUSTIN JOHNSTON, D-1-DC-19-900021:** At the time of the incident, Mr. Johnston was employed as a trooper with the Department of Public Safety. On Friday, August 21, 2020, Trooper Johnston was indicted with Aggravated Assault by Public, a first-degree felony, Deadly Conduct, third-degree felony and Tampering with Physical Evidence, third-degree felony by the 460<sup>th</sup> Extended Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is September 16, 2021.

**INDICTED: STATE OF TEXAS VS. CHRISTOPHER TAYLOR, D-1-DC-20-900048:** At the time of the incident, Mr. Taylor was employed as an officer with the Austin Police Department. On Wednesday, March 10, 2021, Officer Taylor was indicted with Murder, a first-degree felony by the 147<sup>th</sup> Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is September 7, 2021.

**INDICTED: STATE OF TEXAS VS. JAMES JOHNSON, D-1-DC-20-900070:** At the time of the incident, Mr. Johnson was employed as a deputy with the Williamson County Sheriff's Office. On Monday, March 29, 2021, Deputy Johnson was indicted with Manslaughter, a second-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is August 12, 2021.

**INDICTED: STATE OF TEXAS VS. ZACHARY CAMDEN, D-1-DC-20-900069:** At the time of the incident, Mr. Camden was employed as a deputy with the Williamson County Sheriff's Office. On Monday, March 29, 2021, Deputy Camden was indicted with Manslaughter, a second-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is August 12, 2021.

**INDICTED: STATE OF TEXAS VS. ROBERT CHODY, D-1-DC-20-900110:** At the time of the incident, Mr. Chody was the elected Sheriff in Williamson County. On, Wednesday, March 31, 2021, Mr. Chody was indicted Tampering with Physical Evidence with Intent to Impair, a third-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is July 29, 2021.

**INDICTED: STATE OF TEXAS VS. JASSON NASSOUR, D-1-DC-20-900109:** At the time of the incident, Mr. Nassour was employed as General Counsel for the Williamson County Office. On, Wednesday, March 31, 2021, Mr. Nassour was indicted Tampering with Physical Evidence with Intent to Impair, a third-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is July 29, 2021.

*Note: Due to COVID-19 restrictions there are currently no criminal jury trials in Travis County*

**UNINDICTED**

**DECEDENT: AQUANTIS GRIFFIN/SUBJECT OFFICERS: ALBERT MARTINEZ; CHRISTOPHER SALACKI; DANIEL MATHIS; JOSEPH CAST; JOSEPH MORAN; JUSTIN HALBACH; LEWIS HOLLAND; STEPHEN JOHNSON & WESLEY DEVRIES (Date of Incident: 08/18/2018):** Mr.

Aquantis Griffin died as a result of multiple gunshot wounds fired by Austin Police Department officers on August 18, 2018.

We expect this case will be presented to a grand jury in early summer 2021.

**DECEDENT: ISAIAH HUTCHINSON SUBJECT OFFICERS: DANE O'NEIL, ZACHARY WOODS, DEANDRE WRIGHT, TREY NELSON (Date of Incident: 03/17/2019):** On March 17, 2019, Mr. Hutchinson died from multiple gunshot wounds fired by four Austin Police Department officers assigned to various units working downtown during the South by Southwest Festival.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: CARLOS DODERO / SUBJECT OFFICERS: HUGH BUTLER, WILLIAM BERTELSON (Date of Incident: 04/28/2019):** Mr. Carlos Dodero died as a result of multiple gunshot wounds fired by the Austin Police Department on April 28, 2019. At the time of the shooting incident, the Austin Police Department responded to multiple calls to 911 for a disturbance occurring on the Pennybacker Bridge.

The case is currently under investigation in a joint investigation conducted by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: MAURIS DESILVA / SUBJECT OFFICERS: CHRISTOPHER TAYLOR, KARL KRYCIA (Date of Incident: 07/31/2019):** Mr. DeSilva died from multiple gunshot wounds fired by two Austin Police Department officers on July 31, 2019.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: TYLER GRIST / SUBJECT OFFICERS: OSVALDO HERNANDEZ, RICHARD MARTINEZ, ALEXANDER ANTILLON, ANTHONY CARDINAL, ANTONIO SERNA (Date of Incident: 08/31/2019):** Mr. Tyler Grist's death occurred while in custody in the Travis County jail on unrelated charges. Mr. Grist was found unconscious by Travis County Sheriff's Office's staff. The case is currently under investigation in a joint investigation conducted by the Travis County Sheriff's Office, Texas Department of Public Safety, and the Travis County District Attorney Office's Civil Rights Unit.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: ENRIQUE QUIROZ / SUBJECT OFFICERS: EDUARDO PINEDA, SPENCER HANNA, ZANE DOWDELL, LUCAS PARKER, MARK YALETCHKO and TRINITHAD GARCIA (Date of Incident: 03/21/2020):** Mr. Quiroz died while in custody of the Austin Police Department after an encounter with multiple officers on March 31, 2020.

We expect that this case will be presented to a grand jury in early fall 2021.

**COMPLAINANT: F. ZIMMERMAN (Pseudonym) / SUBJECT OFFICER: WALTER DODDS (Date of Incident: 04/18/2020):** On April 18, 2020, while responding to a service call involving Ms. Zimmerman, Mr. Dodds, then an Austin Police Department officer encountered Ms. Zimmerman and is alleged to have later returned to her residence and alleged to have sexually assaulted her.

The case is currently under investigation in a joint investigation conducted by the Travis County District Attorney's Sexual Assault Unit and the Civil Rights Unit. This case is expected to be presented to a Travis County grand jury early summer of 2021.

**COMPLAINANT: NAME WITHHELD DUE TO BEING A MINOR / SUBJECT OFFICERS: NICHOLAS GEBHART (Date of Incident: 05/30/2020):** On May 30, 2020, Complainant, a Minor, was attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos that occurred in downtown Austin and was struck with "bean bag" ammunition and "rubber bullets".

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: BOMANI RAY BARTON / SUBJECT OFFICER: KYU AN (Date of Incident: 05/30/2020):** On May 31, 2020, Mr. Barton, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck with "bean bag" ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: GEMICAH VOLTER-JONES / SUBJECT OFFICER: DERRICK LEHMAN (Date of Incident: 5/30/2020):** On May 30, 2020, Mr. Volter-Jones, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by "bean bag" ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: MEREDITH WILLIAMS / SUBJECT OFFICER: JOSEPH CAST (Date of Incident: 5/30/2020):** On May 30, 2020, Ms. Williams, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by "bean bag" ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: NICOLE UNDERWOOD / SUBJECT OFFICER: JOHN SIEGEL (Date of Incident: 5/30/2020):** On May 30, 2020, Mr. Underwood, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by "bean bag" ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: MEREDITH DRAKE / SUBJECT OFFICER: CHANCE BRETCHES (Date of Incident: 05/31/2020):** On May 31, 2020, Mr. Drake, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by "bean bag" ammunition. Officer Bretches

was indicted on 1/20/2021 on Aggravated Assault by Public Servant on an unrelated case.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: ANTHONY EVANS / SUBJECT OFFICER: KYLE FELTON (Date of Incident: 05/31/2020):** On May 31, 2020, Mr. Evans, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: JUSTIN HOWELL / SUBJECT OFFICER: JEFFREY TENG (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Howell, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: SAMUEL KIRSCH / SUBJECT OFFICER: Officer Rolan Rast (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Kirsch, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: CHRISTEN WARKOCZEWSKI / SUBJECT OFFICERS: JUSTIN BERRY; ALEXANDER LOMOSTEV, TODD GIBLERTSON, STANLEY VICK, CHRISTIAN IRWIN, JEREMY FISHER & JOSHUA JACKSON (Date of Incident: 5/31/2020):** On May 31, 2020, Ms. Williams, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: DYLAN POLINSKI / SUBJECT INVOLVED OFFICERS: JAVIER RODRIGUEZ AND KAMOWA REYNOLDS (Date of Incident: 01/04/2021):** On January 4, 2021, Mr. Dylan Polinski survived an incident in which he was shot by one Austin Police Department officer and “tased” with a conducted electrical weapon, commonly known as a “TASER” during an encounter with police officers at a local hotel.

The case is currently under investigation in a joint investigation involving the Austin Police Department’s Special Investigations Unit and the Travis County District Attorney Office’s Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early winter of this year.

**DECEDENT: ALEXANDER GONZALES / SUBJECT OFFICER: LUIS SERRATO AND GABRIEL GUTIERREZ (Date of Incident: 01/05/2021):** On January 5, 2021, Mr. Alexander Gonzales died as a result of multiple gunshot wounds in an incident involving an off-duty Austin Police Department officer and another officer who was on duty, both of whom discharged their weapons striking Mr. Gonzales.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early winter of this year.

**DECEDENT: JORDAN WALTON/ SUBJECT OFFICERS: JEFFREY HUTCHINSON/Ryan NICHOLS (Date of Incident: 2/10/2021):** On February 10, 2021, Mr. Walton died as a result of a gunshot wound fired by an Austin Police Department officer on September 22, 2019.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early winter of this year.

**COMPLAINANT: GREGORIO SARMIENTO/SUBJECT OFFICERS: JON RIORDAN AND KINGLY KONG (Date of Incident: 4/9/2021):** On April 9, 2021, during the interaction with Mr. Sarmiento, Mr. Sarmiento survived a gunshot wound fired by Austin Police Department Officers. Mr. Sarmiento is charged with two counts of Attempted Capital Murder and Aggravated Assault with Deadly Weapon that arose from this incident. The investigation for Mr. Sarmiento's charges will be led by the Office's Trial Court Division.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early winter of this year.

**COMPLAINANT: (Date of Incident: 3/12/2021):** On March 12, 2021, the civilian was arrested for an active warrant. While officers attempted to place the civilian under arrest, the civilian victim was struck by a baton and tased.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early winter of this year.

**COMPLAINANT: (Date of Incident: 11/26/2020):** On November 26, 2020, the civilian was arrested for interfering with a crime scene which was investigated by Austin Police Department. The victim was struck by the subject officer while being handcuffed.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early winter of this year.



## OFFICE OF THE DISTRICT ATTORNEY

P.O. Box 1748, Austin, TX 78767

Telephone 512/854-9400

Telefax 512/854-4206

**JOSÉ P. GARZA**  
DISTRICT ATTORNEY

**TRUDY STRASSBURGER**  
FIRST ASSISTANT

### **Travis County DA Civil Rights Unit Case Summaries - August 20, 2021**

The following is a current list of each officer-involved use of force or other misconduct matter involving injury to any person currently pending in the Office's Civil Rights Unit.

#### **INDICTED CASES**

**INDICTED: STATE OF TEXAS VS MARCUS REED, D-1-DC-19-904028, D-1-DC-19-904030, D-1-DC-19-900065:** At the time of the incident, Mr. Reed, then a licensed peace officer, was employed as an Investigator with the Austin Fire Department. Mr. Reed was indicted and charged with the commission of Sexual Assault, Official Oppression, and Aggravated Perjury. Mr. Reed's case was tried on August 12, 2019 in the 167<sup>th</sup> District Court and the jury returned a guilty verdict on the Aggravated Perjury charge. The jury was unable to reach a verdict on the Sexual Assault and Official Oppression charges and the judge declared a mistrial on both charges. The retrial of the Sexual Assault and Official Oppression is pending in the 167<sup>th</sup> District Court.

Mr. Reed also has a pending Indecency with a Child by Sexual Contact case, which was indicted on June 7, 2019. Mr. Reed is alleged to have engaged in sexual contact with a child younger than 17 years of age.

The next court setting is September 7, 2021.

**INDICTED: STATE OF TEXAS VS NATHANIEL STALLINGS, D-1-DC-19-904051, D-1-DC-19-904052:** At the time of the incident, Mr. Stallings, then a licensed peace officer, was employed as a police officer with the Austin Police Department. On October 6, 2017, while on duty and in uniform in a fully marked Austin Police Department patrol vehicle, Mr. Stallings is alleged to have caused bodily injury to a civilian. Mr. Stallings was indicted on June 25, 2018 and charged with Assault and Abuse of Official Capacity. Both cases are pending in the 450<sup>th</sup> District Court.

This next court setting is August 28, 2021.

**INDICTED: STATE OF TEXAS VS LANDO HALL, D-1-DC-19-900105:** At the time of the incident, Mr. Hall was employed as a police officer with the Austin Police Department. On Monday, January 4, 2021, APD Officer Lando Hall was indicted for the felony offense of Misuse of Official Information, a third-degree felony under Section 39.06(b) of the Texas Penal Code by the 147<sup>th</sup> Special Grand Jury – Extended July 2020 term. The case is pending in the 403<sup>rd</sup> Judicial District Court.

The next court setting is October 06, 2021

**INDICTED: STATE OF TEXAS VS. SHANNON OWENS, D-1-DC-20-900003:** At the time of the incident, Mr. Owens was employed as a corrections officer with the Travis County Sherriff's Office. On Wednesday, December 16, 2020, TCSO Deputy Owens was indicted with Aggravated Perjury, a third-degree felony, and Tampering with Governmental Record with the intent to defraud or harm another, a state jail felony by the 147<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is September 30, 2021.

**INDICTED: STATE OF TEXAS VS. CHANCE BRETCHES, D-1-DC-20-900091:** At the time of the incident, Mr. Bretches was employed as a police officer with the Austin Police Department. On Wednesday, January 20, 2021, Officer Bretches was indicted with Aggravated Assault by a Public Servant, Serious Bodily Injury/Deadly Weapon, a first-degree felony by the extended 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is September 23, 2021.

**INDICTED: STATE OF TEXAS VS. AUSTIN JOHNSTON, D-1-DC-19-900021:** At the time of the incident, Mr. Johnston was employed as a trooper with the Department of Public Safety. On Friday, August 21, 2020, Trooper Johnston was indicted with Aggravated Assault by Public, a first-degree felony, Deadly Conduct, third-degree felony and Tampering with Physical Evidence, third-degree felony by the 460<sup>th</sup> Extended Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is October 04, 2021.

**INDICTED: STATE OF TEXAS VS. CHRISTOPHER TAYLOR, D-1-DC-20-900048:** At the time of the incident, Mr. Taylor was employed as an officer with the Austin Police Department. On, Wednesday, March 10, 2021, Officer Taylor was indicted with Murder, a first-degree felony by the 147<sup>th</sup> Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is September 7, 2021.

**INDICTED: STATE OF TEXAS VS. JAMES JOHNSON, D-1-DC-20-900070:** At the time of the incident, Mr. Johnson was employed as a deputy with the Williamson County Sheriff's Office. On Monday, March 29, 2021, Deputy Johnson was indicted with Manslaughter, a second-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is September 23, 2021.

**INDICTED: STATE OF TEXAS VS. ZACHARY CAMDEN, D-1-DC-20-900069:** At the time of the incident, Mr. Camden was employed as a deputy with the Williamson County Sheriff's Office. On Monday, March 29, 2021, Deputy Camden was indicted with Manslaughter, a second-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is September 23, 2021.

**INDICTED: STATE OF TEXAS VS. ROBERT CHODY, D-1-DC-20-900110:** At the time of the incident, Mr. Chody was the elected Sheriff in Williamson County. On, Wednesday, March 31, 2021, Mr. Chody was indicted Tampering with Physical Evidence with Intent to Impair, a third-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is August 26, 2021.

**INDICTED: STATE OF TEXAS VS. JASSON NASSOUR, D-1-DC-20-900109:** At the time of the incident, Mr. Nassour was employed as General Counsel for the Williamson County Office. On, Wednesday, March 31, 2021, Mr. Nassour was indicted Tampering with Physical Evidence with Intent to Impair, a third-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is August 24, 2021.

*Note: Due to COVID-19 restrictions there are currently no criminal jury trials in Travis County*

**UNINDICTED**

**DECEDENT: AQUANTIS GRIFFIN/SUBJECT OFFICERS: ALBERT MARTINEZ; CHRISTOPHER SALACKI; DANIEL MATHIS; JOSEPH CAST; JOSEPH MORAN; JUSTIN HALBACH; LEWIS HOLLAND; STEPHEN JOHNSON & WESLEY DEVRIES (Date of Incident: 08/18/2018):** Mr.

Aquantis Griffin died as a result of multiple gunshot wounds fired by Austin Police Department officers on August 18, 2018.

We expect this case will be presented to a grand jury in the early fall of 2021.

**DECEDENT: MAURIS DESILVA / SUBJECT OFFICERS: CHRISTOPHER TAYLOR, KARL KRYCIA (Date of Incident: 07/31/2019):** Mr. DeSilva died from multiple gunshot wounds fired by two Austin Police Department officers on July 31, 2019.

We expect that this case will be presented to a grand jury in early summer 2021.

**DECEDENT: ENRIQUE QUIROZ / SUBJECT OFFICERS: EDUARDO PINEDA, SPENCER HANNA, ZANE DOWDELL, LUCAS PARKER, MARK YALETCHKO and TRINITHAD GARCIA (Date of Incident: 03/21/2020):** Mr. Quiroz died while in custody of the Austin Police Department after an encounter with multiple officers on March 31, 2020.

We expect that this case will be presented to a grand jury in early fall 2021.

**COMPLAINANT: F. ZIMMERMAN (Pseudonym) / SUBJECT OFFICER: WALTER DODDS (Date of Incident: 04/18/2020):** On April 18, 2020, while responding to a service call involving Ms. Zimmerman, Mr. Dodds, then an Austin Police Department officer encountered Ms. Zimmerman and is alleged to have later returned to her residence and alleged to have sexually assaulted her.

The case is currently under investigation in a joint investigation conducted by the Travis County District Attorney's Sexual Assault Unit and the Civil Rights Unit. This case is expected to be presented to a Travis County grand jury early summer of 2021.

**COMPLAINANT: NAME WITHHELD DUE TO BEING A MINOR / SUBJECT OFFICERS: NICHOLAS GEBHART (Date of Incident: 05/30/2020):** On May 30, 2020, Complainant, a Minor, was attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos that occurred in downtown Austin and was struck with "bean bag" ammunition and "rubber bullets".

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: BOMANI RAY BARTON / SUBJECT OFFICER: KYU AN (Date of Incident: 05/30/2020):** On May 31, 2020, Mr. Barton, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck with "bean bag" ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: GEMICAH VOLTER-JONES / SUBJECT OFFICER: DERRICK LEHMAN (Date of Incident: 5/30/2020):** On May 30, 2020, Mr. Volter-Jones, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by "bean bag" ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021

protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: MEREDITH WILLIAMS / SUBJECT OFFICER: JOSEPH CAST (Date of Incident: 5/30/2020):** On May 30, 2020, Ms. Williams, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: NICOLE UNDERWOOD / SUBJECT OFFICER: JOHN SIEGEL (Date of Incident: 5/30/2020):** On May 30, 2020, Mr. Underwood, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: MEREDITH DRAKE / SUBJECT OFFICER: CHANCE BRETCHES (Date of Incident: 05/31/2020):** On May 31, 2020, Mr. Drake, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition. Officer Bretches was indicted on 1/20/2021 on Aggravated Assault by Public Servant on an unrelated case.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: ANTHONY EVANS / SUBJECT OFFICER: KYLE FELTON (Date of Incident: 05/31/2020):** On May 31, 2020, Mr. Evans, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: JUSTIN HOWELL / SUBJECT OFFICER: JEFFREY TENG (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Howell, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: SAMUEL KIRSCH / SUBJECT OFFICER: Officer Rolan Rast (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Kirsch, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: CHRISTEN WARKOCZEWSKI / SUBJECT OFFICERS: JUSTIN BERRY; ALEXANDER LOMOSTEV, TODD GIBLERTSON, STANLEY VICK, CHRISTIAN IRWIN, JEREMY FISHER & JOSHUA JACKSON (Date of Incident: 5/31/2020):** On May 31, 2020, Ms. Williams, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: DYLAN POLINSKI / SUBJECT INVOLVED OFFICERS: JAVIER RODRIGUEZ AND KAMOWA REYNOLDS (Date of Incident: 01/04/2021):** On January 4, 2021, Mr. Dylan Polinski survived an incident in which he was shot by one Austin Police Department officer and “tased” with a conducted electrical weapon, commonly known as a “TASER” during an encounter with police officers at a local hotel.

The case is currently under investigation in a joint investigation involving the Austin Police Department’s Special Investigations Unit and the Travis County District Attorney Office’s Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early winter of this year.

**DECEDENT: ALEXANDER GONZALES / SUBJECT OFFICER: LUIS SERRATO AND GABRIEL GUTIERREZ (Date of Incident: 01/05/2021):** On January 5, 2021, Mr. Alexander Gonzales died as a result of multiple gunshot wounds in an incident involving an off-duty Austin Police Department officer and another officer who was on duty, both of whom discharged their weapons striking Mr. Gonzales.

The case is currently under investigation in a joint investigation involving the Austin Police Department’s Special Investigations Unit and the Travis County District Attorney Office’s Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early winter of this year.

**DECEDENT: JORDAN WALTON/ SUBJECT OFFICERS: JEFFREY HUTCHINSON/RYAN NICHOLS (Date of Incident: 2/10/2021):** On February 10, 2021, Mr. Walton died as a result of a gunshot wound fired by an Austin Police Department officer on September 22, 2019.

The case is currently under investigation in a joint investigation involving the Austin Police Department’s Special Investigations Unit and the Travis County District Attorney Office’s Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early winter of this year.

**COMPLAINANT: GREGORIO SARMIENTO/SUBJECT OFFICERS: JON RIORDAN AND KINGLY KONG (Date of Incident: 4/9/2021):** On April 9, 2021, during the interaction with Mr. Sarmiento, Mr. Sarmiento survived a gunshot wound fired by Austin Police Department Officers. Mr. Sarmiento is charged with two counts of Attempted Capital Murder and Aggravated Assault with Deadly Weapon that arose from this incident. The investigation for Mr. Sarmiento’s charges will be led by the Office’s Trial Court Division.

The case is currently under investigation in a joint investigation involving the Austin Police Department’s Special Investigations Unit and the Travis County District Attorney Office’s Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later

than early winter of this year.

**COMPLAINANT: (Date of Incident: 3/12/2021):** On March 12, 2021, the civilian was arrested for an active warrant. While officers attempted to place the civilian under arrest, the civilian victim was struck by a baton and tased.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early winter of this year.

**COMPLAINANT: (Date of Incident: 11/26/2020):** On November 26, 2020, the civilian was arrested for interfering with a crime scene which was investigated by Austin Police Department. The victim was struck by the subject officer while being handcuffed.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early winter of this year.



**OFFICE OF THE  
DISTRICT ATTORNEY**

P.O. Box 1748, Austin, TX 78767

Telephone 512/854-9400

Telefax 512/854-4206

**JOSÉ P. GARZA**  
DISTRICT ATTORNEY

**TRUDY STRASSBURGER**  
FIRST ASSISTANT

**Travis County DA Civil Rights Unit Case Summaries -September 13, 2021**

The following is a current list of each officer-involved use of force or other misconduct matter involving injury to any person currently pending in the Office's Civil Rights Unit.

**INDICTED CASES**

**INDICTED: STATE OF TEXAS VS MARCUS REED, D-1-DC-19-904028, D-1-DC-19-904030, D-1-DC-19-900065:** At the time of the incident, Mr. Reed, then a licensed peace officer, was employed as an Investigator with the Austin Fire Department. Mr. Reed was indicted and charged with the commission of Sexual Assault, Official Oppression, and Aggravated Perjury. Mr. Reed's case was tried on August 12, 2019 in the 167<sup>th</sup> District Court and the jury returned a guilty verdict on the Aggravated Perjury charge. The jury was unable to reach a verdict on the Sexual Assault and Official Oppression charges and the judge declared a mistrial on both charges. The retrial of the Sexual Assault and Official Oppression is pending in the 167<sup>th</sup> District Court.

Mr. Reed also has a pending Indecency with a Child by Sexual Contact case, which was indicted on June 7, 2019. Mr. Reed is alleged to have engaged in sexual contact with a child younger than 17 years of age.

The next court setting is October 11, 2021.

**INDICTED: STATE OF TEXAS VS NATHANIEL STALLINGS, D-1-DC-21-904029, D-1-DC-19904052:** At the time of the incident, Mr. Stallings, then a licensed peace officer, was employed as a police officer with the Austin Police Department. On October 6, 2017, while on duty and in uniform in a fully marked Austin Police Department patrol vehicle, Mr. Stallings is alleged to have caused bodily injury to a civilian. Mr. Stallings was indicted on June 25, 2018 and charged with Assault and Abuse of Official Capacity. Both cases are pending in the 450<sup>th</sup> District Court.

This next court setting is October 14, 2021.

**INDICTED: STATE OF TEXAS VS LANDO HALL, D-1-DC-19-900105:** At the time of the incident, Mr. Hall was employed as a police officer with the Austin Police Department. On Monday, January 4, 2021, APD Officer Lando Hall was indicted for the felony offense of Misuse of Official Information, a third-degree felony under Section 39.06(b) of the Texas Penal Code by the 147<sup>th</sup> Special Grand Jury – Extended July 2020 term. The case is pending in the 403<sup>rd</sup> Judicial District Court.

The next court setting is October 06, 2021

**INDICTED: STATE OF TEXAS VS. SHANNON OWENS, D-1-DC-20-900003:** At the time of the incident, Mr. Owens was employed as a corrections officer with the Travis County Sherriff's Office. On Wednesday, December 16, 2020, TCSO Deputy Owens was indicted with Aggravated Perjury, a third-degree felony, and Tampering with Governmental Record with the intent to defraud or harm another, a state jail felony by the 147<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is October 14, 2021.

**INDICTED: STATE OF TEXAS VS. CHANCE BRETCHES, D-1-DC-20-900091:** At the time of the incident, Mr. Bretches was employed as a police officer with the Austin Police Department. On Wednesday, January 20, 2021, Officer Bretches was indicted with Aggravated Assault by a Public Servant, Serious Bodily Injury/Deadly Weapon, a first-degree felony by the extended 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is September 23, 2021.

**INDICTED: STATE OF TEXAS VS. AUSTIN JOHNSTON, D-1-DC-19-900021:** At the time of the incident, Mr. Johnston was employed as a trooper with the Department of Public Safety. On Friday, August 21, 2020, Trooper Johnston was indicted with Aggravated Assault by Public, a first-degree felony, Deadly Conduct, third-degree felony and Tampering with Physical Evidence, third-degree felony by the 460<sup>th</sup> Extended Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is October 04, 2021.

**INDICTED: STATE OF TEXAS VS. CHRISTOPHER TAYLOR, D-1-DC-20-900048:** At the time of the incident, Mr. Taylor was employed as an officer with the Austin Police Department. On, Wednesday, March 10, 2021, Officer Taylor was indicted with Murder, a first-degree felony by the 147<sup>th</sup> Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is October 11, 2021.

**INDICTED: STATE OF TEXAS VS. JAMES JOHNSON, D-1-DC-20-900070:** At the time of the incident, Mr. Johnson was employed as a deputy with the Williamson County Sheriff's Office. On Monday, March 29, 2021, Deputy Johnson was indicted with Manslaughter, a second-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is September 23, 2021.

**INDICTED: STATE OF TEXAS VS. ZACHARY CAMDEN, D-1-DC-20-900069:** At the time of the incident, Mr. Camden was employed as a deputy with the Williamson County Sheriff's Office. On Monday, March 29, 2021, Deputy Camden was indicted with Manslaughter, a second-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is September 23, 2021.

**INDICTED: STATE OF TEXAS VS. ROBERT CHODY, D-1-DC-20-900110:** At the time of the incident, Mr. Chody was the elected Sheriff in Williamson County. On, Wednesday, March 31, 2021,

Mr. Chody was indicted Tampering with Physical Evidence with Intent to Impair, a third-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is September 28, 2021.

**INDICTED: STATE OF TEXAS VS. JASSON NASSOUR, D-1-DC-20-900109:** At the time of the incident, Mr. Nassour was employed as General Counsel for the Williamson County Office. On, Wednesday, March 31, 2021, Mr. Nassour was indicted Tampering with Physical Evidence with Intent to Impair, a third-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is September 28, 2021.

**INDICTED: STATE OF TEXAS VS. CHRISTOPHER TAYLOR, D-1-DC-19-900111:** At the time of the incident, Mr. Taylor was employed as an officer for the Austin Police Department. On, Thursday, August 26, 2021, Mr. Taylor was indicted for Murder, a first-degree felony and for Deadly Conduct Discharge of Firearm, a third-degree felony by the 331st Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is September 17, 2021.

**INDICTED: STATE OF TEXAS VS. KARL KRYCIA, D-1-DC-21-900071:** At the time of the incident, Mr. Krycia was employed as an officer for the Austin Police Department. On, Thursday, August 26, 2021, Mr. Taylor was indicted for Murder, a first-degree felony and for Deadly Conduct Discharge of Firearm, a third-degree felony by the 331st Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is September 20, 2021.

*Note: Due to COVID-19 restrictions there are currently no criminal jury trials in Travis County*

**UNINDICTED**

**DECEDENT: AQUANTIS GRIFFIN/SUBJECT OFFICERS: ALBERT MARTINEZ; CHRISTOPHER SALACKI; DANIEL MATHIS; JOSEPH CAST; JOSEPH MORAN; JUSTIN HALBACH; LEWIS HOLLAND; STEPHEN JOHNSON & WESLEY DEVRIES (Date of Incident: 08/18/2018):** Mr. Aquantis Griffin died as a result of multiple gunshot wounds fired by Austin Police Department officers on August 18, 2018.

We expect this case will be presented to a grand jury in the early fall of 2021.

**DECEDENT: ENRIQUE QUIROZ / SUBJECT OFFICERS: EDUARDO PINEDA, SPENCER HANNA, ZANE DOWDELL, LUCAS PARKER, MARK YALETCHKO and TRINITHAD GARCIA (Date of Incident: 03/21/2020):** Mr. Quiroz died while in custody of the Austin Police Department after an encounter with multiple officers on March 31, 2020.

We expect that this case will be presented to a grand jury in early fall 2021.

**COMPLAINANT: F. ZIMMERMAN (Pseudonym) / SUBJECT OFFICER: WALTER DODDS (Date of Incident: 04/18/2020):** On April 18, 2020, while responding to a service call involving Ms. Zimmerman, Mr. Dodds, then an Austin Police Department officer encountered Ms. Zimmerman and is alleged to have later returned to her residence and alleged to have sexually assaulted her.

The case is currently under investigation in a joint investigation conducted by the Travis County District Attorney's Sexual Assault Unit and the Civil Rights Unit. This case is expected to be presented to a Travis County grand jury early summer of 2021.

**COMPLAINANT: NAME WITHHELD DUE TO BEING A MINOR / SUBJECT OFFICERS: NICHOLAS GEBHART (Date of Incident: 05/30/2020):** On May 30, 2020, Complainant, a Minor, was attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos that occurred in downtown Austin and was struck with "bean bag" ammunition and "rubber bullets".

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: BOMANI RAY BARTON / SUBJECT OFFICER: KYU AN (Date of Incident: 05/30/2020):** On May 31, 2020, Mr. Barton, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck with "bean bag" ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: GEMICAH VOLTER-JONES / SUBJECT OFFICER: DERRICK LEHMAN (Date of Incident: 5/30/2020):** On May 30, 2020, Mr. Volter-Jones, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by "bean bag" ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: MEREDITH WILLIAMS / SUBJECT OFFICER: JOSEPH CAST (Date of Incident: 5/30/2020):** On May 30, 2020, Ms. Williams, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: NICOLE UNDERWOOD / SUBJECT OFFICER: JOHN SIEGEL (Date of Incident: 5/30/2020):** On May 30, 2020, Mr. Underwood, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: MEREDITH DRAKE / SUBJECT OFFICER: CHANCE BRETCHES (Date of Incident: 05/31/2020):** On May 31, 2020, Mr. Drake, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition. Officer Bretches was indicted on 1/20/2021 on Aggravated Assault by Public Servant on an unrelated case.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: ANTHONY EVANS / SUBJECT OFFICER: KYLE FELTON (Date of Incident: 05/31/2020):** On May 31, 2020, Mr. Evans, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: JUSTIN HOWELL / SUBJECT OFFICER: JEFFREY TENG (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Howell, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: SAMUEL KIRSCH / SUBJECT OFFICER: Officer Rolan Rast (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Kirsch, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: CHRISTEN WARKOCZEWSKI / SUBJECT OFFICERS: JUSTIN BERRY; ALEXANDER LOMOSTEV, TODD GIBLERTSON, STANLEY VICK, CHRISTIAN IRWIN, JEREMY FISHER & JOSHUA JACKSON (Date of Incident: 5/31/2020):** On May 31, 2020, Ms. Williams, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021.

**COMPLAINANT: DYLAN POLINSKI / SUBJECT INVOLVED OFFICERS: JAVIER RODRIGUEZ AND KAMOWA REYNOLDS (Date of Incident: 01/04/2021):** On January 4, 2021, Mr. Dylan Polinski survived an incident in which he was shot by one Austin Police Department officer and “tased” with a conducted electrical weapon, commonly known as a “TASER” during an encounter with police officers at a local hotel.

The case is currently under investigation in a joint investigation involving the Austin Police Department’s Special Investigations Unit and the Travis County District Attorney Office’s Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early winter of this year.

**DECEDENT: ALEXANDER GONZALES / SUBJECT OFFICER: LUIS SERRATO AND GABRIEL GUTIERREZ (Date of Incident: 01/05/2021):** On January 5, 2021, Mr. Alexander Gonzales died as a result of multiple gunshot wounds in an incident involving an off-duty Austin Police Department officer and another officer who was on duty, both of whom discharged their weapons striking Mr. Gonzales.

The case is currently under investigation in a joint investigation involving the Austin Police Department’s Special Investigations Unit and the Travis County District Attorney Office’s Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early winter of this year.

**DECEDENT: JORDAN WALTON/ SUBJECT OFFICERS: JEFFREY HUTCHINSON/Ryan NICHOLS (Date of Incident: 2/10/2021):** On February 10, 2021, Mr. Walton died as a result of a gunshot wound fired by an Austin Police Department officer on September 22, 2019.

The case is currently under investigation in a joint investigation involving the Austin Police Department’s Special Investigations Unit and the Travis County District Attorney Office’s Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early winter of this year.

**COMPLAINANT: GREGORIO SARMIENTO/SUBJECT OFFICERS: JON RIORDAN AND KINGLY KONG (Date of Incident: 4/9/2021):** On April 9, 2021, during the interaction with Mr. Sarmiento, Mr. Sarmiento survived a gunshot wound fired by Austin Police Department Officers. Mr. Sarmiento is charged with two counts of Attempted Capital Murder and Aggravated Assault with Deadly Weapon that arose from this incident. The investigation for Mr. Sarmiento's charges will be led by the Office's Trial Court Division.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early winter of this year.

**COMPLAINANT: (Date of Incident: 3/12/2021):** On March 12, 2021, the civilian was arrested for an active warrant. While officers attempted to place the civilian under arrest, the civilian victim was struck by a baton and tased.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early winter of this year.

**COMPLAINANT: (Date of Incident: 11/26/2020):** On November 26, 2020, the civilian was arrested for interfering with a crime scene which was investigated by Austin Police Department. The victim was struck by the subject officer while being handcuffed.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early winter of this year.

**SUBJECT OFFICERS: MICHAEL BARBA/JASON CUMMINS/DERRICK LEHMAN (Date of Incident: 08/19/2021):** On August 19, 2021, a civilian was shot and tased by Austin Police Department Officers. The civilian is expected to recover from his injuries.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early winter of this year.



## OFFICE OF THE DISTRICT ATTORNEY

P.O. Box 1748, Austin, TX 78767  
Telephone 512/854-9400  
Telefax 512/854-4206

**JOSÉ P. GARZA**  
DISTRICT ATTORNEY

**TRUDY STRASSBURGER**  
FIRST ASSISTANT

### **Travis County DA Civil Rights Unit Case Summaries - December 9, 2021**

The following is a current list of each officer-involved use of force or other misconduct matter involving injury to any person currently pending in the Office's Civil Rights Unit.

#### **INDICTED CASES**

**INDICTED: STATE OF TEXAS VS MARCUS REED, D-1-DC-19-904028, D-1-DC-19-904030, D-1-DC-19-900065, D-1-DC-21-900115:** At the time of the incident, Mr. Reed, then a licensed peace officer, was employed as an Investigator with the Austin Fire Department. Mr. Reed was indicted and charged with the commission of Sexual Assault, Official Oppression, and Aggravated Perjury. Mr. Reed's case was tried on August 12, 2019 in the 167<sup>th</sup> District Court and the jury returned a guilty verdict on the Aggravated Perjury charge. The jury was unable to reach a verdict on the Sexual Assault and Official Oppression charges and the judge declared a mistrial on both charges. The retrial of the Sexual Assault and Official Oppression is pending in the 167<sup>th</sup> District Court.

Mr. Reed also has a pending Indecency with a Child by Sexual Contact case, which was indicted on June 7, 2019. Mr. Reed is alleged to have engaged in sexual contact with a child younger than 17 years of age.

The next court setting is December 10, 2021.

**INDICTED: STATE OF TEXAS VS NATHANIEL STALLINGS, D-1-DC-21-904029, D-1-DC-19-904052:** At the time of the incident, Mr. Stallings, then a licensed peace officer, was employed as a police officer with the Austin Police Department. On October 6, 2017, while on duty and in uniform in a fully marked Austin Police Department patrol vehicle, Mr. Stallings is alleged to have caused bodily injury to a civilian. Mr. Stallings was indicted on June 25, 2018 and charged with Assault and Abuse of Official Capacity. Both cases are pending in the 450<sup>th</sup> District Court.

This next court setting is January 20, 2022.

**INDICTED: STATE OF TEXAS VS LANDO HALL, D-1-DC-19-900105:** At the time of the incident, Mr. Hall was employed as a police officer with the Austin Police Department. On Monday, January 4, 2021, APD Officer Lando Hall was indicted for the felony offense of Misuse of Official Information, a third-degree felony under Section 39.06(b) of the Texas Penal Code by the 147<sup>th</sup> Special Grand Jury – Extended July 2020 term. The case is pending in the 403<sup>rd</sup> Judicial District Court.

The next court setting is December 15, 2021

**INDICTED: STATE OF TEXAS VS. SHANNON OWENS, D-1-DC-20-900003:** At the time of the incident, Mr. Owens was employed as a corrections officer with the Travis County Sherriff's Office. On Wednesday, December 16, 2020, TCSO Deputy Owens was indicted with Aggravated Perjury, a third-degree felony, and Tampering with Governmental Record with the intent to defraud or harm another, a state jail felony by the 147<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is January 20, 2022.

**INDICTED: STATE OF TEXAS VS. CHANCE BRETCHES, D-1-DC-20-900091:** At the time of the incident, Mr. Bretches was employed as a police officer with the Austin Police Department. On Wednesday, January 20, 2021, Officer Bretches was indicted with Aggravated Assault by a Public Servant, Serious Bodily Injury/Deadly Weapon, a first-degree felony by the extended 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is January 6, 2022.

**INDICTED: STATE OF TEXAS VS. AUSTIN JOHNSTON, D-1-DC-19-900021:** At the time of the incident, Mr. Johnston was employed as a trooper with the Department of Public Safety. On Friday, August 21, 2020, Trooper Johnston was indicted with Aggravated Assault by Public, a first-degree felony, Deadly Conduct, third-degree felony and Tampering with Physical Evidence, third-degree felony by the 460<sup>th</sup> Extended Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is January 6, 2022.

**INDICTED: STATE OF TEXAS VS. CHRISTOPHER TAYLOR, D-1-DC-20-900048:** At the time of the incident, Mr. Taylor was employed as an officer with the Austin Police Department. On, Wednesday, March 10, 2021, Officer Taylor was indicted with Murder, a first-degree felony by the 147<sup>th</sup> Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is January 21, 2022.

**INDICTED: STATE OF TEXAS VS. JAMES JOHNSON, D-1-DC-20-900070:** At the time of the incident, Mr. Johnson was employed as a deputy with the Williamson County Sheriff's Office. On Monday, March 29, 2021, Deputy Johnson was indicted with Manslaughter, a second-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is December 14, 2021.

**INDICTED: STATE OF TEXAS VS. ZACHARY CAMDEN, D-1-DC-20-900069:** At the time of the incident, Mr. Camden was employed as a deputy with the Williamson County Sheriff's Office. On Monday, March 29, 2021, Deputy Camden was indicted with Manslaughter, a second-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is December 14, 2021.

**INDICTED: STATE OF TEXAS VS. ROBERT CHODY, D-1-DC-20-904036:** At the time of the incident, Mr. Chody was the elected Sheriff in Williamson County. On, Wednesday, March 31, 2021, Mr. Chody was indicted Tampering with Physical Evidence with Intent to Impair, a third-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is February 8, 2022.

**INDICTED: STATE OF TEXAS VS. JASSON NASSOUR, D-1-DC-20-904035:** At the time of the incident, Mr. Nassour was employed as General Counsel for the Williamson County Office. On, Wednesday, March 31, 2021, Mr. Nassour was indicted Tampering with Physical Evidence with Intent to Impair, a third-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is February 8, 2022.

**INDICTED: STATE OF TEXAS VS. CHRISTOPHER TAYLOR, D-1-DC-19-900111:** At the time of the incident, Mr. Taylor was employed as an officer for the Austin Police Department. On, Thursday, August 26, 2021, Mr. Taylor was indicted for Murder, a first-degree felony and for Deadly Conduct Discharge of Firearm, a third-degree felony by the 331<sup>st</sup> Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is January 21, 2022.

**INDICTED: STATE OF TEXAS VS. KARL KRYCIA, D-1-DC-21-900071:** At the time of the incident, Mr. Krycia was employed as an officer for the Austin Police Department. On, Thursday, August 26, 2021, Mr. Taylor was indicted for Murder, a first-degree felony and for Deadly Conduct Discharge of Firearm, a third-degree felony by the 331<sup>st</sup> Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is January 21, 2022.

*Note: Due to COVID-19 restrictions there are currently no criminal jury trials in Travis County*

**UNINDICTED**

**DECEDENT: ENRIQUE QUIROZ / SUBJECT OFFICERS: EDUARDO PINEDA, SPENCER HANNA, ZANE DOWDELL, LUCAS PARKER, MARK YALETCHKO and TRINITHAD GARCIA (Date of Incident: 03/21/2020):** Mr. Quiroz died while in custody of the Austin Police Department after an encounter with multiple officers on March 31, 2020.

We expect that this case will be presented to a grand jury in early spring of 2022.

**COMPLAINANT: F. ZIMMERMAN (Pseudonym) / SUBJECT OFFICER: WALTER DODDS (Date of Incident: 04/18/2020):** On April 18, 2020, while responding to a service call involving Ms. Zimmerman, Mr. Dodds, then an Austin Police Department officer encountered Ms. Zimmerman and is alleged to have later returned to her residence and alleged to have sexually assaulted her.

The case is currently under investigation in a joint investigation conducted by the Travis County District Attorney's Sexual Assault Unit and the Civil Rights Unit. This case is expected to be presented to a Travis County grand jury early spring of 2022.

**COMPLAINANT: NAME WITHHELD DUE TO BEING A MINOR / SUBJECT OFFICERS: NICHOLAS GEBHART (Date of Incident: 05/30/2020):** On May 30, 2020, Complainant, a Minor, was attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos that occurred in downtown Austin and was struck with "bean bag" ammunition and "rubber bullets".

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021 and continue into winter of 2022.

**COMPLAINANT: BOMANI RAY BARTON / SUBJECT OFFICER: KYU AN (Date of Incident: 05/30/2020):** On May 31, 2020, Mr. Barton, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck with "bean bag" ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021 and continue into winter of 2022.

**COMPLAINANT: GEMICAH VOLTER-JONES / SUBJECT OFFICER: DERRICK LEHMAN (Date of Incident: 5/30/2020):** On May 30, 2020, Mr. Volter-Jones, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by "bean bag" ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021 and continue into winter of 2022.

**COMPLAINANT: MEREDITH WILLIAMS / SUBJECT OFFICER: JOSEPH CAST (Date of Incident: 5/30/2020):** On May 30, 2020, Ms. Williams, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by "bean bag" ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021 and continue into winter of 2022.

**COMPLAINANT: NICOLE UNDERWOOD / SUBJECT OFFICER: JOHN SIEGEL (Date of Incident: 5/30/2020):** On May 30, 2020, Mr. Underwood, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021 and continue into winter of 2022.

**COMPLAINANT: MEREDITH DRAKE / SUBJECT OFFICER: CHANCE BRETCHES (Date of Incident: 05/31/2020):** On May 31, 2020, Mr. Drake, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition. Officer Bretches was indicted on 1/20/2021 on Aggravated Assault by Public Servant on an unrelated case.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021 and continue into winter of 2022.

**COMPLAINANT: ANTHONY EVANS / SUBJECT OFFICER: KYLE FELTON (Date of Incident: 05/31/2020):** On May 31, 2020, Mr. Evans, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021 and continue into winter of 2022.

**COMPLAINANT: JUSTIN HOWELL / SUBJECT OFFICER: JEFFREY TENG (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Howell, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021 and continue into winter of 2022.

**COMPLAINANT: SAMUEL KIRSCH / SUBJECT OFFICER: Officer Rolan Rast (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Kirsch, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021 and continue into winter of 2022.

**COMPLAINANT: CHRISTEN WARKOCZEWSKI / SUBJECT OFFICERS: JUSTIN BERRY; ALEXANDER LOMOSTEV, TODD GIBLERTSON, STANLEY VICK, CHRISTIAN IRWIN, JEREMY FISHER & JOSHUA JACKSON (Date of Incident: 5/31/2020):** On May 31, 2020, Ms. Williams, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021 and continue into winter of 2022.

**DECEDENT: ALEXANDER GONZALES / SUBJECT OFFICER: LUIS SERRATO AND GABRIEL GUTIERREZ (Date of Incident: 01/05/2021):** On January 5, 2021, Mr. Alexander Gonzales died as a result of multiple gunshot wounds in an incident involving an off-duty Austin Police Department officer and another officer who was on duty, both of whom discharged their weapons striking Mr. Gonzales.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**COMPLAINANT: (Date of Incident: 3/12/2021):** On March 12, 2021, the civilian was arrested for an active warrant. While officers attempted to place the civilian under arrest, the civilian victim was struck by a baton and tased.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**COMPLAINANT: (Date of Incident: 11/26/2020):** On November 26, 2020, the civilian was arrested for interfering with a crime scene which was investigated by Austin Police Department. The victim was struck by the subject officer while being handcuffed.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**SUBJECT OFFICERS: MICHAEL BARBA/JASON CUMMINS/DERRICK LEHMAN (Date of Incident: 08/19/2021):** On August 19, 2021, a civilian was shot and tased by Austin Police Department Officers. The civilian is expected to recover from his injuries.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**DECENDANT: RONALD ZAVAGLIA/SUBJECT OFFICER: IAN CLARK (Date of Incident: 08/19/2021):** On August 19, 2021, Mr. Zavaglia died as a result of result of a gunshot wound in an incident with Pflugerville Police Department.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**DECEDENT: MICHAEL CAROTHERS/SUBJECT OFFICER: NOT NAMED (Date of Incident: 10/09/2021):** On October 09, 2021, there was a gun fire between civilians. Subsequently an officer discharged his weapon. Mr. Carothers died as a result of a gunshot wound.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early summer of 2022.

**DECEDENT: ROBERT RICHART/SUBJECT OFFICERS: ERIC STRNAD (Date of Incident: 10/27/2021)** On October 27, 2021, Mr. Richart died as a result of a gunshot wound fired by an Austin Police Department officer on October 27, 2021.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early summer of 2022.



## OFFICE OF THE DISTRICT ATTORNEY

P.O. Box 1748, Austin, TX 78767

Telephone 512/854-9400

Telefax 512/854-4206

**JOSÉ P. GARZA**  
DISTRICT ATTORNEY

**TRUDY STRASSBURGER**  
FIRST ASSISTANT

### **Travis County DA Civil Rights Unit Case Summaries - January 21, 2022**

The following is a current list of each officer-involved use of force or other misconduct matter involving injury to any person currently pending in the Office's Civil Rights Unit.

#### **INDICTED CASES**

**INDICTED: STATE OF TEXAS VS MARCUS REED, D-1-DC-19-904028, D-1-DC-19-904030, D-1-DC-19-900065, D-1-DC-21-900115:** At the time of the incident, Mr. Reed, then a licensed peace officer, was employed as an Investigator with the Austin Fire Department. Mr. Reed was indicted and charged with the commission of Sexual Assault, Official Oppression, and Aggravated Perjury. Mr. Reed's case was tried on August 12, 2019, in the 167<sup>th</sup> District Court and the jury returned a guilty verdict on the Aggravated Perjury charge. The jury was unable to reach a verdict on the Sexual Assault and Official Oppression charges and the judge declared a mistrial on both charges. The retrial of the Sexual Assault and Official Oppression is pending in the 167<sup>th</sup> District Court.

Mr. Reed also has a pending Indecency with a Child by Sexual Contact case, which was indicted on June 7, 2019. Mr. Reed is alleged to have engaged in sexual contact with a child younger than 17 years of age.

The next court setting is January 28, 2022.

**INDICTED: STATE OF TEXAS VS NATHANIEL STALLINGS, D-1-DC-21-904051, D-1-DC-21-904041:** At the time of the incident, Mr. Stallings, then a licensed peace officer, was employed as a police officer with the Austin Police Department. On October 6, 2017, while on duty and in uniform in a fully marked Austin Police Department patrol vehicle, Mr. Stallings is alleged to have caused bodily injury to a civilian. Mr. Stallings was indicted on June 25, 2018, and charged with Assault and Abuse of Official Capacity. Both cases are pending in the 450<sup>th</sup> District Court.

This next court setting is April 25, 2022.

**INDICTED: STATE OF TEXAS VS LANDO HALL, D-1-DC-19-900105:** At the time of the incident, Mr. Hall was employed as a police officer with the Austin Police Department. On Monday, January 4, 2021, APD Officer Lando Hall was indicted for the felony offense of Misuse of Official Information, a third-degree felony under Section 39.06(b) of the Texas Penal Code by the 147<sup>th</sup> Special Grand Jury – Extended July 2020 term. The case is pending in the 403<sup>rd</sup> Judicial District Court.

The next court setting is February 9, 2022.

**INDICTED: STATE OF TEXAS VS. SHANNON OWENS, D-1-DC-20-900003:** At the time of the incident, Mr. Owens was employed as a corrections officer with the Travis County Sherriff's Office. On Wednesday, December 16, 2020, TCSO Deputy Owens was indicted with Aggravated Perjury, a third-degree felony, and Tampering with Governmental Record with the intent to defraud or harm another, a state jail felony by the 147<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is March 8, 2022.

**INDICTED: STATE OF TEXAS VS. CHANCE BRETCHES, D-1-DC-20-900091:** At the time of the incident, Mr. Bretches was employed as a police officer with the Austin Police Department. On Wednesday, January 20, 2021, Officer Bretches was indicted with Aggravated Assault by a Public Servant, Serious Bodily Injury/Deadly Weapon, a first-degree felony by the extended 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is February 17, 2022.

**INDICTED: STATE OF TEXAS VS. AUSTIN JOHNSTON, D-1-DC-19-900021:** At the time of the incident, Mr. Johnston was employed as a trooper with the Department of Public Safety. On Friday, August 21, 2020, Trooper Johnston was indicted with Aggravated Assault by Public, a first-degree felony, Deadly Conduct, third-degree felony and Tampering with Physical Evidence, third-degree felony by the 460<sup>th</sup> Extended Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is February 17, 2022.

**INDICTED: STATE OF TEXAS VS. CHRISTOPHER TAYLOR, D-1-DC-20-900048:** At the time of the incident, Mr. Taylor was employed as an officer with the Austin Police Department. On, Wednesday, March 10, 2021, Officer Taylor was indicted with Murder, a first-degree felony by the 147<sup>th</sup> Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is February 25, 2022.

**INDICTED: STATE OF TEXAS VS. JAMES JOHNSON, D-1-DC-20-900070:** At the time of the incident, Mr. Johnson was employed as a deputy with the Williamson County Sheriff's Office. On Monday, March 29, 2021, Deputy Johnson was indicted with Manslaughter, a second-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is February 3, 2022.

**INDICTED: STATE OF TEXAS VS. ZACHARY CAMDEN, D-1-DC-20-900069:** At the time of the incident, Mr. Camden was employed as a deputy with the Williamson County Sheriff's Office. On Monday, March 29, 2021, Deputy Camden was indicted with Manslaughter, a second-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is February 3, 2022.

**INDICTED: STATE OF TEXAS VS. ROBERT CHODY, D-1-DC-20-904036:** At the time of the incident, Mr. Chody was the elected Sheriff in Williamson County. On, Wednesday, March 31, 2021, Mr. Chody was indicted Tampering with Physical Evidence with Intent to Impair, a third-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is February 8, 2022.

**INDICTED: STATE OF TEXAS VS. JASSON NASSOUR, D-1-DC-20-904035:** At the time of the incident, Mr. Nassour was employed as General Counsel for the Williamson County Office. On, Wednesday, March 31, 2021, Mr. Nassour was indicted Tampering with Physical Evidence with Intent to Impair, a third-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is February 8, 2022.

**INDICTED: STATE OF TEXAS VS. CHRISTOPHER TAYLOR, D-1-DC-19-900111:** At the time of the incident, Mr. Taylor was employed as an officer for the Austin Police Department. On, Thursday, August 26, 2021, Mr. Taylor was indicted for Murder, a first-degree felony, and for Deadly Conduct Discharge of Firearm, a third-degree felony by the 331st Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is February 25, 2022.

**INDICTED: STATE OF TEXAS VS. KARL KRYCIA, D-1-DC-21-900071:** At the time of the incident, Mr. Krycia was employed as an officer for the Austin Police Department. On, Thursday, August 26, 2021, Mr. Krycia was indicted for Murder, a first-degree felony and for Deadly Conduct Discharge of Firearm, a third-degree felony by the 331st Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is February 25, 2022.

*Note: Due to COVID-19 restrictions there are currently no criminal jury trials in Travis County*

**UNINDICTED**

**DECEDENT: ENRIQUE QUIROZ / SUBJECT OFFICERS: EDUARDO PINEDA, SPENCER HANNA, ZANE DOWDELL, LUCAS PARKER, MARK YALETCHKO and TRINITHAD GARCIA (Date of Incident: 03/21/2020):** Mr. Quiroz died while in custody of the Austin Police Department after an encounter with multiple officers on March 31, 2020.

We expect that this case will be presented to a grand jury in early spring of 2022.

**COMPLAINANT: F. ZIMMERMAN (Pseudonym) / SUBJECT OFFICER: WALTER DODDS (Date of Incident: 04/18/2020):** On April 18, 2020, while responding to a service call involving Ms. Zimmerman, Mr. Dodds, then an Austin Police Department officer encountered Ms. Zimmerman and is alleged to have later returned to her residence and alleged to have sexually assaulted her.

The case is currently under investigation in a joint investigation conducted by the Travis County District Attorney's Sexual Assault Unit and the Civil Rights Unit. This case is expected to be presented to a Travis County grand jury early spring of 2022.

**COMPLAINANT: NAME WITHHELD / SUBJECT OFFICERS: NICHOLAS GEBHART (Date of Incident: 05/30/2020):** On May 30, 2020, Complainant, a Minor, was attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos that occurred in downtown Austin and was struck with "bean bag" ammunition and "rubber bullets".

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021 and continue into winter of 2022.

**COMPLAINANT: BOMANI RAY BARTON / SUBJECT OFFICER: KYU AN (Date of Incident: 05/30/2020):** On May 31, 2020, Mr. Barton, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck with "bean bag" ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021 and continue into winter of 2022.

**COMPLAINANT: GEMICAH VOLTER-JONES / SUBJECT OFFICER: DERRICK LEHMAN (Date of Incident: 5/30/2020):** On May 30, 2020, Mr. Volter-Jones, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by "bean bag" ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021 and continue into winter of 2022.

**COMPLAINANT: MEREDITH WILLIAMS / SUBJECT OFFICER: JOSEPH CAST (Date of Incident: 5/30/2020):** On May 30, 2020, Ms. Williams, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by "bean bag" ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021 and continue into winter of 2022.

**COMPLAINANT: NICOLE UNDERWOOD / SUBJECT OFFICER: JOHN SIEGEL (Date of Incident: 5/30/2020):** On May 30, 2020, Mr. Underwood, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021 and continue into winter of 2022.

**COMPLAINANT: MEREDITH DRAKE / SUBJECT OFFICER: CHANCE BRETCHES (Date of Incident: 05/31/2020):** On May 31, 2020, Mr. Drake, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition. Officer Bretches was indicted on 1/20/2021 on Aggravated Assault by Public Servant on an unrelated case.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021 and continue into winter of 2022.

**COMPLAINANT: ANTHONY EVANS / SUBJECT OFFICER: KYLE FELTON (Date of Incident: 05/31/2020):** On May 31, 2020, Mr. Evans, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021 and continue into winter of 2022.

**COMPLAINANT: JUSTIN HOWELL / SUBJECT OFFICER: JEFFREY TENG (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Howell, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021 and continue into winter of 2022.

**COMPLAINANT: SAMUEL KIRSCH / SUBJECT OFFICER: Officer ROLAN RAST (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Kirsch, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021 and continue into winter of 2022.

**COMPLAINANT: CHRISTEN WARKOCZEWSKI / SUBJECT OFFICERS: JUSTIN BERRY; ALEXANDER LOMOSTEV, TODD GIBLERTSON, STANLEY VICK, CHRISTIAN IRWIN, JEREMY FISHER & JOSHUA JACKSON (Date of Incident: 5/31/2020):** On May 31, 2020, Ms. Williams, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021 and continue into winter of 2022.

**COMPLAINANT: TYREE TALLEY/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Talley attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos was struck by “bean-bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021 and continue into winter of 2022.

**COMPLAINANT: MODESTO RODRIGUEZ/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Rodriguez attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos was struck by “bean-bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in early fall of 2021 and continue into winter of 2022.

**DECEDENT: ALEXANDER GONZALES / SUBJECT OFFICER: LUIS SERRATO AND GABRIEL GUTIERREZ (Date of Incident: 01/05/2021):** On January 5, 2021, Mr. Alexander Gonzales died as a result of multiple gunshot wounds in an incident involving an off-duty Austin Police Department officer and another officer who was on duty, both of whom discharged their weapons striking Mr. Gonzales.

The case is currently under investigation in a joint investigation involving the Austin Police Department’s Special Investigations Unit and the Travis County District Attorney Office’s Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**COMPLAINANT: NAME WITHHELD/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 3/12/2021):** On March 12, 2021, the civilian was arrested for an active warrant. While officers attempted to place the civilian under arrest, the civilian victim was struck by a baton and tased.

The case is currently under investigation in a joint investigation involving the Austin Police Department’s Special Investigations Unit and the Travis County District Attorney Office’s Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**COMPLAINANT: NAME WITHHELD/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 11/26/2020):** On November 26, 2020, the civilian was arrested for interfering with a crime scene which was investigated by Austin Police Department. The victim was struck by the subject officer while being handcuffed.

The case is currently under investigation in a joint investigation involving the Austin Police Department’s Special Investigations Unit and the Travis County District Attorney Office’s Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**SUBJECT OFFICERS: MICHAEL BARBA/JASON CUMMINS/DERRICK LEHMAN (Date of Incident: 08/19/2021):** On August 19, 2021, a civilian was shot and tased by Austin Police Department Officers. The civilian is expected to recover from his injuries.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**DECENDANT: RONALD ZAVAGLIA/SUBJECT OFFICER: IAN CLARK (Date of Incident: 08/19/2021):** On August 19, 2021, Mr. Zavaglia died as a result of result of a gunshot wound in an incident with Pflugerville Police Department.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**DECENDENT: MICHAEL CAROTHERS/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 10/09/2021):** On October 09, 2021, there was a gun fire between civilians. Subsequently an officer discharged his weapon. Mr. Carothers died as a result of a gunshot wound.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early summer of 2022.

**DECENDENT: ROBERT RICHART/SUBJECT OFFICERS: ERIC STRNAD (Date of Incident: 10/27/2021)** On October 27, 2021, Mr. Richart died as a result of a gunshot wound fired by an Austin Police Department officer on October 27, 2021.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early summer of 2022.

**COMPLAINANT: SIMONE GRIFFITH/ SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 10/30/2021):** On October 30, 2021, Ms. Griffith was arrested for criminal trespass. While officers attempted Ms. Griffith under arrest, she was struck by Austin Police Department Officers.

The case is currently under investigation with the Travis County District Attorney's Office Civil Rights Unit. Our Office expects that the investigation should be concluded within a timeframe that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence no later than early fall of 2022.

**COMPLAINANT: NAME WITHHELD/SUBJECT OFFICER: JAVIER RODRIGUEZ (Date of Incident: 12/24/2021)** On 12/24/2021, a civilian was shot by Austin Police Department Officers. The civilian is expected to recover from his injuries.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early summer of 2022.



## OFFICE OF THE DISTRICT ATTORNEY

P.O. Box 1748, Austin, TX 78767

Telephone 512/854-9400

Telefax 512/854-4206

**JOSÉ P. GARZA**  
DISTRICT ATTORNEY

**TRUDY STRASSBURGER**  
FIRST ASSISTANT

### **Travis County DA Civil Rights Unit Case Summaries - January 31, 2022**

The following is a current list of each officer-involved use of force or other misconduct matter involving injury to any person currently pending in the Office's Civil Rights Unit.

#### **INDICTED CASES**

**INDICTED: STATE OF TEXAS VS LANDO HALL, D-1-DC-19-900105:** At the time of the incident, Mr. Hall was employed as a police officer with the Austin Police Department. On Monday, January 4, 2021, APD Officer Lando Hall was indicted for the felony offense of Misuse of Official Information, a third-degree felony under Section 39.06(b) of the Texas Penal Code by the 147<sup>th</sup> Special Grand Jury – Extended July 2020 term. The case is pending in the 403<sup>rd</sup> Judicial District Court.

The next court setting is February 9, 2022.

**INDICTED: STATE OF TEXAS VS. CHANCE BRETCHES, D-1-DC-20-900091:** At the time of the incident, Mr. Bretches was employed as a police officer with the Austin Police Department. On Wednesday, January 20, 2021, Officer Bretches was indicted with Aggravated Assault by a Public Servant, Serious Bodily Injury/Deadly Weapon, a first-degree felony by the extended 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is February 17, 2022.

**INDICTED: STATE OF TEXAS VS. AUSTIN JOHNSTON, D-1-DC-19-900021:** At the time of the incident, Mr. Johnston was employed as a trooper with the Department of Public Safety. On Friday, August 21, 2020, Trooper Johnston was indicted with Aggravated Assault by a Public Servant, a first-degree felony, Deadly Conduct, a third-degree felony, and Tampering with Physical Evidence, a third-degree felony by the 460<sup>th</sup> Extended Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is February 17, 2022.

**INDICTED: STATE OF TEXAS VS. JAMES JOHNSON, D-1-DC-20-900070:** At the time of the incident, Mr. Johnson was employed as a deputy with the Williamson County Sheriff's Office. On Monday, March 29, 2021, Deputy Johnson was indicted with Manslaughter, a second-degree felony, by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is February 24, 2022.

**INDICTED: STATE OF TEXAS VS. ZACHARY CAMDEN, D-1-DC-20-900069:** At the time of the incident, Mr. Camden was employed as a deputy with the Williamson County Sheriff's Office. On Monday, March 29, 2021, Deputy Camden was indicted with Manslaughter, a second-degree felony, by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is February 24, 2022.

**INDICTED: STATE OF TEXAS VS. CHRISTOPHER TAYLOR, D-1-DC-19-900111:** At the time of the incident, Mr. Taylor was employed as an officer for the Austin Police Department. On Thursday, August 26, 2021, Mr. Taylor was indicted for Murder, a first-degree felony, and for Deadly Conduct Discharge of Firearm, a third-degree felony by the 331<sup>st</sup> Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is February 25, 2022.

**INDICTED: STATE OF TEXAS VS. KARL KRYCIA, D-1-DC-21-900071:** At the time of the incident, Mr. Krycia was employed as an officer for the Austin Police Department. On Thursday, August 26, 2021, Mr. Krycia was indicted for Murder, a first-degree felony, and for Deadly Conduct Discharge of Firearm, a third-degree felony by the 331<sup>st</sup> Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is February 25, 2022.

**INDICTED: STATE OF TEXAS VS. CHRISTOPHER TAYLOR, D-1-DC-20-900048:** At the time of the incident, Mr. Taylor was employed as an officer with the Austin Police Department. On Wednesday, March 10, 2021, Officer Taylor was indicted with Murder, a first-degree felony, by the 147<sup>th</sup> Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is February 25, 2022.

**INDICTED: STATE OF TEXAS VS. SHANNON OWENS, D-1-DC-20-900003:** At the time of the incident, Mr. Owens was employed as a corrections officer with the Travis County Sheriff's Office. On Wednesday, December 16, 2020, TCSO Deputy Owens was indicted with Aggravated Perjury, a third-degree felony, and Tampering with Governmental Record with the intent to defraud or harm another, a state jail felony by the 147<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is March 8, 2022.

**INDICTED: STATE OF TEXAS VS. ROBERT CHODY, D-1-DC-21-904036:** At the time of the incident, Mr. Chody was the elected Sheriff in Williamson County. On Wednesday, March 31, 2021, Mr. Chody was indicted Tampering with Physical Evidence with Intent to Impair, a third-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is March 29, 2022.

**INDICTED: STATE OF TEXAS VS. JASON NASSOUR, D-1-DC-21-904035:** At the time of the incident, Mr. Nassour was employed as General Counsel for the Williamson County Office. On Wednesday, March 31, 2021, Mr. Nassour was indicted Tampering with Physical Evidence with Intent to Impair, a third-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is March 29, 2022.

**INDICTED: STATE OF TEXAS VS NATHANIEL STALLINGS, D-1-DC-19-904051, D-1-DC-21-904041:** At the time of the incident, Mr. Stallings, then a licensed peace officer, was employed as a police officer with the Austin Police Department. On October 6, 2017, while on duty and in uniform in a fully marked Austin Police Department patrol vehicle, Mr. Stallings is alleged to have caused bodily injury to a civilian. Mr. Stallings was indicted on June 25, 2018, and charged with Assault and Abuse of Official Capacity. Both cases are pending in the 450<sup>th</sup> District Court.

This next court setting is April 25, 2022.

*Note: Due to COVID-19 restrictions, there are currently no criminal jury trials in Travis County*

**UNINDICTED**

**COMPLAINANT: NAME WITHHELD / SUBJECT OFFICERS: NICHOLAS GEBHART (Date of Incident: 05/30/2020):** On May 30, 2020, Complainant, a Minor, was attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos that occurred in downtown Austin and was struck with “bean bag” ammunition and “rubber bullets.”

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early fall of 2021 and continue into the winter of 2022.

**COMPLAINANT: BOMANI RAY BARTON / SUBJECT OFFICER: KYU AN (Date of Incident: 05/30/2020):** On May 31, 2020, Mr. Barton, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck with “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early fall of 2021 and continue into the winter of 2022.

**COMPLAINANT: GEMICAH VOLTER-JONES / SUBJECT OFFICER: DERRICK LEHMAN (Date of Incident: 5/30/2020):** On May 30, 2020, Mr. Volter-Jones, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early fall of 2021 and continue into the winter of 2022.

**COMPLAINANT: MEREDITH WILLIAMS / SUBJECT OFFICER: JOSEPH CAST (Date of Incident: 5/30/2020):** On May 30, 2020, Ms. Williams, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early fall of 2021 and continue into the winter of 2022.

**COMPLAINANT: NICOLE UNDERWOOD / SUBJECT OFFICER: JOHN SIEGEL (Date of Incident: 5/30/2020):** On May 30, 2020, Mr. Underwood, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early fall of 2021 and continue into the winter of 2022.

**COMPLAINANT: MEREDITH DRAKE / SUBJECT OFFICER: CHANCE BRETCHES (Date of Incident: 05/31/2020):** On May 31, 2020, Mr. Drake, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition. Officer Bretches was indicted on 1/20/2021 on Aggravated Assault by Public Servant on an unrelated case.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early fall of 2021 and continue into the winter of 2022.

**COMPLAINANT: ANTHONY EVANS / SUBJECT OFFICER: KYLE FELTON (Date of Incident: 05/31/2020):** On May 31, 2020, Mr. Evans, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early fall of 2021 and continue into the winter of 2022.

**COMPLAINANT: JUSTIN HOWELL / SUBJECT OFFICER: JEFFREY TENG (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Howell, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early fall of 2021 and continue into the winter of 2022.

**COMPLAINANT: SAMUEL KIRSCH / SUBJECT OFFICER: Officer ROLAN RAST (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Kirsch, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early fall of 2021 and continue into the winter of 2022.

**COMPLAINANT: CHRISTEN WARKOCZEWSKI / SUBJECT OFFICERS: JUSTIN BERRY; ALEXANDER LOMOSTEV, TODD GIBLERTSON, STANLEY VICK, CHRISTIAN IRWIN, JEREMY FISHER & JOSHUA JACKSON (Date of Incident: 5/31/2020):** On May 31, 2020, Ms. Williams, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early fall of 2021 and continue into the winter of 2022.

**COMPLAINANT: TYREE TALLEY/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Talley attended a protest in downtown Austin following the deaths of George Floyd and Michael Ramos was struck by “bean-bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early fall of 2021 and continue into the winter of 2022.

**COMPLAINANT: MODESTO RODRIGUEZ/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Rodriguez attended a protest in downtown Austin following the deaths of George Floyd and Michael Ramos was struck by “bean-bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2021 protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early fall of 2021 and continue into the winter of 2022.

**DECEDENT: ENRIQUE QUIROZ / SUBJECT OFFICERS: EDUARDO PINEDA, SPENCER HANNA, ZANE DOWDELL, LUCAS PARKER, MARK YALETCHKO and TRINITHAD GARCIA (Date of Incident: 03/21/2020):** Mr. Quiroz died while in the custody of the Austin Police Department after an encounter with multiple officers on March 31, 2020.

We expect that this case will be presented to a grand jury in the early spring of 2022.

**COMPLAINANT: F. ZIMMERMAN (Pseudonym) / SUBJECT OFFICER: WALTER DODDS (Date of Incident: 04/18/2020):** On April 18, 2020, while responding to a service call involving Ms. Zimmerman, Mr. Dodds, then an Austin Police Department officer encountered Ms. Zimmerman and is alleged to have later returned to her residence and alleged to have sexually assaulted her.

The case is currently under investigation in a joint investigation conducted by the Travis County District Attorney's Sexual Assault Unit and the Civil Rights Unit. This case is expected to be presented to a Travis County grand jury in the early spring of 2022.

**DECEDENT: ALEXANDER GONZALES / SUBJECT OFFICER: LUIS SERRATO AND GABRIEL GUTIERREZ (Date of Incident: 01/05/2021):** On January 5, 2021, Mr. Alexander Gonzales died as a result of multiple gunshot wounds in an incident involving an off-duty Austin Police Department officer and another officer who was on duty, both of whom discharged their weapons striking Mr. Gonzales.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**COMPLAINANT: NAME WITHHELD/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 3/12/2021):** On March 12, 2021, the civilian was arrested for an active warrant. While officers attempted to place the civilian under arrest, the civilian victim was struck by a baton and tased.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**COMPLAINANT: NAME WITHHELD/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 11/26/2020):** On November 26, 2020, the civilian was arrested for interfering with a crime scene which was investigated by Austin Police Department. The victim was struck by the subject officer while being handcuffed.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**SUBJECT OFFICERS: MICHAEL BARBA/JASON CUMMINS/DERRICK LEHMAN (Date of Incident: 08/19/2021):** On August 19, 2021, a civilian was shot and tased by Austin Police Department Officers. The civilian is expected to recover from his injuries.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**DESCENDANT: RONALD ZAVAGLIA/SUBJECT OFFICER: IAN CLARK (Date of Incident: 08/19/2021):** On August 19, 2021, Mr. Zavaglia died as a result of a gunshot wound in an incident with the Pflugerville Police Department.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**COMPLAINANT: NAME WITHHELD/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 09/18/2021):** On September 18, 2021, the civilian was struck by an Austin Police Department Officer after multiple requests to leave the area.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**DECENDENT: MICHAEL CAROTHERS/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 10/09/2021):** On October 09, 2021, there was gunfire between civilians. Subsequently, an officer discharged his weapon. Mr. Carothers died as a result of a gunshot wound.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early summer of 2022.

**DECENDENT: ROBERT RICHART/SUBJECT OFFICERS: ERIC STRNAD (Date of Incident: 10/27/2021)** On October 27, 2021, Mr. Richart died as a result of a gunshot wound fired by an Austin Police Department officer on October 27, 2021.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early summer of 2022.

**COMPLAINANT: NAME WITHHELD/SUBJECT OFFICER: JAVIER RODRIGUEZ (Date of Incident: 12/24/2021)** On 12/24/2021, a civilian was shot by Austin Police Department Officers. The civilian is expected to recover from his injuries.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early summer of 2022.

**COMPLAINT: NAME WITHHELD/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: June 24, 2021):** On June 24, 2021, the juvenile civilian was struck by "bean bag" ammunition, a less-lethal while officers were executing a search warrant and arrest warrant.

The case is currently under investigation with the Travis County District Attorney's Office Civil Rights Unit. Our Office expects that the investigation should be concluded within a timeframe that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence no later than early fall of 2022.

**COMPLAINANT: SIMONE GRIFFITH/ SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 10/30/2021):** On October 30, 2021, Ms. Griffith was arrested for criminal trespass. While officers attempted to place Ms. Griffith under arrest, she was struck by Austin Police Department Officers.

The case is currently under investigation with the Travis County District Attorney's Office Civil Rights Unit. Our Office expects that the investigation should be concluded within a timeframe that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence no later than early fall of 2022.

**COMPLAINANT: NAME WITHHELD/SUBJECT OFFICER: NAME WITHHELD (Date of Incident 01/29/2022)** On 1/29/2022, a civilian was shot by Austin Police Department Officers. The civilian is expected to recover from his injuries.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early fall of 2022.



**OFFICE OF THE  
DISTRICT ATTORNEY**

P.O. Box 1748, Austin, TX 78767

Telephone 512/854-9400

Telefax 512/854-4206

**JOSÉ P. GARZA**  
DISTRICT ATTORNEY

**TRUDY STRASSBURGER**  
FIRST ASSISTANT

**Travis County DA Civil Rights Unit Case Summaries - FEBRUARY 14, 2022**

The following is a current list of each officer-involved use of force or other misconduct matter involving injury to any person currently pending in the Office's Civil Rights Unit.

**INDICTED CASES**

**INDICTED: STATE OF TEXAS VS. CHANCE BRETCHES, D-1-DC-20-900091:** At the time of the incident, Mr. Bretches was employed as a police officer with the Austin Police Department. On Wednesday, January 20, 2021, Officer Bretches was indicted with Aggravated Assault by a Public Servant, Serious Bodily Injury/Deadly Weapon, a first-degree felony by the extended 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is February 17, 2022.

**INDICTED: STATE OF TEXAS VS. JAMES JOHNSON, D-1-DC-20-900070:** At the time of the incident, Mr. Johnson was employed as a deputy with the Williamson County Sheriff's Office. On Monday, March 29, 2021, Deputy Johnson was indicted with Manslaughter, a second-degree felony, by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is February 24, 2022.

**INDICTED: STATE OF TEXAS VS. ZACHARY CAMDEN, D-1-DC-20-900069:** At the time of the incident, Mr. Camden was employed as a deputy with the Williamson County Sheriff's Office. On Monday, March 29, 2021, Deputy Camden was indicted with Manslaughter, a second-degree felony, by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is February 24, 2022.

**INDICTED: STATE OF TEXAS VS. CHRISTOPHER TAYLOR, D-1-DC-19-900111:** At the time of the incident, Mr. Taylor was employed as an officer for the Austin Police Department. On Thursday, August 26, 2021, Mr. Taylor was indicted for Murder, a first-degree felony, and for Deadly Conduct Discharge of Firearm, a third-degree felony by the 331st Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is February 25, 2022.

**INDICTED: STATE OF TEXAS VS. KARL KRYCIA, D-1-DC-21-900071:** At the time of the incident, Mr. Krycia was employed as an officer for the Austin Police Department. On Thursday, August 26, 2021, Mr. Krycia was indicted for Murder, a first-degree felony, and for Deadly Conduct Discharge of Firearm, a third-degree felony by the 331st Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is February 25, 2022.

**INDICTED: STATE OF TEXAS VS. CHRISTOPHER TAYLOR, D-1-DC-20-900048:** At the time of the incident, Mr. Taylor was employed as an officer with the Austin Police Department. On Wednesday, March 10, 2021, Officer Taylor was indicted with Murder, a first-degree felony, by the 147<sup>th</sup> Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is February 25, 2022.

**INDICTED: STATE OF TEXAS VS. SHANNON OWENS, D-1-DC-20-900003:** At the time of the incident, Mr. Owens was employed as a corrections officer with the Travis County Sherriff's Office. On Wednesday, December 16, 2020, TCSO Deputy Owens was indicted with Aggravated Perjury, a third-degree felony, and Tampering with Governmental Record with the intent to defraud or harm another, a state jail felony by the 147<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is March 8, 2022.

**INDICTED: STATE OF TEXAS VS LANDO HALL, D-1-DC-19-900105:** At the time of the incident, Mr. Hall was employed as a police officer with the Austin Police Department. On Monday, January 4, 2021, APD Officer Lando Hall was indicted for the felony offense of Misuse of Official Information, a third-degree felony under Section 39.06(b) of the Texas Penal Code by the 147<sup>th</sup> Special Grand Jury – Extended July 2020 term. The case is pending in the 403<sup>rd</sup> Judicial District Court.

The next court setting is March 9, 2022.

**INDICTED: STATE OF TEXAS VS. ROBERT CHODY, D-1-DC-21-904036:** At the time of the incident, Mr. Chody was the elected Sheriff in Williamson County. On Wednesday, March 31, 2021, Mr. Chody was indicted Tampering with Physical Evidence with Intent to Impair, a third-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is March 29, 2022.

**INDICTED: STATE OF TEXAS VS. JASON NASSOUR, D-1-DC-21-904035:** At the time of the incident, Mr. Nassour was employed as General Counsel for the Williamson County Office. On Wednesday, March 31, 2021, Mr. Nassour was indicted Tampering with Physical Evidence with Intent to Impair, a third-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is March 29, 2022.

**INDICTED: STATE OF TEXAS VS NATHANIEL STALLINGS, D-1-DC-19-904051, D-1-DC-21-904041:** At the time of the incident, Mr. Stallings, then a licensed peace officer, was employed as a police officer with the Austin Police Department. On October 6, 2017, while on duty and in uniform in a fully marked Austin Police Department patrol vehicle, Mr. Stallings is alleged to have caused bodily injury to a civilian. Mr. Stallings was indicted on June 25, 2018, and charged with Assault and Abuse of Official Capacity. Both cases are pending in the 450<sup>th</sup> District Court.

This next court setting is April 25, 2022.

*Note: Due to COVID-19 restrictions, there are currently no criminal jury trials in Travis County*

**UNINDICTED**

**COMPLAINANT: NAME WITHHELD / SUBJECT OFFICERS: NICHOLAS GEBHART (Date of Incident: 05/30/2020):** On May 30, 2020, Complainant, a Minor, was attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos that occurred in downtown Austin and was struck with “bean bag” ammunition and “rubber bullets.”

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2020 protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early fall of 2021 and continue into the winter of 2022.

**COMPLAINANT: BOMANI RAY BARTON / SUBJECT OFFICER: KYU AN (Date of Incident: 05/30/2020):** On May 31, 2020, Mr. Barton, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck with “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2020 protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early fall of 2021 and continue into the winter of 2022.

**COMPLAINANT: GEMICAH VOLTER-JONES / SUBJECT OFFICER: DERRICK LEHMAN & EDWARD BOUDREAU (Date of Incident: 5/30/2020):** On May 30, 2020, Mr. Volter-Jones, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2020 protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early fall of 2021 and continue into the winter of 2022.

**COMPLAINANT: MEREDITH WILLIAMS / SUBJECT OFFICER: JOSEPH CAST (Date of Incident: 5/30/2020):** On May 30, 2020, Ms. Williams, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2020 protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early fall of 2021 and continue into the winter of 2022.

**COMPLAINANT: NICOLE UNDERWOOD / SUBJECT OFFICER: JOHN SIEGEL (Date of Incident: 5/30/2020):** On May 30, 2020, Mr. Underwood, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2020 protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early fall of 2021 and continue into the winter of 2022.

**COMPLAINANT: MEREDITH DRAKE / SUBJECT OFFICER: CHANCE BRETCHES (Date of Incident: 05/31/2020):** On May 31, 2020, Mr. Drake, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition. Officer Bretches was indicted on 1/20/2021 on Aggravated Assault by Public Servant on an unrelated case.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2020 protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early fall of 2021 and continue into the winter of 2022.

**COMPLAINANT: ANTHONY EVANS / SUBJECT OFFICER: KYLE FELTON (Date of Incident: 05/31/2020):** On May 31, 2020, Mr. Evans, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2020 protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early fall of 2021 and continue into the winter of 2022.

**COMPLAINANT: JUSTIN HOWELL / SUBJECT OFFICER: JEFFREY TENG (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Howell, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2020 protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early fall of 2021 and continue into the winter of 2022.

**COMPLAINANT: SAMUEL KIRSCH / SUBJECT OFFICER: ROLAN RAST (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Kirsch, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2020 protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early fall of 2021 and continue into the winter of 2022.

**COMPLAINANT: CHRISTEN WARKOCZEWSKI / SUBJECT OFFICERS: JUSTIN BERRY; ALEXANDER LOMOSTEV, TODD GIBLERTSON, STANLEY VICK, CHRISTIAN IRWIN, JEREMY FISHER, JOSHUA JACKSON, BRETT TABIEROU and JOSH BLAKE (Date of Incident: 5/31/2020):** On May 31, 2020, Ms. Williams, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2020 protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early fall of 2021 and continue into the winter of 2022.

**COMPLAINANT: TYREE TALLEY/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Talley attended a protest in downtown Austin following the deaths of George Floyd and Michael Ramos was struck by “bean-bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2020 protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early fall of 2021 and continue into the winter of 2022.

**COMPLAINANT: MODESTO RODRIGUEZ/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Rodriguez attended a protest in downtown Austin following the deaths of George Floyd and Michael Ramos was struck by “bean-bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2020 protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early fall of 2021 and continue into the winter of 2022.

**DECEDENT: ENRIQUE QUIROZ / SUBJECT OFFICERS: EDUARDO PINEDA, SPENCER HANNA, ZANE DOWDELL, LUCAS PARKER, MARK YALETCHKO and TRINITHAD GARCIA (Date of Incident: 03/21/2020):** Mr. Quiroz died while in the custody of the Austin Police Department after an encounter with multiple officers on March 31, 2020.

We expect that this case will be presented to a grand jury in the early spring of 2022.

**COMPLAINANT: F. ZIMMERMAN (Pseudonym) / SUBJECT OFFICER: WALTER DODDS (Date of Incident: 04/18/2020):** On April 18, 2020, while responding to a service call involving Ms. Zimmerman, Mr. Dodds, then an Austin Police Department officer encountered Ms. Zimmerman and is alleged to have later returned to her residence and alleged to have sexually assaulted her.

The case is currently under investigation in a joint investigation conducted by the Travis County District Attorney's Sexual Assault Unit and the Civil Rights Unit. This case is expected to be presented to a Travis County grand jury in the early spring of 2022.

**DECEDENT: ALEXANDER GONZALES / SUBJECT OFFICER: LUIS SERRATO AND GABRIEL GUTIERREZ (Date of Incident: 01/05/2021):** On January 5, 2021, Mr. Alexander Gonzales died as a result of multiple gunshot wounds in an incident involving an off-duty Austin Police Department officer and another officer who was on duty, both of whom discharged their weapons striking Mr. Gonzales.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**COMPLAINANT: NAME WITHHELD/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 3/12/2021):** On March 12, 2021, the civilian was arrested for an active warrant. While officers attempted to place the civilian under arrest, the civilian victim was struck by a baton and tased.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**COMPLAINANT: NAME WITHHELD/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 11/26/2020):** On November 26, 2020, the civilian was arrested for interfering with a crime scene which was investigated by Austin Police Department. The victim was struck by the subject officer while being handcuffed.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**SUBJECT OFFICERS: MICHAEL BARBA/JASON CUMMINS/DERRICK LEHMAN (Date of Incident: 08/19/2021):** On August 19, 2021, a civilian was shot and tased by Austin Police Department Officers. The civilian is expected to recover from his injuries.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**DESCENDANT: RONALD ZAVAGLIA/SUBJECT OFFICER: IAN CLARK (Date of Incident: 08/19/2021):** On August 19, 2021, Mr. Zavaglia died as a result of a gunshot wound in an incident with the Pflugerville Police Department.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**COMPLAINANT: NAME WITHHELD/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 09/18/2021):** On September 18, 2021, the civilian was struck by an Austin Police Department Officer after multiple requests to leave the area.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**DECENDENT: MICHAEL CAROTHERS/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 10/09/2021):** On October 09, 2021, there was gunfire between civilians. Subsequently, an officer discharged his weapon. Mr. Carothers died as a result of a gunshot wound.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early summer of 2022.

**DECENDENT: ROBERT RICHART/SUBJECT OFFICERS: ERIC STRNAD (Date of Incident: 10/27/2021)** On October 27, 2021, Mr. Richart died as a result of a gunshot wound fired by an Austin Police Department officer on October 27, 2021.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early summer of 2022.

**COMPLAINANT: NAME WITHHELD/SUBJECT OFFICER: JAVIER RODRIGUEZ (Date of Incident: 12/24/2021)** On 12/24/2021, a civilian was shot by Austin Police Department Officers. The civilian is expected to recover from his injuries.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early summer of 2022.

**COMPLAINT: NAME WITHHELD/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: June 24, 2021):** On June 24, 2021, the juvenile civilian was struck by "bean bag" ammunition, a less-lethal while officers were executing a search warrant and arrest warrant.

The case is currently under investigation with the Travis County District Attorney's Office Civil Rights Unit. Our Office expects that the investigation should be concluded within a timeframe that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence no later than early fall of 2022.

**COMPLAINANT: SIMONE GRIFFITH/ SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 10/30/2021):** On October 30, 2021, Ms. Griffith was arrested for criminal trespass. While officers attempted to place Ms. Griffith under arrest, she was struck by Austin Police Department Officers.

The case is currently under investigation with the Travis County District Attorney's Office Civil Rights Unit. Our Office expects that the investigation should be concluded within a timeframe that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence no later than early fall of 2022.

**COMPLAINANT: NAME WITHHELD/SUBJECT OFFICER: NAME WITHHELD (Date of Incident 01/29/2022)** On 1/29/2022, a civilian was shot by Austin Police Department Officers. The civilian is expected to recover from his injuries.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early fall of 2022.



## OFFICE OF THE DISTRICT ATTORNEY

P.O. Box 1748, Austin, TX 78767  
Telephone 512/854-9400  
Telefax 512/854-4206

**JOSÉ P. GARZA**  
DISTRICT ATTORNEY

**TRUDY STRASSBURGER**  
FIRST ASSISTANT

### **Travis County DA Civil Rights Unit Case Summaries - March 07, 2022**

The following is a current list of each officer-involved use of force or other misconduct matter involving injury to any person currently pending in the Office's Civil Rights Unit.

#### **INDICTED CASES**

**INDICTED: STATE OF TEXAS VS. SHANNON OWENS, D-1-DC-20-900003:** At the time of the incident, Mr. Owens was employed as a corrections officer with the Travis County Sherriff's Office. On Wednesday, December 16, 2020, TCSO Deputy Owens was indicted with Aggravated Perjury, a third-degree felony, and Tampering with Governmental Record with the intent to defraud or harm another, a state jail felony by the 147<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is March 8, 2022.

**INDICTED: STATE OF TEXAS VS LANDO HALL, D-1-DC-19-900105:** At the time of the incident, Mr. Hall was employed as a police officer with the Austin Police Department. On Monday, January 4, 2021, APD Officer Lando Hall was indicted for the felony offense of Misuse of Official Information, a third-degree felony under Section 39.06(b) of the Texas Penal Code by the 147<sup>th</sup> Special Grand Jury – Extended July 2020 term. The case is pending in the 403<sup>rd</sup> Judicial District Court.

The next court setting is March 9, 2022.

**INDICTED: STATE OF TEXAS VS JEREMY FISHER, D-1-DC-22-900011:** At the time of the incident, Mr. Fisher was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Fisher was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 403<sup>rd</sup> District Court.

The next court setting is March 11, 2022

**INDICTED: STATE OF TEXAS VS JOSEPH CAST, D-1-DC-20-900061:** At the time of the incident, Mr. Cast was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Cast was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is March 18, 2022

**INDICTED: STATE OF TEXAS VS EDWARD BOUDREAU, D-1-DC-22-900020:** At the time of the incident, Mr. Boudreau was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Boudreau was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is March 18, 2022.

**INDICTED: STATE OF TEXAS VS ROLAN RAST, D-1-DC-20-900080:** At the time of the incident, Mr. Siegel was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Siegel was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 331<sup>st</sup> District Court.

The next court setting is March 18, 2022.

**INDICTED: STATE OF TEXAS VS JUSTIN BERRY, D-1-DC-20-900055:** At the time of the incident, Mr. Berry was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Berry was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is March 18, 2022.

**INDICTED: STATE OF TEXAS VS STANLEY VICK, D-1-DC-22-900009:** At the time of the incident, Mr. Vick was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Vick was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is March 18, 2022.

**INDICTED: STATE OF TEXAS VS JOSHUA JACKSON, D-1-DC-22-900010:** At the time of the incident, Mr. Jackson was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Jackson was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is March 18, 2022.

**INDICTED: STATE OF TEXAS VS. CHRISTOPHER TAYLOR, D-1-DC-20-900048:** At the time of the incident, Mr. Taylor was employed as an officer with the Austin Police Department. On Wednesday, March 10, 2021, Officer Taylor was indicted with Murder, a first-degree felony, by the 147<sup>th</sup> Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is March 21, 2022.

**INDICTED: STATE OF TEXAS VS. CHRISTOPHER TAYLOR, D-1-DC-19-900111:** At the time of the incident, Mr. Taylor was employed as an officer for the Austin Police Department. On Thursday, August 26, 2021, Mr. Taylor was indicted for Murder, a first-degree felony, and for Deadly Conduct Discharge of Firearm, a third-degree felony by the 331<sup>st</sup> Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is March 21, 2022.

**INDICTED: STATE OF TEXAS VS BRETT TABLERIOU, D-1-DC-22-900018:** At the time of the incident, Mr. Tableriou was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Tableriou was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 460<sup>th</sup> District Court.

The next court setting is March 22, 2022

**INDICTED: STATE OF TEXAS VS. ROBERT CHODY, D-1-DC-21-904036:** At the time of the incident, Mr. Chody was the elected Sheriff in Williamson County. On Wednesday, March 31, 2021, Mr. Chody was indicted Tampering with Physical Evidence with Intent to Impair, a third-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is March 29, 2022.

**INDICTED: STATE OF TEXAS VS. JASON NASSOUR, D-1-DC-21-904035:** At the time of the incident, Mr. Nassour was employed as General Counsel for the Williamson County Office. On Wednesday, March 31, 2021, Mr. Nassour was indicted Tampering with Physical Evidence with Intent to Impair, a third-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is March 29, 2022.

**INDICTED: STATE OF TEXAS VS. CHANCE BRETCHES, D-1-DC-20-900091:** At the time of the incident, Mr. Bretches was employed as a police officer with the Austin Police Department. On Wednesday, January 20, 2021, Officer Bretches was indicted with Aggravated Assault by a Public Servant, Serious Bodily Injury/Deadly Weapon, a first-degree felony by the extended 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is March 31, 2022.

**INDICTED: STATE OF TEXAS VS JOHN SIEGEL, D-1-DC-20-900072:** At the time of the incident, Mr. Siegel was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Siegel was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 147<sup>th</sup> District Court.

The next court setting is April 4, 2022.

**INDICTED: STATE OF TEXAS VS JOSHUA BLAKE, D-1-DC-22-900019:** At the time of the incident, Mr. Blake was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Blake was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 147<sup>th</sup> District Court.

The next court setting is April 04, 2022

**INDICTED: STATE OF TEXAS VS DERRICK LEHMAN, D-1-DC-20-900071:** At the time of the incident, Mr. Lehman was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Lehman was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is April 5, 2022.

**INDICTED: STATE OF TEXAS VS ALEXANDER LOMOVSTEV, D-1-DC-21-900126:** At the time of the incident, Mr. Lomovstev was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Lomovstev was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is April 05, 2022

**INDICTED: STATE OF TEXAS VS KYU AN, D-1-DC-20-900054:** At the time of the incident, Mr. An was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. An was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 403<sup>rd</sup> District Court.

The next court setting is April 06, 2022.

**INDICTED: STATE OF TEXAS VS. JAMES JOHNSON, D-1-DC-20-900070:** At the time of the incident, Mr. Johnson was employed as a deputy with the Williamson County Sheriff's Office. On Monday, March 29, 2021, Deputy Johnson was indicted with Manslaughter, a second-degree felony, by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is April 07, 2022.

**INDICTED: STATE OF TEXAS VS. ZACHARY CAMDEN, D-1-DC-20-900069:** At the time of the incident, Mr. Camden was employed as a deputy with the Williamson County Sheriff's Office. On Monday, March 29, 2021, Deputy Camden was indicted with Manslaughter, a second-degree felony, by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is April 07, 2022.

**INDICTED: STATE OF TEXAS VS ERIC HEIM, D-1-DC-20-900076:** At the time of the incident, Mr. Heim was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Heim was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is April 07, 2022

**INDICTED: STATE OF TEXAS VS KYLE FELTON, D-1-DC-20-900054/ D-1-DC-20-900059:** At the time of the incident, Mr. Felton was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Felton was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is April 7, 2022.

**INDICTED: STATE OF TEXAS VS JEFFREY TENG, D-1-DC-22-900005:** At the time of the incident, Mr. Teng was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Teng was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is April 7, 2022.

**INDICTED: STATE OF TEXAS VS TODD GILBERTSON, D-1-DC-21-900125:** At the time of the incident, Mr. Gilbertson was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Gilbertson was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 427<sup>th</sup> District Court.

The next court setting is April 11, 2022

**INDICTED: STATE OF TEXAS VS NATHANIEL STALLINGS, D-1-DC-19-904051, D-1-DC-21-904041:** At the time of the incident, Mr. Stallings, then a licensed peace officer, was employed as a police officer with the Austin Police Department. On October 6, 2017, while on duty and in uniform in a fully marked Austin Police Department patrol vehicle, Mr. Stallings is alleged to have caused bodily injury to a civilian. Mr. Stallings was indicted on June 25, 2018 and charged with Assault and Abuse of Official Capacity. Both cases are pending in the 450<sup>th</sup> District Court.

The next court setting is April 12, 2022.

**INDICTED: STATE OF TEXAS VS. KARL KRYCIA, D-1-DC-21-900071:** At the time of the incident, Mr. Krycia was employed as an officer for the Austin Police Department. On Thursday, August 26, 2021, Mr. Krycia was indicted for Murder, a first-degree felony, and for Deadly Conduct Discharge of Firearm, a third-degree felony by the 331<sup>st</sup> Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is April 13, 2022.

**INDICTED: STATE OF TEXAS VS NICHOLAS GEBHART, D-1-DC-20-900060:** At the time of the incident, Mr. Gebhart was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Gebhart was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is April 19, 2022.

**INDICTED: STATE OF TEXAS VS CHRISTIAN IRWIN, D-1-DC-22-900012:** At the time of the incident, Mr. Irwin was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Irwin was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is April 19, 2022

**UNINDICTED**

**COMPLAINANT: MEREDITH DRAKE / SUBJECT OFFICER: CHANCE BRETCHES (Date of Incident: 05/31/2020):** On May 31, 2020, Mr. Drake, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition. Officer Bretches was indicted on 1/20/2021 on Aggravated Assault by Public Servant on an unrelated case.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2020 protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early spring of 2022.

**COMPLAINANT: TYREE TALLEY/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Talley attended a protest in downtown Austin following the deaths of George Floyd and Michael Ramos was struck by “bean-bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2020 protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early spring of 2022.

**COMPLAINANT: MODESTO RODRIGUEZ/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Rodriguez attended a protest in downtown Austin following the deaths of George Floyd and Michael Ramos was struck by “bean-bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2020 protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early spring of 2022.

**DECEDENT: ENRIQUE QUIROZ / SUBJECT OFFICERS: EDUARDO PINEDA, SPENCER HANNA, ZANE DOWDELL, LUCAS PARKER, MARK YALETCHKO and TRINITHAD GARCIA (Date of Incident: 03/21/2020):** Mr. Quiroz died while in the custody of the Austin Police Department after an encounter with multiple officers on March 31, 2020.

We expect that this case will be presented to a grand jury in the early spring of 2022.

**COMPLAINANT: F. ZIMMERMAN (Pseudonym) / SUBJECT OFFICER: WALTER DODDS (Date of Incident: 04/18/2020):** On April 18, 2020, while responding to a service call involving Ms. Zimmerman, Mr. Dodds, then an Austin Police Department officer encountered Ms. Zimmerman and is alleged to have later returned to her residence and alleged to have sexually assaulted her.

The case is currently under investigation in a joint investigation conducted by the Travis County District Attorney’s Sexual Assault Unit and the Civil Rights Unit. This case is expected to be presented to a Travis County grand jury in the early spring of 2022.

**DECEDENT: ALEXANDER GONZALES / SUBJECT OFFICER: LUIS SERRATO AND GABRIEL GUTIERREZ (Date of Incident: 01/05/2021):** On January 5, 2021, Mr. Alexander Gonzales died as a result of multiple gunshot wounds in an incident involving an off-duty Austin Police Department officer and another officer who was on duty, both of whom discharged their weapons striking Mr. Gonzales.

The case is currently under investigation in a joint investigation involving the Austin Police Department’s Special Investigations Unit and the Travis County District Attorney Office’s Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**COMPLAINANT: NAME WITHHELD/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 3/12/2021):** On March 12, 2021, the civilian was arrested for an active warrant. While officers attempted to place the civilian under arrest, the civilian victim was struck by a baton and tased.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**COMPLAINANT: NAME WITHHELD/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 11/26/2020):** On November 26, 2020, the civilian was arrested for interfering with a crime scene which was investigated by Austin Police Department. The victim was struck by the subject officer while being handcuffed.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**SUBJECT OFFICERS: MICHAEL BARBA/JASON CUMMINS/DERRICK LEHMAN (Date of Incident: 08/19/2021):** On August 19, 2021, a civilian was shot and tased by Austin Police Department Officers. The civilian is expected to recover from his injuries.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**DESCENDANT: RONALD ZAVAGLIA/SUBJECT OFFICER: IAN CLARK (Date of Incident: 08/19/2021):** On August 19, 2021, Mr. Zavaglia died as a result of a gunshot wound in an incident with the Pflugerville Police Department.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**COMPLAINANT: NAME WITHHELD/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 09/18/2021):** On September 18, 2021, the civilian was struck by an Austin Police Department Officer after multiple requests to leave the area.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**DECENDENT: MICHAEL CAROTHERS/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 10/09/2021):** On October 09, 2021, there was gunfire between civilians. Subsequently, an officer discharged his weapon. Mr. Carothers died as a result of a gunshot wound.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early summer of 2022.

**DECENDENT: ROBERT RICHART/SUBJECT OFFICERS: ERIC STRNAD (Date of Incident: 10/27/2021)** On October 27, 2021, Mr. Richart died as a result of a gunshot wound fired by an Austin Police Department officer on October 27, 2021.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early summer of 2022.

**COMPLAINANT: NAME WITHHELD/SUBJECT OFFICER: JAVIER RODRIGUEZ (Date of Incident: 12/24/2021)** On 12/24/2021, a civilian was shot by Austin Police Department Officers. The civilian is expected to recover from his injuries.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early summer of 2022.

**COMPLAINT: NAME WITHHELD/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: June 24, 2021):** On June 24, 2021, the juvenile civilian was struck by "bean bag" ammunition, a less-lethal while officers were executing a search warrant and arrest warrant.

The case is currently under investigation with the Travis County District Attorney's Office Civil Rights Unit. Our Office expects that the investigation should be concluded within a timeframe that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence no later than early fall of 2022.

**COMPLAINANT: SIMONE GRIFFITH/ SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 10/30/2021):** On October 30, 2021, Ms. Griffith was arrested for criminal trespass. While officers attempted to place Ms. Griffith under arrest, she was struck by Austin Police Department Officers.

The case is currently under investigation with the Travis County District Attorney's Office Civil Rights Unit. Our Office expects that the investigation should be concluded within a timeframe that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence no later than early fall of 2022.

**COMPLAINANT: TERRY GONZALES / SUBJECT OFFICER: RON RIORDAN (Date of Incident 01/29/2022)** On 1/29/2022, a civilian was shot by Austin Police Department Officers. The civilian is expected to recover from his injuries.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early fall of 2022.



## OFFICE OF THE DISTRICT ATTORNEY

P.O. Box 1748, Austin, TX 78767

Telephone 512/854-9400

Telefax 512/854-4206

**JOSÉ P. GARZA**  
DISTRICT ATTORNEY

**TRUDY STRASSBURGER**  
FIRST ASSISTANT

### **Travis County DA Civil Rights Unit Case Summaries - March 21, 2022**

The following is a current list of each officer-involved use of force or other misconduct matter involving injury to any person currently pending in the Office's Civil Rights Unit.

#### **INDICTED CASES**

**INDICTED: STATE OF TEXAS VS. CHRISTOPHER TAYLOR, D-1-DC-20-900048:** At the time of the incident, Mr. Taylor was employed as an officer with the Austin Police Department. On Wednesday, March 10, 2021, Officer Taylor was indicted with Murder, a first-degree felony, by the 147<sup>th</sup> Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is March 21, 2022.

**INDICTED: STATE OF TEXAS VS. CHRISTOPHER TAYLOR, D-1-DC-19-900111:** At the time of the incident, Mr. Taylor was employed as an officer for the Austin Police Department. On Thursday, August 26, 2021, Mr. Taylor was indicted for Murder, a first-degree felony, and for Deadly Conduct Discharge of Firearm, a third-degree felony by the 331<sup>st</sup> Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is March 21, 2022.

**INDICTED: STATE OF TEXAS VS. JAMES JOHNSON, D-1-DC-20-900070:** At the time of the incident, Mr. Johnson was employed as a deputy with the Williamson County Sheriff's Office. On Monday, March 29, 2021, Deputy Johnson was indicted with Manslaughter, a second-degree felony, by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is March 22, 2022.

**INDICTED: STATE OF TEXAS VS. ZACHARY CAMDEN, D-1-DC-20-900069:** At the time of the incident, Mr. Camden was employed as a deputy with the Williamson County Sheriff's Office. On Monday, March 29, 2021, Deputy Camden was indicted with Manslaughter, a second-degree felony, by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is March 22, 2022.

**INDICTED: STATE OF TEXAS VS. ROBERT CHODY, D-1-DC-21-904036:** At the time of the incident, Mr. Chody was the elected Sheriff in Williamson County. On Wednesday, March 31, 2021, Mr. Chody was indicted Tampering with Physical Evidence with Intent to Impair, a third-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is March 29, 2022.

**INDICTED: STATE OF TEXAS VS. JASON NASSOUR, D-1-DC-21-904035:** At the time of the incident, Mr. Nassour was employed as General Counsel for the Williamson County Office. On Wednesday, March 31, 2021, Mr. Nassour was indicted Tampering with Physical Evidence with Intent to Impair, a third-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is March 29, 2022.

**INDICTED: STATE OF TEXAS VS. CHANCE BRETCHES, D-1-DC-20-900091:** At the time of the incident, Mr. Bretches was employed as a police officer with the Austin Police Department. On Wednesday, January 20, 2021, Officer Bretches was indicted with Aggravated Assault by a Public Servant, Serious Bodily Injury/Deadly Weapon, a first-degree felony by the extended 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is March 31, 2022.

**INDICTED: STATE OF TEXAS VS JOHN SIEGEL, D-1-DC-20-900072:** At the time of the incident, Mr. Siegel was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Siegel was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 147<sup>th</sup> District Court.

The next court setting is April 4, 2022.

**INDICTED: STATE OF TEXAS VS JOSHUA BLAKE, D-1-DC-22-900019:** At the time of the incident, Mr. Blake was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Blake was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 147<sup>th</sup> District Court.

The next court setting is April 4, 2022.

**INDICTED: STATE OF TEXAS VS DERRICK LEHMAN, D-1-DC-20-900071:** At the time of the incident, Mr. Lehman was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Lehman was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is April 5, 2022.

**INDICTED: STATE OF TEXAS VS ALEXANDER LOMOVSTEV, D-1-DC-21-900126:** At the time of the incident, Mr. Lomovstev was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Lomovstev was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is April 5, 2022.

**INDICTED: STATE OF TEXAS VS ERIC HEIM, D-1-DC-20-900076:** At the time of the incident, Mr. Heim was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Heim was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is April 7, 2022.

**INDICTED: STATE OF TEXAS VS KYLE FELTON, D-1-DC-20-900054/ D-1-DC-20-900059:** At the time of the incident, Mr. Felton was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Felton was indicted for Aggravated Assault by Public Servant, a first-degree

felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is April 7, 2022.

**INDICTED: STATE OF TEXAS VS JEFFREY TENG, D-1-DC-22-900005:** At the time of the incident, Mr. Teng was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Teng was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is April 7, 2022.

**INDICTED: STATE OF TEXAS VS KYU AN, D-1-DC-20-900054:** At the time of the incident, Mr. An was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. An was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 403<sup>rd</sup> District Court.

The next court setting is April 7, 2022.

**INDICTED: STATE OF TEXAS VS JOSEPH CAST, D-1-DC-20-900061:** At the time of the incident, Mr. Cast was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Cast was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is April 11, 2022.

**INDICTED: STATE OF TEXAS VS TODD GILBERTSON, D-1-DC-21-900125:** At the time of the incident, Mr. Gilbertson was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Gilbertson was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 427<sup>th</sup> District Court.

The next court setting is April 11, 2022.

**INDICTED: STATE OF TEXAS VS NATHANIEL STALLINGS, D-1-DC-19-904051, D-1-DC-21-904041:** At the time of the incident, Mr. Stallings, then a licensed peace officer, was employed as a police officer with the Austin Police Department. On October 6, 2017, while on duty and in uniform in a fully marked Austin Police Department patrol vehicle, Mr. Stallings is alleged to have caused bodily injury to a civilian. Mr. Stallings was indicted on June 25, 2018 and charged with Assault and Abuse of Official Capacity. Both cases are pending in the 450<sup>th</sup> District Court.

The next court setting is April 12, 2022.

**INDICTED: STATE OF TEXAS VS EDWARD BOUDREAU, D-1-DC-22-900020:** At the time of the incident, Mr. Boudreau was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Boudreau was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is April 12, 2022.

**INDICTED: STATE OF TEXAS VS. KARL KRYCIA, D-1-DC-21-900071:** At the time of the incident, Mr. Krycia was employed as an officer for the Austin Police Department. On Thursday, August 26, 2021, Mr. Krycia was indicted for Murder, a first-degree felony, and for Deadly Conduct Discharge of Firearm, a third-degree felony by the 331<sup>st</sup> Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is April 13, 2022.

**INDICTED: STATE OF TEXAS VS LANDO HALL, D-1-DC-19-900105:** At the time of the incident, Mr. Hall was employed as a police officer with the Austin Police Department. On Monday, January 4, 2021, APD Officer Lando Hall was indicted for the felony offense of Misuse of Official Information, a third-degree felony under Section 39.06(b) of the Texas Penal Code by the 147<sup>th</sup> Special Grand Jury – Extended July 2020 term. The case is pending in the 403<sup>rd</sup> Judicial District Court.

The next court setting is April 13, 2022.

**INDICTED: STATE OF TEXAS VS JOSHUA JACKSON, D-1-DC-22-900010:** At the time of the incident, Mr. Jackson was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Jackson was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is April 13, 2022.

**INDICTED: STATE OF TEXAS VS ROLAN RAST, D-1-DC-20-900080:** At the time of the incident, Mr. Siegel was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Siegel was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 331<sup>st</sup> District Court.

The next court setting is April 14, 2022.

**INDICTED: STATE OF TEXAS VS. SHANNON OWENS, D-1-DC-20-900003:** At the time of the incident, Mr. Owens was employed as a corrections officer with the Travis County Sherriff's Office. On Wednesday, December 16, 2020, TCSO Deputy Owens was indicted with Aggravated Perjury, a third-degree felony, and Tampering with Governmental Record with the intent to defraud or harm another, a state jail felony by the 147<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is April 19, 2022.

**INDICTED: STATE OF TEXAS VS BRETT TABLERIOU, D-1-DC-22-900018:** At the time of the incident, Mr. Tableriou was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Tableriou was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 460<sup>th</sup> District Court.

The next court setting is April 19, 2022.

**INDICTED: STATE OF TEXAS VS NICHOLAS GEBHART, D-1-DC-20-900060:** At the time of the incident, Mr. Gebhart was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Gebhart was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is April 19, 2022.

**INDICTED: STATE OF TEXAS VS CHRISTIAN IRWIN, D-1-DC-22-900012:** At the time of the incident, Mr. Irwin was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Irwin was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is April 19, 2022.

**INDICTED: STATE OF TEXAS VS JEREMY FISHER, D-1-DC-22-900011:** At the time of the incident, Mr. Fisher was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Fisher was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 403<sup>rd</sup> District Court.

The next court setting is April 20, 2022.

**INDICTED: STATE OF TEXAS VS JUSTIN BERRY, D-1-DC-20-900055:** At the time of the incident, Mr. Berry was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Berry was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is April 27, 2022.

**INDICTED: STATE OF TEXAS VS STANLEY VICK, D-1-DC-22-900009:** At the time of the incident, Mr. Vick was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Vick was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is April 27, 2022.

**UNINDICTED**

**COMPLAINANT: MEREDITH DRAKE / SUBJECT OFFICER: CHANCE BRETCHES (Date of Incident: 05/31/2020):** On May 31, 2020, Mr. Drake, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition. Officer Bretches was indicted on 1/20/2021 on Aggravated Assault by Public Servant on an unrelated case.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2020 protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early spring of 2022.

**COMPLAINANT: TYREE TALLEY/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Talley attended a protest in downtown Austin following the deaths of George Floyd and Michael Ramos was struck by “bean-bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2020 protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early spring of 2022.

**COMPLAINANT: MODESTO RODRIGUEZ/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Rodriguez attended a protest in downtown Austin following the deaths of George Floyd and Michael Ramos was struck by “bean-bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2020 protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early spring of 2022.

**DECEDENT: ENRIQUE QUIROZ / SUBJECT OFFICERS: EDUARDO PINEDA, SPENCER HANNA, ZANE DOWDELL, LUCAS PARKER, MARK YALETCHKO and TRINITHAD GARCIA (Date of Incident: 03/21/2020):** Mr. Quiroz died while in the custody of the Austin Police Department after an encounter with multiple officers on March 31, 2020.

We expect that this case will be presented to a grand jury in the early spring of 2022.

**COMPLAINANT: F. ZIMMERMAN (Pseudonym) / SUBJECT OFFICER: WALTER DODDS (Date of Incident: 04/18/2020):** On April 18, 2020, while responding to a service call involving Ms. Zimmerman, Mr. Dodds, then an Austin Police Department officer encountered Ms. Zimmerman and is alleged to have later returned to her residence and alleged to have sexually assaulted her.

The case is currently under investigation in a joint investigation conducted by the Travis County District Attorney’s Sexual Assault Unit and the Civil Rights Unit. This case is expected to be presented to a Travis County grand jury in the early spring of 2022.

**DECEDENT: ALEXANDER GONZALES / SUBJECT OFFICER: LUIS SERRATO AND GABRIEL GUTIERREZ (Date of Incident: 01/05/2021):** On January 5, 2021, Mr. Alexander Gonzales died as a result of multiple gunshot wounds in an incident involving an off-duty Austin Police Department officer and another officer who was on duty, both of whom discharged their weapons striking Mr. Gonzales.

The case is currently under investigation in a joint investigation involving the Austin Police Department’s Special Investigations Unit and the Travis County District Attorney Office’s Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**COMPLAINANT: NAME WITHHELD/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 3/12/2021):** On March 12, 2021, the civilian was arrested for an active warrant. While officers attempted to place the civilian under arrest, the civilian victim was struck by a baton and tased.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**COMPLAINANT: NAME WITHHELD/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 11/26/2020):** On November 26, 2020, the civilian was arrested for interfering with a crime scene which was investigated by Austin Police Department. The victim was struck by the subject officer while being handcuffed.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**SUBJECT OFFICERS: MICHAEL BARBA/JASON CUMMINS/DERRICK LEHMAN (Date of Incident: 08/19/2021):** On August 19, 2021, a civilian was shot and tased by Austin Police Department Officers. The civilian is expected to recover from his injuries.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**DESCENDANT: RONALD ZAVAGLIA/SUBJECT OFFICER: IAN CLARK (Date of Incident: 08/19/2021):** On August 19, 2021, Mr. Zavaglia died as a result of a gunshot wound in an incident with the Pflugerville Police Department.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**COMPLAINANT: NAME WITHHELD/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 09/18/2021):** On September 18, 2021, the civilian was struck by an Austin Police Department Officer after multiple requests to leave the area.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**DECENDENT: MICHAEL CAROTHERS/SUBJECT OFFICER: NAME WITHHELD (Date of**

**Incident: 10/09/2021):** On October 09, 2021, there was gunfire between civilians. Subsequently, an officer discharged his weapon. Mr. Carothers died as a result of a gunshot wound.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early summer of 2022.

**DECEDENT: ROBERT RICHAHT/SUBJECT OFFICERS: ERIC STRNAD (Date of Incident: 10/27/2021)** On October 27, 2021, Mr. Richart died as a result of a gunshot wound fired by an Austin Police Department officer on October 27, 2021.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early summer of 2022.

**COMPLAINANT: NAME WITHHELD/SUBJECT OFFICER: JAVIER RODRIGUEZ (Date of Incident: 12/24/2021)** On 12/24/2021, Mr. Navejar was shot by Austin Police Department Officers. Mr. Navejar is expected to recover from his injuries.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early summer of 2022.

**COMPLAINT: NAME WITHHELD/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: June 24, 2021):** On June 24, 2021, the juvenile civilian was struck by "bean bag" ammunition, a less-lethal while officers were executing a search warrant and arrest warrant.

The case is currently under investigation with the Travis County District Attorney's Office Civil Rights Unit. Our Office expects that the investigation should be concluded within a timeframe that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence no later than early fall of 2022.

**COMPLAINANT: SIMONE GRIFFITH/ SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 10/30/2021):** On October 30, 2021, Ms. Griffith was arrested for criminal trespass. While officers attempted to place Ms. Griffith under arrest, she was struck by Austin Police Department Officers.

The case is currently under investigation with the Travis County District Attorney's Office Civil Rights Unit. Our Office expects that the investigation should be concluded within a timeframe that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence no later than early fall of 2022.

**COMPLAINANT: TERRY GONZALES / SUBJECT OFFICER: RON RIORDAN (Date of Incident 01/29/2022)** On 1/29/2022, a civilian was shot by Austin Police Department Officers. The civilian is expected to recover from his injuries.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office

expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early fall of 2022.

**COMPLAINANT: NAME WITHHELD/ SUBJECT OFFICERS: NAME WITHHELD (Date of Incident: March 6, 2022)** On 3/06/2022, a civilian died as a result of a gunshot wound fired by Austin Police Department Officers.

The case is currently under investigation with the Travis County District Attorney's Office Civil Rights Unit. Our Office expects that the investigation should be concluded within a timeframe that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence no later than early fall of 2022.



## OFFICE OF THE DISTRICT ATTORNEY

P.O. Box 1748, Austin, TX 78767

Telephone 512/854-9400

Telefax 512/854-4206

**JOSÉ P. GARZA**  
DISTRICT ATTORNEY

**TRUDY STRASSBURGER**  
FIRST ASSISTANT

### **Travis County DA Civil Rights Unit Case Summaries - April 4, 2022**

The following is a current list of each officer-involved use of force or other misconduct matter involving injury to any person currently pending in the Office's Civil Rights Unit.

#### **INDICTED CASES**

**INDICTED: STATE OF TEXAS VS DERRICK LEHMAN, D-1-DC-20-900071:** At the time of the incident, Mr. Lehman was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Lehman was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is April 5, 2022.

**INDICTED: STATE OF TEXAS VS ALEXANDER LOMOVSTEV, D-1-DC-21-900126:** At the time of the incident, Mr. Lomovstev was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Lomovstev was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is April 5, 2022.

**INDICTED: STATE OF TEXAS VS ERIC HEIM, D-1-DC-20-900076:** At the time of the incident, Mr. Heim was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Heim was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is April 7, 2022.

**INDICTED: STATE OF TEXAS VS KYLE FELTON, D-1-DC-20-900054 / D-1-DC-20-900059:** At the time of the incident, Mr. Felton was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Felton was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is April 7, 2022.

**INDICTED: STATE OF TEXAS VS JEFFREY TENG, D-1-DC-22-900005:** At the time of the incident, Mr. Teng was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Teng was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is April 7, 2022.

**INDICTED: STATE OF TEXAS VS KYU AN, D-1-DC-20-900054:** At the time of the incident, Mr. An was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. An was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 403<sup>rd</sup> District Court.

The next court setting is April 7, 2022.

**INDICTED: STATE OF TEXAS VS TODD GILBERTSON, D-1-DC-21-900125:** At the time of the incident, Mr. Gilbertson was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Gilbertson was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 427<sup>th</sup> District Court.

The next court setting is April 11, 2022.

**INDICTED: STATE OF TEXAS VS NATHANIEL STALLINGS, D-1-DC-19-904051 / D-1-DC-21-904041:** At the time of the incident, Mr. Stallings, then a licensed peace officer, was employed as a police officer with the Austin Police Department. On October 6, 2017, while on duty and in uniform in a fully marked Austin Police Department patrol vehicle, Mr. Stallings is alleged to have caused bodily injury to a civilian. Mr. Stallings was indicted on June 25, 2018 and charged with Assault and Abuse of Official Capacity. Both cases are pending in the 450<sup>th</sup> District Court.

The next court setting is April 12, 2022.

**INDICTED: STATE OF TEXAS VS EDWARD BOUDREAU, D-1-DC-22-900020:** At the time of the incident, Mr. Boudreau was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Boudreau was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is April 12, 2022.

**INDICTED: STATE OF TEXAS VS. KARL KRYCIA, D-1-DC-21-900071:** At the time of the incident, Mr. Krycia was employed as an officer for the Austin Police Department. On Thursday, August 26, 2021, Mr. Krycia was indicted for Murder, a first-degree felony, and for Deadly Conduct Discharge of Firearm, a third-degree felony by the 331<sup>st</sup> Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is April 13, 2022.

**INDICTED: STATE OF TEXAS VS LANDO HALL, D-1-DC-19-900105:** At the time of the incident, Mr. Hall was employed as a police officer with the Austin Police Department. On Monday, January 4, 2021, APD Officer Lando Hall was indicted for the felony offense of Misuse of Official Information, a third-degree felony under Section 39.06(b) of the Texas Penal Code by the 147<sup>th</sup> Special Grand Jury – Extended July 2020 term. The case is pending in the 403<sup>rd</sup> Judicial District Court.

The next court setting is April 13, 2022.

**INDICTED: STATE OF TEXAS VS JOSHUA JACKSON, D-1-DC-22-900010:** At the time of the incident, Mr. Jackson was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Jackson was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is April 13, 2022.

**INDICTED: STATE OF TEXAS VS ROLAN RAST, D-1-DC-20-900080:** At the time of the incident, Mr. Siegel was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Siegel was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 331<sup>st</sup> District Court.

The next court setting is April 14, 2022.

**INDICTED: STATE OF TEXAS VS. SHANNON OWENS, D-1-DC-20-900003:** At the time of the incident, Mr. Owens was employed as a corrections officer with the Travis County Sherriff's Office. On Wednesday, December 16, 2020, TCSO Deputy Owens was indicted with Aggravated Perjury, a third-degree felony, and Tampering with Governmental Record with the intent to defraud or harm another, a state jail felony by the 147<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is April 19, 2022.

**INDICTED: STATE OF TEXAS VS BRETT TABLERIOU, D-1-DC-22-900018:** At the time of the incident, Mr. Tableriou was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Tableriou was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 460<sup>th</sup> District Court.

The next court setting is April 19, 2022.

**INDICTED: STATE OF TEXAS VS NICHOLAS GEBHART, D-1-DC-20-900060:** At the time of the incident, Mr. Gebhart was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Gebhart was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is April 19, 2022.

**INDICTED: STATE OF TEXAS VS CHRISTIAN IRWIN, D-1-DC-22-900012:** At the time of the incident, Mr. Irwin was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Irwin was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is April 19, 2022.

**INDICTED: STATE OF TEXAS VS JEREMY FISHER, D-1-DC-22-900011:** At the time of the incident, Mr. Fisher was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Fisher was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 403<sup>rd</sup> District Court.

The next court setting is April 20, 2022.

**INDICTED: STATE OF TEXAS VS JUSTIN BERRY, D-1-DC-20-900055:** At the time of the incident, Mr. Berry was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Berry was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is April 27, 2022.

**INDICTED: STATE OF TEXAS VS STANLEY VICK, D-1-DC-22-900009:** At the time of the incident, Mr. Vick was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Vick was indicted for Aggravated Assault by Public Servant, a first-degree felony

by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is April 27, 2022.

**INDICTED: STATE OF TEXAS VS. JAMES JOHNSON, D-1-DC-20-900070:** At the time of the incident, Mr. Johnson was employed as a deputy with the Williamson County Sheriff's Office. On Monday, March 29, 2021, Deputy Johnson was indicted with Manslaughter, a second-degree felony, by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is May 3, 2022.

**INDICTED: STATE OF TEXAS VS. ZACHARY CAMDEN, D-1-DC-20-900069:** At the time of the incident, Mr. Camden was employed as a deputy with the Williamson County Sheriff's Office. On Monday, March 29, 2021, Deputy Camden was indicted with Manslaughter, a second-degree felony, by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is May 3, 2022.

**INDICTED: STATE OF TEXAS VS. ROBERT CHODY, D-1-DC-21-904036:** At the time of the incident, Mr. Chody was the elected Sheriff in Williamson County. On Wednesday, March 31, 2021, Mr. Chody was indicted Tampering with Physical Evidence with Intent to Impair, a third-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is May 11, 2022.

**INDICTED: STATE OF TEXAS VS. JASON NASSOUR, D-1-DC-21-904035:** At the time of the incident, Mr. Nassour was employed as General Counsel for the Williamson County Office. On Wednesday, March 31, 2021, Mr. Nassour was indicted Tampering with Physical Evidence with Intent to Impair, a third-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is May 11, 2022.

**INDICTED: STATE OF TEXAS VS. CHANCE BRETCHES, D-1-DC-20-900091:** At the time of the incident, Mr. Bretches was employed as a police officer with the Austin Police Department. On Wednesday, January 20, 2021, Officer Bretches was indicted with Aggravated Assault by a Public Servant, Serious Bodily Injury/Deadly Weapon, a first-degree felony by the extended 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is May 12, 2022.

**INDICTED: STATE OF TEXAS VS. CHRISTOPHER TAYLOR, D-1-DC-20-900048:** At the time of the incident, Mr. Taylor was employed as an officer with the Austin Police Department. On Wednesday, March 10, 2021, Officer Taylor was indicted with Murder, a first-degree felony, by the 147<sup>th</sup> Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is May 16, 2022.

**INDICTED: STATE OF TEXAS VS. CHRISTOPHER TAYLOR, D-1-DC-19-900111:** At the time of the incident, Mr. Taylor was employed as an officer for the Austin Police Department. On Thursday, August 26, 2021, Mr. Taylor was indicted for Murder, a first-degree felony, and for Deadly Conduct Discharge of Firearm, a third-degree felony by the 331st Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is May 16, 2022.

**INDICTED: STATE OF TEXAS VS JOHN SIEGEL, D-1-DC-20-900072:** At the time of the incident, Mr. Siegel was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Siegel was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 147<sup>th</sup> District Court.

The next court setting is May 23, 2022.

**INDICTED: STATE OF TEXAS VS JOSHUA BLAKE, D-1-DC-22-900019:** At the time of the incident, Mr. Blake was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Blake was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 147<sup>th</sup> District Court.

The next court setting is May 23, 2022.

**INDICTED: STATE OF TEXAS VS JOSEPH CAST, D-1-DC-20-900061:** At the time of the incident, Mr. Cast was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Cast was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is May 24, 2022.

**UNINDICTED**

**COMPLAINANT: MEREDITH DRAKE / SUBJECT OFFICER: CHANCE BRETCHES (Date of Incident: 05/31/2020):** On May 31, 2020, Ms. Drake, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition. Officer Bretches was indicted on 1/20/2021 on Aggravated Assault by Public Servant on an unrelated case.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2020, protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early spring of 2022.

**COMPLAINANT: SARANIQUA ALEXANDER / SUBJECT OFFICER: KYU AN (Date of Incident: 05/30/2020):** On May 30, 2020, Ms. Alexander, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition. Officer An was indicted on 1/20/2021 on Aggravated Assault by Public Servant on an unrelated case.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2020, protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early spring of 2022.

**COMPLAINANT: TYREE TALLEY/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Talley attended a protest in downtown Austin following the deaths of George Floyd and Michael Ramos was struck by “bean-bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2020 protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early spring of 2022.

**COMPLAINANT: MODESTO RODRIGUEZ/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Rodriguez attended a protest in downtown Austin following the deaths of George Floyd and Michael Ramos was struck by “bean-bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2020 protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early spring of 2022.

**DECEDENT: ENRIQUE QUIROZ / SUBJECT OFFICERS: EDUARDO PINEDA, SPENCER HANNA, ZANE DOWDELL, LUCAS PARKER, MARK YALETCHKO and TRINITHAD GARCIA (Date of Incident: 03/21/2020):** Mr. Quiroz died while in the custody of the Austin Police Department after an encounter with multiple officers on March 31, 2020.

We expect that this case will be presented to a grand jury in the early spring of 2022.

**COMPLAINANT: F. ZIMMERMAN (Pseudonym) / SUBJECT OFFICER: WALTER DODDS (Date of Incident: 04/18/2020):** On April 18, 2020, while responding to a service call involving Ms. Zimmerman, Mr. Dodds, then an Austin Police Department officer encountered Ms. Zimmerman and is alleged to have later returned to her residence and alleged to have sexually assaulted her.

The case is currently under investigation in a joint investigation conducted by the Travis County District Attorney’s Sexual Assault Unit and the Civil Rights Unit. This case is expected to be presented to a Travis County grand jury in the early spring of 2022.

**DECEDENT: ALEXANDER GONZALES / SUBJECT OFFICER: LUIS SERRATO AND GABRIEL GUTIERREZ (Date of Incident: 01/05/2021):** On January 5, 2021, Mr. Alexander Gonzales died as a result of multiple gunshot wounds in an incident involving an off-duty Austin Police Department officer and another officer who was on duty, both of whom discharged their weapons striking Mr. Gonzales.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**COMPLAINANT: NAME WITHHELD/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 3/12/2021):** On March 12, 2021, the civilian was arrested for an active warrant. While officers attempted to place the civilian under arrest, the civilian victim was struck by a baton and tased.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**COMPLAINANT: NAME WITHHELD/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 11/26/2020):** On November 26, 2020, the civilian was arrested for interfering with a crime scene which was investigated by Austin Police Department. The victim was struck by the subject officer while being handcuffed.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**SUBJECT OFFICERS: MICHAEL BARBA/JASON CUMMINS/DERRICK LEHMAN (Date of Incident: 08/19/2021):** On August 19, 2021, a civilian was shot and tased by Austin Police Department Officers. The civilian is expected to recover from his injuries.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**DESCENDANT: RONALD ZAVAGLIA/SUBJECT OFFICER: IAN CLARK (Date of Incident: 08/19/2021):** On August 19, 2021, Mr. Zavaglia died as a result of a gunshot wound in an incident with the Pflugerville Police Department.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**COMPLAINANT: NAME WITHHELD/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 09/18/2021):** On September 18, 2021, the civilian was struck by an Austin Police Department Officer after multiple requests to leave the area.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**DECEDENT: MICHAEL CAROTHERS/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 10/09/2021):** On October 09, 2021, there was gunfire between civilians. Subsequently, an officer discharged his weapon. Mr. Carothers died as a result of a gunshot wound.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early summer of 2022.

**DECEDENT: ROBERT RICHART/SUBJECT OFFICERS: ERIC STRNAD (Date of Incident: 10/27/2021)** On October 27, 2021, Mr. Richart died as a result of a gunshot wound fired by an Austin Police Department officer on October 27, 2021.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early summer of 2022.

**COMPLAINANT: JUVENTINO NEVEJAR/SUBJECT OFFICER: JAVIER RODRIGUEZ (Date of Incident: 12/24/2021)** On 12/24/2021, Mr. Navejar was shot by Austin Police Department Officers. Mr. Navejar is expected to recover from his injuries.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early summer of 2022.

**COMPLAINT: NAME WITHHELD/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: June 24, 2021):** On June 24, 2021, the juvenile civilian was struck by "bean bag" ammunition, a less-lethal while officers were executing a search warrant and arrest warrant.

The case is currently under investigation with the Travis County District Attorney's Office Civil Rights Unit. Our Office expects that the investigation should be concluded within a timeframe that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence no later than early fall of 2022.

**COMPLAINANT: SIMONE GRIFFITH/ SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 10/30/2021):** On October 30, 2021, Ms. Griffith was arrested for criminal trespass. While officers attempted to place Ms. Griffith under arrest, she was struck by Austin Police Department Officers.

The case is currently under investigation with the Travis County District Attorney's Office Civil Rights Unit. Our Office expects that the investigation should be concluded within a timeframe that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence no later than early fall of 2022.

**COMPLAINANT: TERRY GONZALES / SUBJECT OFFICER: RON RIORDAN (Date of Incident 01/29/2022)** On 1/29/2022, Mr. Gonzales was shot by Austin Police Department Officers. The civilian is expected to recover from his injuries.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early fall of 2022.

**COMPLAINANT: MIGUEL RIVERA/ SUBJECT OFFICERS: BRITTON TAYLOR and CHARLES WESLEY (Date of Incident: March 6, 2022)** On 3/06/2022, Mr. Rivera died as a result of a gunshot wound fired by Austin Police Department Officers.

The case is currently under investigation with the Travis County District Attorney's Office Civil Rights Unit. Our Office expects that the investigation should be concluded within a timeframe that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence no later than early fall of 2022.



## OFFICE OF THE DISTRICT ATTORNEY

P.O. Box 1748, Austin, TX 78767

Telephone 512/854-9400

Telefax 512/854-4206

**JOSÉ P. GARZA**  
DISTRICT ATTORNEY

**TRUDY STRASSBURGER**  
FIRST ASSISTANT

### **Travis County DA Civil Rights Unit Case Summaries - April 18, 2022**

The following is a current list of each officer-involved use of force or other misconduct matter involving injury to any person currently pending in the Office's Civil Rights Unit.

#### **INDICTED CASES**

**INDICTED: STATE OF TEXAS VS NATHANIEL STALLINGS, D-1-DC-19-904051 / D-1-DC-21-904041:** At the time of the incident, Mr. Stallings, then a licensed peace officer, was employed as a police officer with the Austin Police Department. On October 6, 2017, while on duty and in uniform in a fully marked Austin Police Department patrol vehicle, Mr. Stallings is alleged to have caused bodily injury to a civilian. Mr. Stallings was indicted on June 25, 2018 and charged with Assault and Abuse of Official Capacity. Both cases are pending in the 450<sup>th</sup> District Court.

The next court setting is April 19, 2022.

**INDICTED: STATE OF TEXAS VS. SHANNON OWENS, D-1-DC-20-900003:** At the time of the incident, Mr. Owens was employed as a corrections officer with the Travis County Sherriff's Office. On Wednesday, December 16, 2020, TCSO Deputy Owens was indicted with Aggravated Perjury, a third-degree felony, and Tampering with Governmental Record with the intent to defraud or harm another, a state jail felony by the 147<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is April 19, 2022.

**INDICTED: STATE OF TEXAS VS BRETT TABLERIOU, D-1-DC-22-900018:** At the time of the incident, Mr. Tableriou was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Tableriou was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 460<sup>th</sup> District Court.

The next court setting is April 19, 2022.

**INDICTED: STATE OF TEXAS VS NICHOLAS GEBHART, D-1-DC-20-900060:** At the time of the incident, Mr. Gebhart was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Gebhart was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is April 19, 2022.

**INDICTED: STATE OF TEXAS VS CHRISTIAN IRWIN, D-1-DC-22-900012:** At the time of the incident, Mr. Irwin was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Irwin was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is April 19, 2022.

**INDICTED: STATE OF TEXAS VS JEREMY FISHER, D-1-DC-22-900011:** At the time of the incident, Mr. Fisher was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Fisher was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 403<sup>rd</sup> District Court.

The next court setting is April 20, 2022.

**INDICTED: STATE OF TEXAS VS JUSTIN BERRY, D-1-DC-20-900055:** At the time of the incident, Mr. Berry was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Berry was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is April 27, 2022.

**INDICTED: STATE OF TEXAS VS STANLEY VICK, D-1-DC-22-900009:** At the time of the incident, Mr. Vick was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Vick was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is April 27, 2022.

**INDICTED: STATE OF TEXAS VS. JAMES JOHNSON, D-1-DC-20-900070:** At the time of the incident, Mr. Johnson was employed as a deputy with the Williamson County Sheriff's Office. On Monday, March 29, 2021, Deputy Johnson was indicted with Manslaughter, a second-degree felony, by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is May 3, 2022.

**INDICTED: STATE OF TEXAS VS. ZACHARY CAMDEN, D-1-DC-20-900069:** At the time of the incident, Mr. Camden was employed as a deputy with the Williamson County Sheriff's Office. On Monday, March 29, 2021, Deputy Camden was indicted with Manslaughter, a second-degree felony, by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is May 3, 2022.

**INDICTED: STATE OF TEXAS VS LANDO HALL, D-1-DC-19-900105:** At the time of the incident, Mr. Hall was employed as a police officer with the Austin Police Department. On Monday, January 4, 2021, APD Officer Lando Hall was indicted for the felony offense of Misuse of Official Information, a third-degree felony under Section 39.06(b) of the Texas Penal Code by the 147<sup>th</sup> Special Grand Jury – Extended July 2020 term. The case is pending in the 403<sup>rd</sup> Judicial District Court.

The next court setting is May 4, 2022.

**INDICTED: STATE OF TEXAS VS KYU AN, D-1-DC-20-900057:** At the time of the incident, Mr. An was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. An was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 403<sup>rd</sup> District Court.

The next court setting is May 4, 2022.

**INDICTED: STATE OF TEXAS VS ERIC HEIM, D-1-DC-20-900076:** At the time of the incident, Mr. Heim was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Heim was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is May 5, 2022.

**INDICTED: STATE OF TEXAS VS KYLE FELTON, D-1-DC-20-900054 / D-1-DC-20-900059:** At the time of the incident, Mr. Felton was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Felton was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is May 5, 2022.

**INDICTED: STATE OF TEXAS VS JEFFREY TENG, D-1-DC-22-900005:** At the time of the incident, Mr. Teng was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Teng was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is May 5, 2022.

**INDICTED: STATE OF TEXAS VS ALEXANDER LOMOVSTEV, D-1-DC-21-900126:** At the time of the incident, Mr. Lomovstev was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Lomovstev was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 427<sup>th</sup> District Court.

The next court setting is May 11, 2022.

**INDICTED: STATE OF TEXAS VS. ROBERT CHODY, D-1-DC-21-904036:** At the time of the incident, Mr. Chody was the elected Sheriff in Williamson County. On Wednesday, March 31, 2021, Mr. Chody was indicted Tampering with Physical Evidence with Intent to Impair, a third-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is May 11, 2022.

**INDICTED: STATE OF TEXAS VS. JASON NASSOUR, D-1-DC-21-904035:** At the time of the incident, Mr. Nassour was employed as General Counsel for the Williamson County Office. On Wednesday, March 31, 2021, Mr. Nassour was indicted Tampering with Physical Evidence with Intent to Impair, a third-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is May 11, 2022.

**INDICTED: STATE OF TEXAS VS. CHANCE BRETCHES, D-1-DC-20-900091:** At the time of the incident, Mr. Bretches was employed as a police officer with the Austin Police Department. On Wednesday, January 20, 2021, Officer Bretches was indicted with Aggravated Assault by a Public Servant, Serious Bodily Injury/Deadly Weapon, a first-degree felony by the extended 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is May 12, 2022.

**INDICTED: STATE OF TEXAS VS. CHRISTOPHER TAYLOR, D-1-DC-20-900048:** At the time of the incident, Mr. Taylor was employed as an officer with the Austin Police Department. On Wednesday, March 10, 2021, Officer Taylor was indicted with Murder, a first-degree felony, by the 147<sup>th</sup> Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is May 16, 2022.

**INDICTED: STATE OF TEXAS VS. CHRISTOPHER TAYLOR, D-1-DC-19-900111:** At the time of the incident, Mr. Taylor was employed as an officer for the Austin Police Department. On Thursday, August 26, 2021, Mr. Taylor was indicted for Murder, a first-degree felony, and for Deadly Conduct Discharge of Firearm, a third-degree felony by the 331<sup>st</sup> Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is May 16, 2022.

**INDICTED: STATE OF TEXAS VS. KARL KRYCIA, D-1-DC-21-900071:** At the time of the incident, Mr. Krycia was employed as an officer for the Austin Police Department. On Thursday, August 26, 2021, Mr. Krycia was indicted for Murder, a first-degree felony, and for Deadly Conduct Discharge of Firearm, a third-degree felony by the 331<sup>st</sup> Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is May 18, 2022.

**INDICTED: STATE OF TEXAS VS JOHN SIEGEL, D-1-DC-20-900072:** At the time of the incident, Mr. Siegel was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Siegel was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 147<sup>th</sup> District Court.

The next court setting is May 23, 2022.

**INDICTED: STATE OF TEXAS VS JOSHUA BLAKE, D-1-DC-22-900019:** At the time of the incident, Mr. Blake was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Blake was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 147<sup>th</sup> District Court.

The next court setting is May 23, 2022.

**INDICTED: STATE OF TEXAS VS JOSEPH CAST, D-1-DC-20-900061:** At the time of the incident, Mr. Cast was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Cast was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is May 24, 2022.

**INDICTED: STATE OF TEXAS VS JOSHUA JACKSON, D-1-DC-22-900010:** At the time of the incident, Mr. Jackson was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Jackson was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is May 27, 2022.

**INDICTED: STATE OF TEXAS VS ROLAN RAST, D-1-DC-20-900080:** At the time of the incident, Mr. Siegel was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Siegel was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 331<sup>st</sup> District Court.

The next court setting is May 27, 2022.

**INDICTED: STATE OF TEXAS VS TODD GILBERTSON, D-1-DC-21-900125:** At the time of the incident, Mr. Gilbertson was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Gilbertson was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is June 15, 2022.

**INDICTED: STATE OF TEXAS VS EDWARD BOUDREAU, D-1-DC-22-900020:** At the time of the incident, Mr. Boudreau was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Boudreau was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is June 21, 2022.

**INDICTED: STATE OF TEXAS VS DERRICK LEHMAN, D-1-DC-20-900071:** At the time of the incident, Mr. Lehman was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Lehman was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is June 21, 2022.

**UNINDICTED**

**COMPLAINANT: MEREDITH DRAKE / SUBJECT OFFICER: CHANCE BRETCHES (Date of Incident: 05/31/2020):** On May 31, 2020, Ms. Drake, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition. Officer Bretches was indicted on 1/20/2021 on Aggravated Assault by Public Servant on an unrelated case.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2020, protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early spring of 2022.

**COMPLAINANT: SARANIQUA ALEXANDER / SUBJECT OFFICER: KYU AN (Date of Incident: 05/30/2020):** On May 30, 2020, Ms. Alexander, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition. Officer An was indicted on 1/20/2021 on Aggravated Assault by Public Servant on an unrelated case.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2020, protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early spring of 2022.

**COMPLAINANT: TYREE TALLEY/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Talley attended a protest in downtown Austin following the deaths of George Floyd and Michael Ramos was struck by “bean-bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2020 protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early spring of 2022.

**COMPLAINANT: MODESTO RODRIGUEZ/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Rodriguez attended a protest in downtown Austin following the deaths of George Floyd and Michael Ramos was struck by “bean-bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2020 protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early spring of 2022.

**DECEDENT: ENRIQUE QUIROZ / SUBJECT OFFICERS: EDUARDO PINEDA, SPENCER HANNA, ZANE DOWDELL, LUCAS PARKER, MARK YALETCHKO and TRINITHAD GARCIA (Date of Incident: 03/21/2020):** Mr. Quiroz died while in the custody of the Austin Police Department after an encounter with multiple officers on March 31, 2020.

We expect that this case will be presented to a grand jury in the early spring of 2022.

**COMPLAINANT: F. ZIMMERMAN (Pseudonym) / SUBJECT OFFICER: WALTER DODDS (Date of Incident: 04/18/2020):** On April 18, 2020, while responding to a service call involving Ms. Zimmerman, Mr. Dodds, then an Austin Police Department officer encountered Ms. Zimmerman and is alleged to have later returned to her residence and alleged to have sexually assaulted her.

The case is currently under investigation in a joint investigation conducted by the Travis County District Attorney’s Sexual Assault Unit and the Civil Rights Unit. This case is expected to be presented to a Travis County grand jury in the early spring of 2022.

**DECEDENT: ALEXANDER GONZALES / SUBJECT OFFICER: LUIS SERRATO AND GABRIEL GUTIERREZ (Date of Incident: 01/05/2021):** On January 5, 2021, Mr. Alexander Gonzales died as a result of multiple gunshot wounds in an incident involving an off-duty Austin Police Department officer and another officer who was on duty, both of whom discharged their weapons striking Mr. Gonzales.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**COMPLAINANT: NAME WITHHELD/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 3/12/2021):** On March 12, 2021, the civilian was arrested for an active warrant. While officers attempted to place the civilian under arrest, the civilian victim was struck by a baton and tased.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**COMPLAINANT: NAME WITHHELD/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 11/26/2020):** On November 26, 2020, the civilian was arrested for interfering with a crime scene which was investigated by Austin Police Department. The victim was struck by the subject officer while being handcuffed.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**SUBJECT OFFICERS: MICHAEL BARBA/JASON CUMMINS/DERRICK LEHMAN (Date of Incident: 08/19/2021):** On August 19, 2021, a civilian was shot and tased by Austin Police Department Officers. The civilian is expected to recover from his injuries.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**DESCENDANT: RONALD ZAVAGLIA/SUBJECT OFFICER: IAN CLARK (Date of Incident: 08/19/2021):** On August 19, 2021, Mr. Zavaglia died as a result of a gunshot wound in an incident with the Pflugerville Police Department.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**COMPLAINANT: NAME WITHHELD/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 09/18/2021):** On September 18, 2021, the civilian was struck by an Austin Police Department Officer after multiple requests to leave the area.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**DECEDENT: MICHAEL CAROTHERS/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 10/09/2021):** On October 09, 2021, there was gunfire between civilians. Subsequently, an officer discharged his weapon. Mr. Carothers died as a result of a gunshot wound.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early summer of 2022.

**DECEDENT: ROBERT RICHART/SUBJECT OFFICERS: ERIC STRNAD (Date of Incident: 10/27/2021)** On October 27, 2021, Mr. Richart died as a result of a gunshot wound fired by an Austin Police Department officer on October 27, 2021.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early summer of 2022.

**COMPLAINANT: JUVENTINO NEVEJAR/SUBJECT OFFICER: JAVIER RODRIGUEZ (Date of Incident: 12/24/2021)** On 12/24/2021, Mr. Navejar was shot by Austin Police Department Officers. Mr. Navejar is expected to recover from his injuries.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early summer of 2022.

**COMPLAINT: NAME WITHHELD/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: June 24, 2021):** On June 24, 2021, the juvenile civilian was struck by "bean bag" ammunition, a less-lethal while officers were executing a search warrant and arrest warrant.

The case is currently under investigation with the Travis County District Attorney's Office Civil Rights Unit. Our Office expects that the investigation should be concluded within a timeframe that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence no later than early fall of 2022.

**COMPLAINANT: SIMONE GRIFFITH/ SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 10/30/2021):** On October 30, 2021, Ms. Griffith was arrested for criminal trespass. While officers attempted to place Ms. Griffith under arrest, she was struck by Austin Police Department Officers.

The case is currently under investigation with the Travis County District Attorney's Office Civil Rights Unit. Our Office expects that the investigation should be concluded within a timeframe that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence no later than early fall of 2022.

**COMPLAINANT: TERRY GONZALES / SUBJECT OFFICER: RON RIORDAN (Date of Incident 01/29/2022)** On 1/29/2022, Mr. Gonzales was shot by Austin Police Department Officers. The civilian is expected to recover from his injuries.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early fall of 2022.

**COMPLAINANT: MIGUEL RIVERA/ SUBJECT OFFICERS: BRITTON TAYLOR and CHARLES WESLEY (Date of Incident: March 6, 2022)** On 3/06/2022, Mr. Rivera died as a result of a gunshot wound fired by Austin Police Department Officers.

The case is currently under investigation with the Travis County District Attorney's Office Civil Rights Unit. Our Office expects that the investigation should be concluded within a timeframe that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence no later than early fall of 2022.



## OFFICE OF THE DISTRICT ATTORNEY

P.O. Box 1748, Austin, TX 78767

Telephone 512/854-9400

Telefax 512/854-4206

**JOSÉ P. GARZA**  
DISTRICT ATTORNEY

**TRUDY STRASSBURGER**  
FIRST ASSISTANT

### **Travis County DA Civil Rights Unit Case Summaries - April 29, 2022**

The following is a current list of each officer-involved use of force or other misconduct matter involving injury to any person currently pending in the Office's Civil Rights Unit.

#### **INDICTED CASES**

**INDICTED: STATE OF TEXAS VS. JAMES JOHNSON, D-1-DC-20-900070:** At the time of the incident, Mr. Johnson was employed as a deputy with the Williamson County Sheriff's Office. On Monday, March 29, 2021, Deputy Johnson was indicted with Manslaughter, a second-degree felony, by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is May 3, 2022.

**INDICTED: STATE OF TEXAS VS. ZACHARY CAMDEN, D-1-DC-20-900069:** At the time of the incident, Mr. Camden was employed as a deputy with the Williamson County Sheriff's Office. On Monday, March 29, 2021, Deputy Camden was indicted with Manslaughter, a second-degree felony, by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is May 3, 2022.

**INDICTED: STATE OF TEXAS VS LANDO HALL, D-1-DC-19-900105:** At the time of the incident, Mr. Hall was employed as a police officer with the Austin Police Department. On Monday, January 4, 2021, APD Officer Lando Hall was indicted for the felony offense of Misuse of Official Information, a third-degree felony under Section 39.06(b) of the Texas Penal Code by the 147<sup>th</sup> Special Grand Jury – Extended July 2020 term. The case is pending in the 403<sup>rd</sup> Judicial District Court.

The next court setting is May 4, 2022.

**INDICTED: STATE OF TEXAS VS KYLE FELTON, D-1-DC-20-900054 / D-1-DC-20-900059:** At the time of the incident, Mr. Felton was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Felton was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is May 5, 2022.

**INDICTED: STATE OF TEXAS VS JEFFREY TENG, D-1-DC-22-900005:** At the time of the incident, Mr. Teng was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Teng was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is May 11, 2022.

**INDICTED: STATE OF TEXAS VS ERIC HEIM, D-1-DC-20-900076:** At the time of the incident, Mr. Heim was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Heim was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is May 11, 2022.

**INDICTED: STATE OF TEXAS VS ALEXANDER LOMOVSTEV, D-1-DC-21-900126:** At the time of the incident, Mr. Lomovstev was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Lomovstev was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 427<sup>th</sup> District Court.

The next court setting is May 11, 2022.

**INDICTED: STATE OF TEXAS VS. ROBERT CHODY, D-1-DC-21-904036:** At the time of the incident, Mr. Chody was the elected Sheriff in Williamson County. On Wednesday, March 31, 2021, Mr. Chody was indicted Tampering with Physical Evidence with Intent to Impair, a third-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is May 11, 2022.

**INDICTED: STATE OF TEXAS VS. JASON NASSOUR, D-1-DC-21-904035:** At the time of the incident, Mr. Nassour was employed as General Counsel for the Williamson County Office. On Wednesday, March 31, 2021, Mr. Nassour was indicted Tampering with Physical Evidence with Intent to Impair, a third-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is May 11, 2022.

**INDICTED: STATE OF TEXAS VS. CHANCE BRETCHES, D-1-DC-20-900091:** At the time of the incident, Mr. Bretches was employed as a police officer with the Austin Police Department. On Wednesday, January 20, 2021, Officer Bretches was indicted with Aggravated Assault by a Public Servant, Serious Bodily Injury/Deadly Weapon, a first-degree felony by the extended 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is May 12, 2022.

**INDICTED: STATE OF TEXAS VS. CHRISTOPHER TAYLOR, D-1-DC-20-900048:** At the time of the incident, Mr. Taylor was employed as an officer with the Austin Police Department. On Wednesday, March 10, 2021, Officer Taylor was indicted with Murder, a first-degree felony, by the 147<sup>th</sup> Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is May 16, 2022.

**INDICTED: STATE OF TEXAS VS. CHRISTOPHER TAYLOR, D-1-DC-19-900111:** At the time of the incident, Mr. Taylor was employed as an officer for the Austin Police Department. On Thursday, August 26, 2021, Mr. Taylor was indicted for Murder, a first-degree felony, and for Deadly Conduct Discharge of Firearm, a third-degree felony by the 331st Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is May 16, 2022.

**INDICTED: STATE OF TEXAS VS. KARL KRYCIA, D-1-DC-21-900071:** At the time of the incident, Mr. Krycia was employed as an officer for the Austin Police Department. On Thursday, August 26, 2021, Mr. Krycia was indicted for Murder, a first-degree felony, and for Deadly Conduct Discharge of Firearm, a third-degree felony by the 331st Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is May 18, 2022.

**INDICTED: STATE OF TEXAS VS JOHN SIEGEL, D-1-DC-20-900072:** At the time of the incident, Mr. Siegel was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Siegel was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 147<sup>th</sup> District Court.

The next court setting is May 23, 2022.

**INDICTED: STATE OF TEXAS VS JOSHUA BLAKE, D-1-DC-22-900019:** At the time of the incident, Mr. Blake was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Blake was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 147<sup>th</sup> District Court.

The next court setting is May 23, 2022.

**INDICTED: STATE OF TEXAS VS JOSEPH CAST, D-1-DC-20-900061:** At the time of the incident, Mr. Cast was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Cast was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is May 24, 2022.

**INDICTED: STATE OF TEXAS VS ROLAN RAST, D-1-DC-20-900080:** At the time of the incident, Mr. Siegel was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Siegel was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 331<sup>st</sup> District Court.

The next court setting is May 27, 2022.

**INDICTED: STATE OF TEXAS VS JUSTIN BERRY, D-1-DC-20-900055:** At the time of the incident, Mr. Berry was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Berry was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is May 27, 2022.

**INDICTED: STATE OF TEXAS VS STANLEY VICK, D-1-DC-22-900009:** At the time of the incident, Mr. Vick was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Vick was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is May 27, 2022.

**INDICTED: STATE OF TEXAS VS BRETT TABLERIOU, D-1-DC-22-900018:** At the time of the incident, Mr. Tableriou was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Tableriou was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 460<sup>th</sup> District Court.

The next court setting is May 31, 2022.

**INDICTED: STATE OF TEXAS VS TODD GILBERTSON, D-1-DC-21-900125:** At the time of the incident, Mr. Gilbertson was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Gilbertson was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is June 15, 2022.

**INDICTED: STATE OF TEXAS VS JEREMY FISHER, D-1-DC-22-900011:** At the time of the incident, Mr. Fisher was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Fisher was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 403<sup>rd</sup> District Court.

The next court setting is June 15, 2022.

**INDICTED: STATE OF TEXAS VS NICHOLAS GEBHART, D-1-DC-20-900060:** At the time of the incident, Mr. Gebhart was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Gebhart was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is June 21, 2022.

**INDICTED: STATE OF TEXAS VS CHRISTOPHER IRWIN, D-1-DC-22-900012:** At the time of the incident, Mr. Irwin was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Irwin was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is June 21, 2022.

**INDICTED: STATE OF TEXAS VS EDWARD BOUDREAU, D-1-DC-22-900020:** At the time of the incident, Mr. Boudreau was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Boudreau was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is June 21, 2022.

**INDICTED: STATE OF TEXAS VS DERRICK LEHMAN, D-1-DC-20-900071:** At the time of the incident, Mr. Lehman was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Lehman was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is June 21, 2022.

**INDICTED: STATE OF TEXAS VS KYU AN, D-1-DC-20-900057:** At the time of the incident, Mr. An was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. An was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 403<sup>rd</sup> District Court.

The next court setting is June 22, 2022.

**INDICTED: STATE OF TEXAS VS. SHANNON OWENS, D-1-DC-20-900003:** At the time of the incident, Mr. Owens was employed as a corrections officer with the Travis County Sherriff's Office. On Wednesday, December 16, 2020, TCSO Deputy Owens was indicted with Aggravated Perjury, a third-degree felony, and Tampering with Governmental Record with the intent to defraud or harm another, a state jail felony by the 147<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is June 28, 2022.

**INDICTED: STATE OF TEXAS VS JOSHUA JACKSON, D-1-DC-22-900010:** At the time of the incident, Mr. Jackson was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Jackson was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is June 29, 2022.

**INDICTED: STATE OF TEXAS VS NATHANIEL STALLINGS, D-1-DC-21-904041:** At the time of the incident, Mr. Stallings, then a licensed peace officer, was employed as a police officer with the Austin Police Department. On October 6, 2017, while on duty and in uniform in a fully marked Austin Police Department patrol vehicle, Mr. Stallings is alleged to have caused bodily injury to a civilian. Mr. Stallings was indicted on June 25, 2018 and charged with Assault and Abuse of Official Capacity. Both cases are pending in the 450<sup>th</sup> District Court.

The next court setting is August 16, 2022.

**UNINDICTED**

**COMPLAINANT: MEREDITH DRAKE / SUBJECT OFFICER: CHANCE BRETCHES (Date of Incident: 05/31/2020):** On May 31, 2020, Ms. Drake, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition. Officer Bretches was indicted on 1/20/2021 on Aggravated Assault by Public Servant on an unrelated case.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2020, protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early spring of 2022.

**COMPLAINANT: SARANIQUA ALEXANDER / SUBJECT OFFICER: KYU AN (Date of Incident: 05/30/2020):** On May 30, 2020, Ms. Alexander, attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos, was struck by “bean bag” ammunition. Officer An was indicted on 1/20/2021 on Aggravated Assault by Public Servant on an unrelated case.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2020, protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early spring of 2022.

**COMPLAINANT: TYREE TALLEY/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Talley attended a protest in downtown Austin following the deaths of George Floyd and Michael Ramos was struck by “bean-bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2020 protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early spring of 2022.

**COMPLAINANT: MODESTO RODRIGUEZ/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Rodriguez attended a protest in downtown Austin following the deaths of George Floyd and Michael Ramos was struck by “bean-bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2020 protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early spring of 2022.

**DECEDENT: ENRIQUE QUIROZ / SUBJECT OFFICERS: EDUARDO PINEDA, SPENCER HANNA, ZANE DOWDELL, LUCAS PARKER, MARK YALETCHKO and TRINITHAD GARCIA (Date of Incident: 03/21/2020):** Mr. Quiroz died while in the custody of the Austin Police Department after an encounter with multiple officers on March 31, 2020.

We expect that this case will be presented to a grand jury in the early spring of 2022.

**COMPLAINANT: F. ZIMMERMAN (Pseudonym) / SUBJECT OFFICER: WALTER DODDS (Date of Incident: 04/18/2020):** On April 18, 2020, while responding to a service call involving Ms. Zimmerman, Mr. Dodds, then an Austin Police Department officer encountered Ms. Zimmerman and is alleged to have later returned to her residence and alleged to have sexually assaulted her.

The case is currently under investigation in a joint investigation conducted by the Travis County District Attorney’s Sexual Assault Unit and the Civil Rights Unit. This case is expected to be presented to a Travis County grand jury in the early spring of 2022.

**DECEDENT: ALEXANDER GONZALES / SUBJECT OFFICER: LUIS SERRATO AND GABRIEL GUTIERREZ (Date of Incident: 01/05/2021):** On January 5, 2021, Mr. Alexander Gonzales died as a result of multiple gunshot wounds in an incident involving an off-duty Austin Police Department officer and another officer who was on duty, both of whom discharged their weapons striking Mr. Gonzales.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**COMPLAINANT: NAME WITHHELD/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 3/12/2021):** On March 12, 2021, the civilian was arrested for an active warrant. While officers attempted to place the civilian under arrest, the civilian victim was struck by a baton and tased.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**COMPLAINANT: NAME WITHHELD/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 11/26/2020):** On November 26, 2020, the civilian was arrested for interfering with a crime scene which was investigated by Austin Police Department. The victim was struck by the subject officer while being handcuffed.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**SUBJECT OFFICERS: MICHAEL BARBA/JASON CUMMINS/DERRICK LEHMAN (Date of Incident: 08/19/2021):** On August 19, 2021, a civilian was shot and tased by Austin Police Department Officers. The civilian is expected to recover from his injuries.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**DESCENDANT: RONALD ZAVAGLIA/SUBJECT OFFICER: IAN CLARK (Date of Incident: 08/19/2021):** On August 19, 2021, Mr. Zavaglia died as a result of a gunshot wound in an incident with the Pflugerville Police Department.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**COMPLAINANT: NAME WITHHELD/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 09/18/2021):** On September 18, 2021, the civilian was struck by an Austin Police Department Officer after multiple requests to leave the area.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**DECEDENT: MICHAEL CAROTHERS/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 10/09/2021):** On October 09, 2021, there was gunfire between civilians. Subsequently, an officer discharged his weapon. Mr. Carothers died as a result of a gunshot wound.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early summer of 2022.

**DECEDENT: ROBERT RICHAHT/SUBJECT OFFICERS: ERIC STRNAD (Date of Incident: 10/27/2021)** On October 27, 2021, Mr. Richart died as a result of a gunshot wound fired by an Austin Police Department officer on October 27, 2021.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early summer of 2022.

**COMPLAINANT: JUVENTINO NEVEJAR/SUBJECT OFFICER: JAVIER RODRIGUEZ (Date of Incident: 12/24/2021)** On 12/24/2021, Mr. Navejar was shot by Austin Police Department Officers. Mr. Navejar is expected to recover from his injuries.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early summer of 2022.

**COMPLAINT: NAME WITHHELD/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: June 24, 2021):** On June 24, 2021, the juvenile civilian was struck by "bean bag" ammunition, a less-lethal while officers were executing a search warrant and arrest warrant.

The case is currently under investigation with the Travis County District Attorney's Office Civil Rights Unit. Our Office expects that the investigation should be concluded within a timeframe that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence no later than early fall of 2022.

**COMPLAINANT: SIMONE GRIFFITH/ SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 10/30/2021):** On October 30, 2021, Ms. Griffith was arrested for criminal trespass. While officers attempted to place Ms. Griffith under arrest, she was struck by Austin Police Department Officers.

The case is currently under investigation with the Travis County District Attorney's Office Civil Rights Unit. Our Office expects that the investigation should be concluded within a timeframe that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence no later than early fall of 2022.

**COMPLAINANT: TERRY GONZALES / SUBJECT OFFICER: RON RIORDAN (Date of Incident 01/29/2022)** On 1/29/2022, Mr. Gonzales was shot by Austin Police Department Officers. The civilian is expected to recover from his injuries.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early fall of 2022.

**COMPLAINANT: MIGUEL RIVERA/ SUBJECT OFFICERS: BRITTON TAYLOR and CHARLES WESLEY (Date of Incident: March 6, 2022)** On 3/06/2022, Mr. Rivera died as a result of a gunshot wound fired by Austin Police Department Officers.

The case is currently under investigation with the Travis County District Attorney's Office Civil Rights Unit. Our Office expects that the investigation should be concluded within a timeframe that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence no later than early fall of 2022.



## OFFICE OF THE DISTRICT ATTORNEY

P.O. Box 1748, Austin, TX 78767

Telephone 512/854-9400

Telefax 512/854-4206

**JOSÉ P. GARZA**  
DISTRICT ATTORNEY

**TRUDY STRASSBURGER**  
FIRST ASSISTANT

### **Travis County DA Civil Rights Unit Case Summaries - June 13, 2022**

The following is a current list of each officer-involved use of force or other misconduct matter involving injury to any person currently pending in the Office's Civil Rights Unit.

#### **INDICTED CASES**

**INDICTED: STATE OF TEXAS VS TODD GILBERTSON, D-1-DC-21-900125:** At the time of the incident, Mr. Gilbertson was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Gilbertson was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is June 15, 2022.

**INDICTED: STATE OF TEXAS VS JEREMY FISHER, D-1-DC-22-900011:** At the time of the incident, Mr. Fisher was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Fisher was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 403<sup>rd</sup> District Court.

The next court setting is June 15, 2022.

**INDICTED: STATE OF TEXAS VS CHANCE BRETCHES, D-1-DC-20-900056:** At the time of the incident, Mr. Bretches was employed as a police officer with the Austin Police Department. On Thursday May 26, 2022, Mr. Bretches was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 460<sup>th</sup> Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is June 17, 2022.

**INDICTED: STATE OF TEXAS VS NICHOLAS GEBHART, D-1-DC-20-900060:** At the time of the incident, Mr. Gebhart was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Gebhart was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is June 21, 2022.

**INDICTED: STATE OF TEXAS VS CHRISTOPHER IRWIN, D-1-DC-22-900012:** At the time of the incident, Mr. Irwin was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Irwin was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is June 21, 2022.

**INDICTED: STATE OF TEXAS VS EDWARD BOUDREAU, D-1-DC-22-900020:** At the time of the incident, Mr. Boudreau was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Boudreau was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is June 21, 2022.

**INDICTED: STATE OF TEXAS VS DERRICK LEHMAN, D-1-DC-20-900071:** At the time of the incident, Mr. Lehman was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Lehman was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is June 21, 2022.

**INDICTED: STATE OF TEXAS VS JOHN SIEGEL, D-1-DC-20-900072:** At the time of the incident, Mr. Siegel was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Siegel was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 147<sup>th</sup> District Court.

The next court setting is June 22, 2022.

**INDICTED: STATE OF TEXAS VS JOSHUA BLAKE, D-1-DC-22-900019:** At the time of the incident, Mr. Blake was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Blake was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 147<sup>th</sup> District Court.

The next court setting is June 22, 2022.

**INDICTED: STATE OF TEXAS VS STANLEY VICK, D-1-DC-22-900009:** At the time of the incident, Mr. Vick was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Vick was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is June 24, 2022.

**INDICTED: STATE OF TEXAS VS JUSTIN BERRY, D-1-DC-20-900055:** At the time of the incident, Mr. Berry was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Berry was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is June 24, 2022.

**INDICTED: STATE OF TEXAS VS BRETT TABLERIOU, D-1-DC-22-900018:** At the time of the incident, Mr. Tableriou was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Tableriou was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 460<sup>th</sup> District Court.

The next court setting is June 28, 2022.

**INDICTED: STATE OF TEXAS VS LANDO HALL, D-1-DC-19-900105:** At the time of the incident, Mr. Hall was employed as a police officer with the Austin Police Department. On Monday, January 4, 2021, APD Officer Lando Hall was indicted for the felony offense of Misuse of Official Information, a third-degree felony under Section 39.06(b) of the Texas Penal Code by the 147<sup>th</sup> Special Grand Jury – Extended July 2020 term. The case is pending in the 403<sup>rd</sup> Judicial District Court.

The next court setting is July 6, 2022.

**INDICTED: STATE OF TEXAS VS. ROBERT CHODY, D-1-DC-21-904036:** At the time of the incident, Mr. Chody was the elected Sheriff in Williamson County. On Wednesday, March 31, 2021, Mr. Chody was indicted for Tampering with Physical Evidence with Intent to Impair, a third-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is July 6, 2022.

**INDICTED: STATE OF TEXAS VS. JASON NASSOUR, D-1-DC-21-904035:** At the time of the incident, Mr. Nassour was employed as General Counsel for the Williamson County Office. On Wednesday, March 31, 2021, Mr. Nassour was indicted Tampering with Physical Evidence with Intent to Impair, a third-degree felony by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is July 6, 2022.

**INDICTED: STATE OF TEXAS VS JEFFREY TENG, D-1-DC-22-900005:** At the time of the incident, Mr. Teng was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Teng was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is July 7, 2022.

**INDICTED: STATE OF TEXAS VS ERIC HEIM, D-1-DC-20-900076:** At the time of the incident, Mr. Heim was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Heim was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is July 7, 2022.

**INDICTED: STATE OF TEXAS VS ROLAN RAST, D-1-DC-20-900080:** At the time of the incident, Mr. Siegel was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Siegel was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 331<sup>st</sup> District Court.

The next court setting is July 8, 2022.

**INDICTED: STATE OF TEXAS VS JAMES MORGAN, D-1-DC-22-900053:** At the time of the incident, Mr. Morgan was employed as a police officer with the Austin Police Department. On Thursday May 26, 2022, Mr. Morgan was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 460<sup>th</sup> Special Grand Jury. The case is pending in the 427<sup>th</sup> District Court.

The next court setting is July 8, 2022.

**INDICTED: STATE OF TEXAS VS. CHANCE BRETCHES, D-1-DC-20-900091:** At the time of the incident, Mr. Bretches was employed as a police officer with the Austin Police Department. On Wednesday, January 20, 2021, Officer Bretches was indicted with Aggravated Assault by a Public Servant, Serious Bodily Injury/Deadly Weapon, a first-degree felony by the extended 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is July 14, 2022.

**INDICTED: STATE OF TEXAS VS JOSEPH CAST, D-1-DC-20-900061:** At the time of the incident, Mr. Cast was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Cast was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is July 18, 2022.

**INDICTED: STATE OF TEXAS VS KYU AN, D-1-DC-20-900057:** At the time of the incident, Mr. An was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. An was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 403<sup>rd</sup> District Court.

The next court setting is July 20, 2022.

**INDICTED: STATE OF TEXAS VS. CHRISTOPHER TAYLOR, D-1-DC-19-900111:** At the time of the incident, Mr. Taylor was employed as an officer for the Austin Police Department. On Thursday, August 26, 2021, Mr. Taylor was indicted for Murder, a first-degree felony, and for Deadly Conduct Discharge of Firearm, a third-degree felony by the 331st Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is July 25, 2022.

**INDICTED: STATE OF TEXAS VS. KARL KRYCIA, D-1-DC-21-900071:** At the time of the incident, Mr. Krycia was employed as an officer for the Austin Police Department. On Thursday, August 26, 2021, Mr. Krycia was indicted for Murder, a first-degree felony, and for Deadly Conduct Discharge of Firearm, a third-degree felony by the 331st Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is July 25, 2022.

**INDICTED: STATE OF TEXAS VS. CHRISTOPHER TAYLOR, D-1-DC-20-900048:** At the time of the incident, Mr. Taylor was employed as an officer with the Austin Police Department. On Wednesday, March 10, 2021, Officer Taylor was indicted with Murder, a first-degree felony, by the 147<sup>th</sup> Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is July 25, 2022.

**INDICTED: STATE OF TEXAS VS ALEXANDER LOMOVSTEV, D-1-DC-21-900126:** At the time of the incident, Mr. Lomovstev was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Lomovstev was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 427<sup>th</sup> District Court.

The next court setting is July 27, 2022.

**INDICTED: STATE OF TEXAS VS. JAMES JOHNSON, D-1-DC-20-900070:** At the time of the incident, Mr. Johnson was employed as a deputy with the Williamson County Sheriff's Office. On Monday, March 29, 2021, Deputy Johnson was indicted with Manslaughter, a second-degree felony, by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is July 28, 2022.

**INDICTED: STATE OF TEXAS VS. ZACHARY CAMDEN, D-1-DC-20-900069:** At the time of the incident, Mr. Camden was employed as a deputy with the Williamson County Sheriff's Office. On Monday, March 29, 2021, Deputy Camden was indicted with Manslaughter, a second-degree felony, by the 147<sup>th</sup> Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is July 28, 2022.

**INDICTED: STATE OF TEXAS VS KYLE FELTON, D-1-DC-20-900054 / D-1-DC-20-900059:** At the time of the incident, Mr. Felton was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Felton was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is July 28, 2022.

**INDICTED: STATE OF TEXAS VS. SHANNON OWENS, D-1-DC-20-900003:** At the time of the incident, Mr. Owens was employed as a corrections officer with the Travis County Sherriff's Office. On Wednesday, December 16, 2020, TCSO Deputy Owens was indicted with Aggravated Perjury, a third-degree felony, and Tampering with Governmental Record with the intent to defraud or harm another, a state jail felony by the 147<sup>th</sup> Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is June 28, 2022.

**INDICTED: STATE OF TEXAS VS JOSHUA JACKSON, D-1-DC-22-900010:** At the time of the incident, Mr. Jackson was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Jackson was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> Special Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is June 29, 2022.

**INDICTED: STATE OF TEXAS VS NATHANIEL STALLINGS, D-1-DC-21-904041:** At the time of the incident, Mr. Stallings, then a licensed peace officer, was employed as a police officer with the Austin Police Department. On October 6, 2017, while on duty and in uniform in a fully marked Austin Police Department patrol vehicle, Mr. Stallings is alleged to have caused bodily injury to a civilian. Mr. Stallings was indicted on June 25, 2018 and charged with Assault and Abuse of Official Capacity. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is August 16, 2022.

**UNINDICTED**

**COMPLAINANT: TYREE TALLEY/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Talley attended a protest in downtown Austin following the deaths of George Floyd and Michael Ramos was struck by “bean-bag” ammunition.

The investigation into and review of the use of force allegations arising out of the May 30 and May 31, 2020 protests is still underway. The cases are expected to be presented to a Travis County grand jury in the early fall of 2022.

**DECEDENT: ENRIQUE QUIROZ / SUBJECT OFFICERS: EDUARDO PINEDA, SPENCER HANNA, ZANE DOWDELL, LUCAS PARKER, MARK YALETCHKO and TRINITHAD GARCIA (Date of Incident: 03/21/2020):** Mr. Quiroz died while in the custody of the Austin Police Department after an encounter with multiple officers on March 31, 2020.

We expect that this case will be presented to a grand jury in the early fall of 2022.

**COMPLAINANT: F. ZIMMERMAN (Pseudonym) / SUBJECT OFFICER: WALTER DODDS (Date of Incident: 04/18/2020):** On April 18, 2020, while responding to a service call involving Ms. Zimmerman, Mr. Dodds, then an Austin Police Department officer encountered Ms. Zimmerman and is alleged to have later returned to her residence and alleged to have sexually assaulted her.

The case is currently under investigation in a joint investigation conducted by the Travis County District Attorney’s Sexual Assault Unit and the Civil Rights Unit. This case is expected to be presented to a Travis County grand jury in the early summer of 2022.

**DECEDENT: ALEXANDER GONZALES / SUBJECT OFFICER: LUIS SERRATO AND GABRIEL GUTIERREZ (Date of Incident: 01/05/2021):** On January 5, 2021, Mr. Alexander Gonzales died as a result of multiple gunshot wounds in an incident involving an off-duty Austin Police Department officer and another officer who was on duty, both of whom discharged their weapons striking Mr. Gonzales.

The case is currently under investigation in a joint investigation involving the Austin Police Department’s Special Investigations Unit and the Travis County District Attorney Office’s Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early fall of 2022.

**COMPLAINANT: NAME WITHHELD/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 3/12/2021):** On March 12, 2021, the civilian was arrested for an active warrant. While officers attempted to place the civilian under arrest, the civilian victim was struck by a baton and tased.

The case is currently under investigation in a joint investigation involving the Austin Police Department’s Special Investigations Unit and the Travis County District Attorney Office’s Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early summer of 2022.

**COMPLAINANT: NAME WITHHELD/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 11/26/2020):** On November 26, 2020, the civilian was arrested for interfering with a crime scene which was investigated by Austin Police Department. The victim was struck by the subject officer while being handcuffed.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early summer of 2022.

**SUBJECT OFFICERS: MICHAEL BARBA/JASON CUMMINS/DERRICK LEHMAN (Date of Incident: 08/19/2021):** On August 19, 2021, a civilian was shot and tased by Austin Police Department Officers. The civilian is expected to recover from his injuries.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early fall of 2022.

**DESCENDANT: RONALD ZAVAGLIA/SUBJECT OFFICER: IAN CLARK (Date of Incident: 08/19/2021):** On August 19, 2021, Mr. Zavaglia died as a result of a gunshot wound in an incident with the Pflugerville Police Department.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early spring of 2022.

**COMPLAINANT: NAME WITHHELD/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 09/18/2021):** On September 18, 2021, the civilian was struck by an Austin Police Department Officer after multiple requests to leave the area.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early fall of 2022.

**DECENDENT: MICHAEL CAROTHERS/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 10/09/2021):** On October 09, 2021, there was gunfire between civilians. Subsequently, an officer discharged his weapon. Mr. Carothers died as a result of a gunshot wound.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early summer of 2022.

**DECENDENT: ROBERT RICHART/SUBJECT OFFICERS: ERIC STRNAD (Date of Incident: 10/27/2021)** On October 27, 2021, Mr. Richart died as a result of a gunshot wound fired by an Austin Police Department officer on October 27, 2021.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early summer of 2022.

**COMPLAINANT: JUVENTINO NEVEJAR/SUBJECT OFFICER: JAVIER RODRIGUEZ (Date of Incident: 12/24/2021)** On 12/24/2021, Mr. Navejar was shot by Austin Police Department Officers. Mr. Navejar is expected to recover from his injuries.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than early summer of 2022.

**COMPLAINT: NAME WITHHELD/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: June 24, 2021):** On June 24, 2021, the juvenile civilian was struck by "bean bag" ammunition, a less-lethal while officers were executing a search warrant and arrest warrant.

The case is currently under investigation with the Travis County District Attorney's Office Civil Rights Unit. Our Office expects that the investigation should be concluded within a timeframe that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence no later than early fall of 2022.

**COMPLAINANT: SIMONE GRIFFITH/ SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 10/30/2021):** On October 30, 2021, Ms. Griffith was arrested for criminal trespass. While officers attempted to place Ms. Griffith under arrest, she was struck by Austin Police Department Officers.

The case is currently under investigation with the Travis County District Attorney's Office Civil Rights Unit. Our Office expects that the investigation should be concluded within a timeframe that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence no later than early fall of 2022.

**COMPLAINANT: TERRY GONZALES / SUBJECT OFFICER: RON RIORDAN (Date of Incident 01/29/2022)** On 1/29/2022, Mr. Gonzales was shot by Austin Police Department Officers. The civilian is expected to recover from his injuries.

The case is currently under investigation in a joint investigation involving the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit. Our Office expects that the investigation should be concluded within a time frame that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence not later than late fall of 2022.

**COMPLAINANT: MIGUEL RIVERA/ SUBJECT OFFICERS: BRITTON TAYLOR and CHARLES WESLEY (Date of Incident: March 6, 2022)** On 3/06/2022, Mr. Rivera died as a result of a gunshot wound fired by Austin Police Department Officers.

The case is currently under investigation with the Travis County District Attorney's Office Civil Rights Unit. Our Office expects that the investigation should be concluded within a timeframe that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence no later than late fall of 2022.

**DECEDENT: ROBERT HAMMITT/SUBJECT OFFICERS: NAME WITHHELD (Date of Incident: May 26, 2022)** On 5/6/2022, Mr. Hammitt dies as a result of a gunshot wound fired by Austin Police Department Officers.

The case is currently under investigation with the Travis County District Attorney's Office Civil Rights Unit. Our Office expects that the investigation should be concluded within a timeframe that will allow the case to be presented to a grand jury in a manner consistent with our policies and in the order of its chronological occurrence no later than late fall of 2022

# **EXHIBIT F**

# Samuel Kirsch

chefsamuelkirsch@gmail.com ❖ (401) 919-3517 ❖ Austin, TX

---

## WORK EXPERIENCE

---

### Collective Campaigns

September 2020 – Present

*Field Organizer*

*Austin, TX*

- Canvassed for Donna Imam for Congress, Gathered petition signatures for Austinites for Progressive Reform
- Organizing, phone-banking, and canvassing for Homes Not Handcuffs / Austin is Safer When

### Austin Democratic Socialists of America

January 2020 – March 2020

*Volunteer Field Organizer*

*Austin, TX*

- Organized and canvassed for Heidi Sloan for Congress, Bernie Sanders for President, Jose Garza for DA

### Culinary Culture

June 2019 – March 2020

*Research Chef*

*Austin, TX*

- Analyzed various food processing techniques for clients; delivered exceptional benchtop formulations
- Composed an abundance of creative concepts, developed gold-standard formulations, and executed market-ready builds to customers as representatives of the client
- Consulted for a wide range of clients including mom and pop restaurants, local and international QSR's, and start-ups in the CPG market
- Taught Culinary and Baking courses to food scientists to facilitate innovation between themselves and chefs

### Movida Restaurant Group

January 2018 – July 2018

*Chef de Partie*

*Melbourne, AUS*

- Orchestrated and administered the food service and developed special menu items while working at Bar Tini
- Revitalized and facilitated the Larder section at Movida Bar de Tapas y Vino, consisting of three stations

### Vue Restaurant Group

November 2017 – January 2018

*Commis Chef*

*Melbourne, AUS*

- Executed duties on the Larder section, and collaborated with the Pastry section at Vue de Monde
- Demonstrated a variety of Culinary and Pastry techniques in custom menu formats on the Vue Events team

### Atoboy

September 2016 – January 2017

*Chef de Partie*

*New York, NY*

- Operated dinner service and modified recipes on the Grill and Hot Side stations

## EDUCATION

---

### The Culinary Institute of America

April, 2016

*AOS, Culinary Arts; BPS, Culinary Science*

*Hyde Park, NY*

- Served three terms as President of the Culinary Science Club

## SKILLS & INTERESTS

---

- **Skills:** Exceptional spatial intelligence; methodical organization; flexible interpersonal communication; divergent thinking; strategic planning; tech-savvy, limited working proficiency in Spanish
- **Hobbies:** Soccer, hiking, chess – I was the Rhode Island Scholastic Chess Champion between 2008-2012, and finished 177<sup>th</sup> in the 2010 United States National High School Chess Championship

**KIRSCH 000693**

# **EXHIBIT G**



[Uvalde School Shooting](#) [Funerals](#) [Gun Culture](#) [How to Help](#) [#TribFest22](#)

# 19 Austin police officers accused of excessive force during 2020 protests are indicted

Austin officials also agreed to a \$10 million settlement with two men who were injured by police with beanbag rounds during the protests.

BY [REESE OXNER](#) AND [JOSHUA FECHTER](#) FEB. 17, 2022 UPDATED: FEB. 18, 2022



An Austin police officer fires into a crowd of protesters from Interstate 35 near police headquarters on May 31, 2020. Eddie Gaspar/The Texas Tribune

*Sign up for [The Brief](#), our daily newsletter that keeps readers up to speed on the most essential Texas news.*

Nearly two years after demonstrators and police clashed in Austin during nationwide protests sparked by the murder of George Floyd, a Travis County grand jury on Thursday indicted 19 officers accused of excessive force, according to the police union, and Austin officials agreed to a \$10 million settlement with two men shot by police with beanbag rounds.

“We believe many protesters injured by law enforcement officers during the protest were innocent bystanders. We also believe that the overwhelming majority of victims in the incidents that were investigated suffered significant injuries,” Travis County District Attorney José Garza said during a Thursday press conference announcing the indictments. “Some will never fully recover.”

The names of the officers being indicted are not yet public record. Garza said that his office is prohibited by law to disclose details of an indictment until that person is arrested and booked into jail.

---

The Texas Tribune thanks its sponsors. [Become one.](#)

Austin Police Association president Kenneth Casaday confirmed to The Texas Tribune that 19 officers have been indicted. [The Austin American-Statesman first reported the news.](#)

[One of the officers indicted](#) was Justin Berry, a candidate for the Hill Country's Texas House District 19, according to Casaday.

The number of indictments is among the highest tied to a single city's police force in connection with the 2020 protests so far, according to the [Associated Press](#).

In an interview last week, before the grand jury handed out any indictments, Sandra Guerra Thompson, a professor at the University of Houston Law Center, said it would be surprising if such a high number of officers were charged with crimes.

“Historically, we've seen a reluctance by grand jurors to charge police officers criminally for use of force on the job, just because of the sense that they're putting their lives at risk and protecting the public,” Thompson said. “Those kinds of views have usually worked in their favor.”

The cases could take months or years to resolve.

In a short press conference Thursday afternoon, Austin Police Chief Joseph Chacon defended his officers and chided Garza for remarking on "anticipated indictments." Flanked by APD command staff and city higher-ups, including City Manager Spencer Cronk, Chacon said officers were overwhelmed by crowds that were often "riotous and violent" — and that "less-lethal" weapons used for crowd control "did not perform in all instances in the manner anticipated."

"I am not aware of any conduct that, given the circumstances that the officers were working under, would rise to the level of a criminal violation by these officers," Chacon said. "We are at the beginning of the criminal justice process. As we move forward, these officers must be afforded all of the same protections of any defendant, including the presumption of innocence and the right to a speedy trial."

The department has since stopped the use of less-lethal weapons.

Cronk, the city's top executive, warned that "any indictments will heighten the anxiety of our officers" and exacerbate the police department's staffing shortages.

"We are disappointed to be in this position, and we do not believe that criminal indictments of the officers working under very difficult circumstances is the correct outcome," Cronk said in a statement.

Casaday said that the indicted officers were following orders and shouldn't be held responsible for any injuries during the protests.

The Texas Tribune thanks its sponsors. [Become one.](#)

"These officers were only doing what they were told to do with what the city of Austin provided them during the days of the riots," he said.

Casaday accused Garza of attempting to score political points. The police union is asking Garza's office to stop announcing indictments until after the Democratic primary and runoffs.

"It's an absolute disgrace, and it sickens me that DA Garza is using working officers as pawns in a political game of chess," Casaday said during a press

conference Thursday afternoon. "Garza ran on a platform to indict officers and has not missed the opportunity to try and ruin lives, careers and simply fulfill a campaign promise."

Garza was elected in 2020 following the protests and ran on a campaign promising to hold law enforcement accountable. His current term stretches through 2024.

The Texas Tribune thanks its sponsors. [Become one.](#)

The indictments also drew criticism from the nation's largest police officer association.

"Nothing more than a political attack on 19 officers who were already cleared by their department of any wrongdoing," tweeted Joe Gamaldi, national vice president of the Fraternal Order of Police.

Also on Thursday, under a settlement unanimously approved by the Austin City Council, demonstrator Justin Howell will receive \$8 million — the highest amount ever awarded in an excessive force case involving an Austin police officer, the Statesman reported. Anthony Evans, another protester, will get \$2 million.

Both men sued the city after suffering severe head injuries in May 2020, when Austin police officers fired on demonstrators protesting police brutality in the wake of the police killings of George Floyd in Minneapolis and Michael Ramos in Austin.

The Texas Tribune thanks its sponsors. [Become one.](#)

Howell, then a 20-year-old Texas State University student, had a fractured skull and brain damage, [his brother said at the time](#). The same weekend, Austin police fired on Evans as he walked away from a demonstration, fracturing his jaw, according to news reports.

"Today's settlement reminds us of a difficult & painful moment for our city," Austin Mayor Steve Adler said in a [tweet](#). "No one should be injured while exercising their constitutional right to protest."

Even the council's staunchest police allies approved of the settlement. Austin City Council Member Mackenzie Kelly said the Austin Police Department "instructed officers to use tools that were intended to help manage the crowd — for everyone's safety, including officers," but she still voted in favor of the settlement.

"I don't believe that the injuries sustained by Mr. Evans and Mr. Howell were the intended result," Kelly said [in a statement](#). "Regardless, these men were seriously injured, and I think it is right for the City to pay the damages."

The Texas Tribune thanks its sponsors. [Become one.](#)

Chacon — who took the job as Austin police chief more than a year after the protests — said in a statement he understands why City Council members opted to settle the case and expressed sympathy for Howell and Evans, though he didn't name them.

"In hindsight, we were not prepared for the heightened frustration felt by so many community members, nor the size and scope of the crowds," the chief said.

The violence that weekend spurred more than a dozen lawsuits against the city and police officers by people injured by police, the Statesman reported. So far, the city has settled three of those lawsuits.

Tens of thousands of people protested Floyd's death in Austin for over a week in May 2020. Floyd, a Black man, was killed by a white Minneapolis police officer, Derek Chauvin, after he kneeled on Floyd's neck for over nine minutes in May 2020. Chauvin was found guilty of murder last year.

Floyd's death spurred a nationwide outcry against police brutality against Black people, who are killed at disproportionately higher rates in police custody. Texans protested across the state, including in Austin, Houston, Dallas, San Antonio and Fort Worth.

Cities and communities in Texas continue to grapple with the aggressive tactics that police waged against protesters that year. Police officers all over Texas and the nation have faced charges for how they dealt with protesters.

Law enforcement officials have defended the use of force during the protests, saying it was warranted amid the chaos. They have pointed to reports of people throwing bottles and rocks at officers, sometimes injuring them, damaging police cars and breaking into stores.

But advocates and protesters expressed outrage over police officers turning to violent crowd-control measures, especially in light of what they were protesting.

The Texas Tribune thanks its sponsors. [Become one.](#)

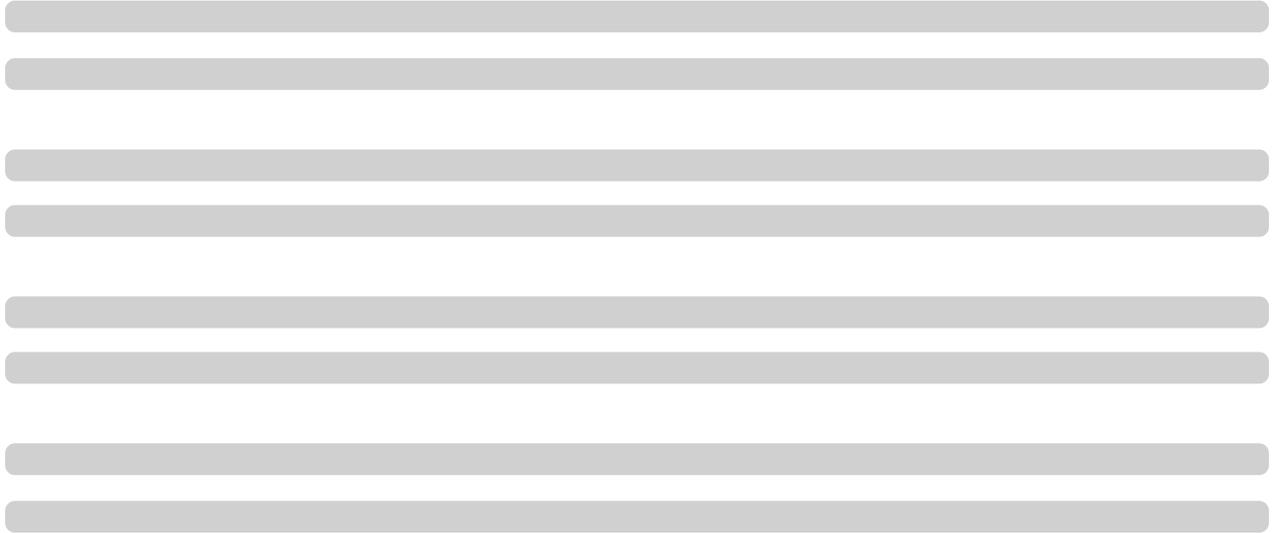
Last week, the Dallas county attorney's office issued warrants for two Dallas police officers' arrest for their alleged use of force during the 2020 racial justice protests in that city.

*Andrew Zhang contributed to this report.*

*Disclosure: Steve Adler (who is also a former Texas Tribune board chair) and University of Houston have been financial supporters of the Tribune, a nonprofit,*

*nonpartisan news organization that is funded in part by donations from members, foundations and corporate sponsors. Financial supporters play no role in the Tribune's journalism. Find a complete list of them [here](#).*

## READ MORE



## Quality journalism doesn't come free

Perhaps it goes without saying — but producing quality journalism isn't cheap. At a time when newsroom resources and revenue across the country are declining, The Texas Tribune remains committed to sustaining our [mission](#): creating a more engaged and informed Texas with every story we cover, every event we convene and every newsletter we send. As a nonprofit newsroom, we rely on members to help keep our stories free and our events open to the public. Do you value our journalism? Show us with your support.

**YES, I'LL DONATE TODAY**

The Texas Tribune thanks its sponsors.  
**Become one.**



[Donate](#)

[Contact Us](#)

[Advertise](#)

© 2022 The Texas Tribune

#### **SOCIAL MEDIA**

[Facebook](#)

[Twitter](#)

[YouTube](#)

[Instagram](#)

[LinkedIn](#)

[Reddit](#)

[Join our Facebook Group, This Is Your Texas.](#)

#### **INFO**

[About Us](#)

[Our Staff](#)

[Jobs](#)

[Who Funds Us?](#)

[Strategic Plan](#)

[Republishing Guidelines](#)

[Code of Ethics](#)

[Terms of Service](#)

[Privacy Policy](#)

[Send us a confidential tip](#)

[Corrections](#)

[Feeds](#)

[Newsletters](#)

[Audio](#)

[Video](#)

# **EXHIBIT H**



## OFFICE OF THE DISTRICT ATTORNEY

P.O. Box 1748, Austin, TX 78767

Telephone 512/854-9400

Telefax 512/854-4206

**JOSÉ P. GARZA**  
DISTRICT ATTORNEY

**TRUDY STRASSBURGER**  
FIRST ASSISTANT

April 13, 2021

To the Travis County Community:

In our first one hundred days, we have made significant progress reshaping our criminal justice system in line with your aspirations. We have begun to make changes that prioritize violent crimes and that treat substance use disorder like the public health crisis that it is. Although we still have much work ahead of us, I am confident that together, we will continue to make changes that make our community more safe and restore faith in our criminal justice system.

As you know, on March 1<sup>st</sup> we implemented a bail policy that asked our prosecutors to ensure that no one is in our jail simply because they cannot afford to get out. Our policy prioritizes the safety of our community and our prosecutors have been working hard to re-evaluate open cases according to that community safety framework instead of a wealth-based system.

We have worked to ensure that survivors of sexual assault and victims of other crimes are heard and treated with dignity and respect. Our team is working to revamp many of our current victim-witness counselor policies along with our intake procedure to ensure that victims are part of the conversation about their case from the beginning.

We have also greatly expanded diversion eligibility, because making sure that all people have the resources they need, like treatment and counseling, makes us all more safe. As of our first 100 days, we have reviewed more than 1,200 cases and accepted over half of those cases into diversion.

No one should be in jail simply because they can't afford to get out. Anyone who has not yet been convicted of a crime should be in jail only if they pose a threat to the safety of our community. Ensuring our jail is reserved for people who threaten public safety is a shared goal of the District Attorney's Office and County Attorney Delia Garza. Before the pandemic, the jail population was around 2,200 people. On January 1<sup>st</sup>, when County Attorney Garza and I took office, the jail population was about 1,800 people and now the population is hovering below 1,500 people.

We have continued to prioritize our resources towards prosecuting violent crimes. Since January, we have secured over 300 indictments for crimes of violence including murder, kidnapping, sexual assault, aggravated assault, and violent crimes against children.

Police accountability is critical to the safety of our community because when members of our community trust the police and prosecutors, they are more likely to believe in the fairness of our justice system, seek help, report crimes, and participate in investigations. We will continue to fulfill our promise to you to take all officer involved excessive force cases to the grand jury so that the community can determine whether their actions

constitute criminal conduct. We do not expect every case that we present to result in an indictment, however we do believe it is important that it is the grand jury who decides. A Travis County grand jury has issued indictments against five current and former law enforcement officers for causing injury or death to another while on the job since we took office.

I am proud of our first 100 days, but our work has just begun. As part of our promise to you to reimagine the criminal justice system in Travis County, today we are announcing new initiatives:

**Homicide and Major Crimes Unit:** In order to prioritize the prosecution of violent crimes, we will be creating a homicide and major crimes unit. This division will be staffed by experienced prosecutors who are experts in the law, well-versed in forensics, have previously handled complicated cases, and can be in regular contact with homicide and major crime detectives. We expect the division to be up and running by July 1, 2021.

**Sentencing.** When a person commits a crime, our focus is ensuring that it does not happen again and that the victim is safe. To achieve this goal, it is important to address the underlying issue that made the person commit the crime, so it doesn't happen again.

We have distributed sentencing principles and recommendations for our prosecutors to use as a guide when they consider offers and plea bargains. We have asked our prosecutors to incorporate the following principles into their sentencing recommendations:

- **We will treat all victims with dignity and respect, and we will take their needs into account when considering the appropriate sentence.** We will take into consideration what is likely to cause the least amount of harm or trauma to the victim. We will also consider the trauma that victims have endured and we will consider and discuss with victims steps that can be taken to ensure they feel safe, or could be made whole again, in or out of the criminal justice system.
- **Addiction and mental illness, and the offenses that follow from them, should not serve as a justification for imprisonment unless a person poses a danger to our community.** This is true when a person first commits a crime, and while a person is on probation.
- **Diversion should be offered whenever possible.** To prevent crime, we must work to address the underlying causes of crime. If diversion is not appropriate, then community supervision will be offered for as long as is needed to address the underlying cause of the crime unless it is inadequate to protect against the threat of violence to our community.
- **Imprisonment is a last resort,** and it will be utilized if all other interventions and rehabilitative efforts have failed or prove inadequate to protect against the threat of violence to our community.

Collectively, these principles will prioritize the safety of our community and ensure that we center victims, address the root causes of crime, and focus on preventing future violence against our community.

In the coming months, we will continue to reform our criminal justice system so that it meets your aspirations and needs. The change our community has demanded will not happen overnight - but because you continue to make your voice heard, it will happen.



José Garza

# **EXHIBIT I**

LOCAL NEWS

# CLEAT calls for Travis County DA Assistant Attorney to be removed after a job posting email

Travis County DA Jose Garza said unions don't want law enforcement officers to be prosecuted when they commit a crime.



Were You Hurt?  
by davidgordonlaw.com



00:00 / 01:06

Author: Daranesha Herron (KVUE)  
Published: 6:47 PM CDT May 24, 2021  
Updated: 6:47 PM CDT May 24, 2021



AUSTIN, Texas — The [Travis County District Attorney's office](#) is looking for a prosecutor to lead its civil rights unit, but a recruiting email sent by the assistant attorney has a state law enforcement association calling for her removal.

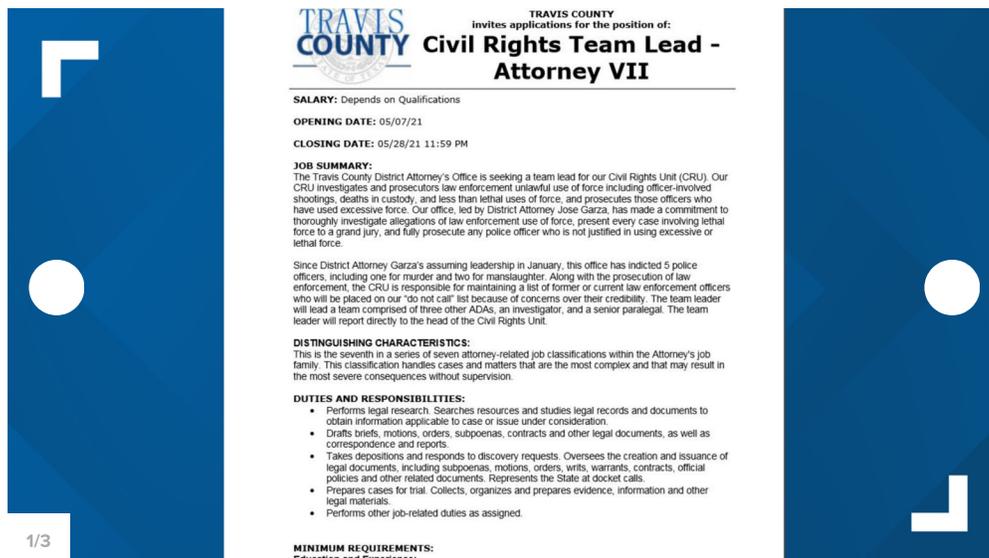
The [Combined Law Enforcement Associations of Texas](#), also known as [CLEAT](#), is calling for the removal of the assistant district attorney of Travis County, Trudy Strassburger.

Ad removed. [Details](#)

This is following an email about a [job posting](#), seeking a lead attorney for the Travis County Civil Rights Unit. The previous DA created the unit to investigate and prosecute unlawful use of force by officers.

The email in question reads in part, "Friends, I am reaching out in the hopes that you may be looking to prosecute police officers or that you know someone who is."

## PHOTOS: Lead attorney job posting for the Travis County Civil Rights Unit



The image shows a job posting for the Travis County Civil Rights Team Lead - Attorney VII. The posting is framed by two vertical blue bars on either side, each containing a white circle and a white L-shaped corner element. The text of the posting is as follows:

**TRAVIS COUNTY**  
invites applications for the position of:  
**Civil Rights Team Lead - Attorney VII**

**SALARY:** Depends on Qualifications  
**OPENING DATE:** 05/07/21  
**CLOSING DATE:** 05/28/21 11:59 PM

**JOB SUMMARY:**  
The Travis County District Attorney's Office is seeking a team lead for our Civil Rights Unit (CRU). Our CRU investigates and prosecutes law enforcement unlawful use of force including officer-involved shootings, deaths in custody, and less than lethal uses of force, and prosecutes those officers who have used excessive force. Our office, led by District Attorney Jose Garza, has made a commitment to thoroughly investigate allegations of law enforcement use of force, present every case involving lethal force to a grand jury, and fully prosecute any police officer who is not justified in using excessive or lethal force.

Since District Attorney Garza's assuming leadership in January, this office has indicted 5 police officers, including one for murder and two for manslaughter. Along with the prosecution of law enforcement, the CRU is responsible for maintaining a list of former or current law enforcement officers who will be placed on our "do not call" list because of concerns over their credibility. The team leader will lead a team comprised of three other ADAs, an investigator, and a senior paralegal. The team leader will report directly to the head of the Civil Rights Unit.

**DISTINGUISHING CHARACTERISTICS:**  
This is the seventh in a series of seven attorney-related job classifications within the Attorney's job family. This classification handles cases and matters that are the most complex and that may result in the most severe consequences without supervision.

**DUTIES AND RESPONSIBILITIES:**

- Performs legal research. Searches resources and studies legal records and documents to obtain information applicable to case or issue under consideration.
- Drafts briefs, motions, orders, subpoenas, contracts and other legal documents, as well as correspondence and reports.
- Takes depositions and responds to discovery requests. Oversees the creation and issuance of legal documents, including subpoenas, motions, orders, writs, warrants, contracts, official policies and other related documents. Represents the State at docket calls.
- Prepares cases for trial. Collects, organizes and prepares evidence, information and other legal materials.
- Performs other job-related duties as assigned.

**MINIMUM REQUIREMENTS:**  
**Education and Experience:**

1/3

Credit: Travis County DA

CLEAT's Executive Director Charley Wilkison said the email is an attack on Central Texas Law Enforcement.

"This kind of didactic language is for activists and not for the benign prosecutorial powers that reside inside of the wall of an elected district attorney," said Wilkison.

Travis County District Attorney Jose Garza said unions simply don't want law enforcement officials prosecuted for breaking the law.

"They don't care about the words we used," said Garza. "They just don't think that law enforcement officers should be prosecuted when they commit criminal acts and I strongly disagree."

Garza said the Civil Rights Unit has been overworked and cases have been backlogged. He said they need a lead attorney to fill this position because of increased reports of police misconduct in the community.

Garza said that, in 2021, the Travis County grand jury indicted [seven officers](#) and right now, [11 cases](#) are pending.

"We will absolutely recruit attorneys to fill those openings and we will accurately continue to accurately describe what the work is in our sexual assault unit," said Garza. "We look for attorneys who prosecute sexual assault in our child abuse unit. We look for attorneys who want to prosecute child abuse. In our civil rights unit, we look for attorneys who are willing to hold law enforcement accountable when they break the law."

#### Travis County DA's office faces backlash over email | KVUE



#### PEOPLE ARE ALSO READING:

[Austin FC's Q2 Stadium to host games at 100% capacity](#)

#### This Day in History

Recap of important historical events that took place on that day.

*Ads By* **Connatix** 

[Bill will allow families to designate essential caregiver to visit loved ones even during a pandemic](#)

# **EXHIBIT J**

D-1-GN-22-002502

NO. \_\_\_\_\_

**JOSHUA JACKSON, ROLAN RAST,  
TODD GILBERTSON, DERRICK  
LEHMAN, AND ALEXANDER  
LOMOVSTEV**

**VS.**

**CITY OF AUSTIN, TRAVIS COUNTY,  
STATE OF TEXAS, BLACK LIVES  
MATTER, AUSTIN JUSTICE  
COALITION, MIKE RAMOS BRIGADE,  
SAFARILAND LLC, DEFENSE  
TECHNOLOGY, CSI COMBINED  
SYSTEMS INCORPORATED, STEVE  
ADLER, JOSE GARZA AND JOHN DOE  
DEFENDANTS**

§ **IN THE DISTRICT COURT**  
§  
§ **201ST, DISTRICT COURT**  
§  
§  
§ **\_\_\_\_\_ JUDICIAL DISTRICT**  
§  
§  
§  
§  
§  
§  
§  
§  
§ **OF TRAVIS COUNTY, TEXAS**

**PLAINTIFFS' ORIGINAL PETITION**

**Judicial Summary**

**Plaintiffs are five Austin Police Officers (the “Officers” of “Plaintiffs”) who were among 19 officers indicted by the Travis County District Attorney for aggravated assault related to their service in response to the George Floyd riots in May of 2020. The riots were promulgated by the Austin Justice Coalition, Black Lives Matter, Antifa, the Mike Ramos Brigade and other individuals and entities. As the protests escalated into riots, the Officers were ordered to respond and were given Less Than Lethal (LTL) beanbag rounds, for which they were provided limited or no training, and some of which proved to be defective or expired. The City of Austin knew the rounds to be defective and dangerous and did nothing to remove them from service. Plaintiffs did not know this. The bean bag manufacturers**

design and packaging created a dangerous product that impacted like a slug rather than an LTL munition. Plaintiff Officers were hit, kicked and pelted with rocks and bottles. Plaintiff Officers were attacked with urine and small explosive devices. They sustained physical injuries and continue to struggle with post-traumatic stress as a result. The City of Austin has admitted that the bean bag rounds caused more serious injuries to the protestors than was intended because of these defects. It is unclear which, if any of the Plaintiffs, or any of the other officers who were indicted, fired any of the bean bag rounds that injured any of the rioters. Regardless, the Travis County District Attorney, who campaigned on a premise of targeting police officers, succumbed to the pressure from the same groups who incited and encouraged the riots along with their political allies. He indicted 19 officers all of whom were male and all of whom were either white or asian. Plaintiffs have some causes of actions that are facing the expiry of the statute of limitations, while having other causes of action which are not yet ripe. Additionally, the Officers have pending criminal cases. For those reasons, the Plaintiffs move to have this case stayed pending the outcome in the criminal courts.

### Original Petition

NOW COME Plaintiffs Joshua Jackson, Rolan Rast, Todd Gilbertson, Derrick Lehman and Alexander Lomovstev, complaining of Defendants City of Austin, Travis County, State of Texas, Black Lives Matter, Austin Justice Coalition, Mike Ramos Brigade, Safariland Defense Technology, Defense Technology, CSI Combined Systems Incorporated, Steve Adler, Jose Garza, and John Doe Defendants, and for cause of action would show the Court the following:

#### *Discovery Control Plan*

1. As provided in Rule 190, Texas Rules of Civil Procedure, Plaintiffs intend to

conduct discovery under Level 2.

***Plaintiffs***

2. Plaintiffs addresses and personal information are exempt from disclosure.

***Defendants***

3. Defendant, City of Austin, a city incorporated in the State of Texas, along with Defendants Steve Adler may be served with process at the City of Austin Law Department at P.O.Box 1088, Austin, Texas 78767.

4. Defendant, Travis County may be served with process through the Travis County Attorney Delia Garza at P.O. Box 1748, Austin, Texas, 78767.

5. Defendant, the State of Texas, along with Jose Garza may be served through the Secretary of State at the following address: Service of Process, Secretary of State, P.O. Box 12079, Austin, Texas 78711-2079

(a) Jose Garza: jose.garza@traviscountytx.gov

6. This Court has jurisdiction over Black Lives Matter because said Defendant is a resident of Texas. Defendant Black Lives Matter may be served with process upon its registered agent United States Corporation Agents, Inc at 9900 Spectrum Drive, Austin, Texas 78717.

7. This Court has jurisdiction over Austin Justice Coalition because said Defendant is a domestic nonprofit corporation in Texas. Defendant Austin Justice Coalition may be served with process upon its registered agent Chas Moore at 1603 38<sup>th</sup> ½ St. Austin, Texas 78722.

8. This Court has jurisdiction over Mike Ramos Brigade because said members of this organized but unincorporated group are residents of the State of Texas. Defendant Mike Ramos Brigade may be served with process upon the Texas Secretary of State. (Defendant operates as a nonprofit and has solicited financial contributions but has failed to register with the Texas

Secretary of State or the United States Internal Revenue Service.)

9. This Court has jurisdiction over Safariland, LLC because said Defendant is a foreign limited liability company doing business in the State of Texas. Defendant Safariland, LLC may be served with process upon its registered agent CT Corporation System at 1999 Bryan St. Suite 900, Dallas, Texas 75201.

10. This Court has jurisdiction over Defense Technology because said Defendant is a foreign limited liability company doing business in the State of Texas. Defendant Defense Technology, LLC may be served with process upon its registered agent CT Corporation System at 1999 Bryan St. Suite 900, Dallas, Texas 75201.

11. This Court has jurisdiction over Combined Systems, Incorporated located at 388 Kinsman Road, Jamestown, Pennsylvania because said Defendant is a foreign corporation doing business in the State of Texas. Defendant CSI Combined Systems may be served with process through the Texas Secretary of State.

12. This Court has jurisdiction over John Doe Defendants (both individuals and entities) who have yet to be identified but were present in the State and County and contributed to the events giving rise to these causes of action.

***Venue***

13. Venue is proper in this county in that the events giving rise to this cause of action occurred within Travis County.

***Jurisdiction***

14. The damages sought in this suit are within the jurisdictional limits of the Court. As required by Rule 47, Texas Rules of Civil Procedure, Plaintiffs state that Plaintiffs seek monetary relief over \$1,000,000.

**A. FACTS**

15. Everyone knows that the George Floyd's death was a horrific tragedy. But on the days of May 30<sup>th</sup> and 31<sup>st</sup> 2020, the City of Austin ("**City**") was at the height of the COVID pandemic lockdown. Rage coupled with the stresses of isolation and governmental restriction were the perfect elements to ignite mayhem that put non-violent protesters, business owners, first responders and innocent bystanders in terrible danger. Rioters and vandals had taken over large stores, burned cars, assaulted civilians and police. Others forcibly occupied Interstate 35, the primary thoroughfare for the City. Thousands of innocents were trapped in their vehicles with nowhere to go, each with their own crisis. Some had life-threatening medical conditions. All were crippled by fear surrounded by chaos on all sides.

16. The danger surrounding the protests that sparked the rioting and looting was apparent to everyone. It was so apparent that the leadership of the Austin Justice Coalition "canceled" the protest, citing concerns of escalating violence. However, despite announcing the cancellation of the protest, the same leadership continued without permit to protest and incite the rioters to violence. Elements of Antifa, Black Lives Matter, and the Mike Ramos Brigade also incited rioters to violence. Despite the fact that cities across America were burning and events in Austin had already turned violent, Mayor Steve Adler ("**Mayor Adler**") encouraged and welcomed the rioters; many of whom were being strategically bussed in from other cities. Ignoring the reality that the demonstrations had already turned violent and that the police department was so overwhelmed that all off duty officers were called into service, Mayor Adler issued a statement in which he says, "*It is a good and powerful thing to be able to demonstrate and that's a good thing,*" thus encouraging the rioting and looting to continue. Virtually all the Plaintiff Officers are themselves military veterans who placed themselves in harm's way to defend the rights guaranteed

by our Constitution including the right to peaceful assembly. However, it was beyond negligent for the Mayor to ignore the truth on the ground and encourage demonstrations that had turned violent and criminal.

17. The Chief of Police responded by sending out orders to every operational police officer that they must report for duty. Some Plaintiff Officers had already voluntarily reported for duty, knowing the dire need for their service. Some Plaintiff Officers were members of the Special Response Team and had some training in deployment of LTL munitions. Other officers were patrolmen or detectives with limited training or exposure to LTL or riot response. Regardless, they all answered the call of duty and obeyed the orders they were given as required by departmental policy and state statutory duties as peace officers.

**18. Texas Code of Criminal Procedure Article 6.07. CONDUCT OF PEACE OFFICER. The conduct of peace officers, in preventing offenses about to be committed in their presence, or within their view, is to be regulated by the same rules as are prescribed to the action of the person about to be injured. They may use all force necessary to repel the aggression.**

19. Some of these officers were off-duty and at home enjoying time with their spouses and children. Others had spouses who were also police officers, who had to call family and friends to stay with their children while they responded to save the city.

20. When they reported to duty, Plaintiff Officers were alerted that the protesters were violent and exhibiting riotous behavior. They were alerted that some of the rioters were armed and were looting businesses, blocking roads, and threatening innocent civilians who were imprisoned by the mayhem and simply trying to get to the safety of their homes. They were warned that rioters were throwing rocks, glass jars and bottles filled with paint, urine and other liquids. Small

explosives were thrown at the officers. Some water bottles being thrown had been frozen into ice to make their impact more harmful. They were warned that rioters located on Interstate 35 were trying to commandeer an 18-wheel tractor trailer with unknown intent. When the Plaintiff Officers deployed, they found the riots met expectations. For hours extending into days they were cursed, threatened and hit with projectiles. They were bruised and bloodied. The officers were outnumbered by the thousands. Some called their loved ones to say goodbye not believing they would survive the turmoil.

21. Members of Antifa actively encouraged the rioting, looting and violence. They went as far as to livestream themselves on Facebook burglarizing and vandalizing the Target store while encouraging others to join them. Likewise, members of the Mike Ramos Brigade livestreamed rioting and illegal behavior and encouraged others to participate. They proudly displayed photos of vandalism in social media. They instructed members on tactics to overcome police attempting to suppress the riots, including to “free comrades” who had been arrested by “pigs.” They advocated dragging trashcans and newspaper machines into the streets to block traffic and break police lines. Members of Black Lives Matter aided rioters to continue participating providing them with locations for resupply and advising of techniques to counter deployment of tear gas by police.

22. Leaders of Black Lives Matter and the Austin Justice Coalition purported to cancel the march scheduled for May 31, 2022 at the South Steps of the Capitol, citing fear of out of control violence. Despite this purported fear, they still went to the Capitol steps with loudspeakers and incited the riotous behavior. None of the groups obeyed the law and obtained a permit for the massive protests they organized. Each of these groups has used the riots in promotional materials to raise money during and after the riots and boasted of their involvement.

23. Multiple less forceful attempts by the City police department to remove the rioters from Interstate 35 failed. Rioters continued to throw projectiles at the officers even as they retreated back to the police department. The decision was made to clear the highway with 2-chlorobenzalmalononitrile cannisters, also known as tear gas. They were ordered to fire upon rioters who approached with burning cannisters tear gas. They were purportedly given this order because the cannisters exceeded 600 degrees Fahrenheit. Rioters attempting to pick up or throw these cannisters would have sustained horrific injuries themselves and potentially harm others. As the Plaintiff Officers approached the crowd, the Austin Police Helicopter through a loud speaker warned the rioters that tear gas would be used and that they had to leave the area. The overwhelming majority did not comply. After the gas was deployed some protesters did try to pick up the cannisters and fling the cannisters back towards officers using gloves or devices they had brought for that purpose.

24. In the aftermath of the riots, rather than defend Plaintiffs, The City of Austin handed out massive financial settlements to rioters, contributing to the perception that the Plaintiff Officers' actions were wrong. News of these settlements no doubt further emboldened the District Attorney in his McCarthyesque persecution of law enforcement. Travis County District Attorney Jose Garza campaigned on promises of targeting police officers. He advertised nationally recruiting prosecutors with "preferred experience would include prosecuting police officers." *Garza made good on promises to his political allies by indicting Plaintiffs for Aggravated Assault under a theory of party liability that could only logically be supported by the premise that to put on a police uniform is equal to engaging in organized criminal activity.*

25. In keeping with his racially divisive political strategies, Garza targeted for indictment only White and Asian officers though other officers of color were equally engaged in the service of

their duties. Notably, current Austin Police Chief Joseph Chacon, who is Latino, was the commander at the scene on Interstate 35. He made the decision to utilize the gas and bean bag rounds in clearing the freeway of the riots yet neither he nor any African-American or Latino officers were indicted related to the incident.

26. Plaintiffs answered the call of duty. They bravely faced physical attack and risked their lives to protect the City of Austin. The reward for their selfless service has been the ruination of their careers and the looming threat of incarceration. Plaintiffs and their families have suffered physically, financially, and emotionally as a result of actions and omissions by riot organizers, the City of Austin, by and through the Mayor and Police Department Leadership, the State of Texas and Travis County by and through the District Attorney and his staff, and by the manufacturers of the Less Than Lethal (LTL) beanbag rounds. But for the actions of any of these Defendants contributing their ingredients to the recipe of disaster, Plaintiffs would not have sustained these damages. Plaintiffs physical injuries included abrasions and lacerations, smoke inhalation, eye injuries, muscle strains and tears. They have suffered mental anguish evidenced in the manifestation of post-traumatic stress and agoraphobia. They have suffered financial damages in lost wages, lost employment opportunities, lost promotional opportunities and lost ability to serve in specialized units and further their career. They have been subjected to national media scrutiny and invasions of their privacy.

## **CAUSES OF ACTION**

Plaintiffs incorporate above paragraphs hererin, and the following causes of action are asserted against each of and any of the named Defendants as is relevant to the facts as recited.

### ***Assault***

Defendants acted intentionally, knowingly, recklessly. Defendants made contact with the Plaintiffs' person. The Defendant's contact caused bodily injury to the Plaintiffs.

### ***Intentional Infliction of Emotional Distress***

Defendants acted intentionally or recklessly. The emotional distress suffered by the Plaintiffs was severe. The Defendants' conduct was extreme and outrageous. The Defendant's conduct proximately caused the Plaintiffs' emotional distress.

### ***Defamation***

Defendants published statements of fact. The statements referred to Plaintiffs. The statements were defamatory. The statements were false. With regard to the truth of the statement the Defendants were acting with actual malice, negligent, or strictly liable. The Plaintiffs suffered pecuniary injury.

### ***Malicious Prosecution***

Criminal prosecution has commenced against the Plaintiffs. Defendants initiated or procured the prosecution. The prosecution will terminate in the Plaintiffs favor. The Defendants did not have probable cause to initiate or procure the prosecution. The Defendants acted with malice.

### ***Negligence***

The Defendants owed legal duty to the Plaintiffs. The Defendants breached the duties. The breach caused the Plaintiffs' injury.

***Negligence Per Se***

The Plaintiff belongs to the class of persons the statute was designed to protect, and her injury is of the type the statute was designed to prevent. The statute is one for which tort liability may be imposed when violated. The Defendant violated the statute without excuse. The Defendants' act or omission proximately caused the Plaintiff's injury.

***Negligent Hiring, Supervision, Training and Retention***

The employer owed the Plaintiff a legal duty to hire, supervise, train, or retain competent employees. The employer breached that duty. The breach proximately caused the Plaintiff's injuries.

***Public Nuisance***

The Plaintiffs had common law or statutory standing to bring suit. The Defendant's conduct was a public nuisance.

***Texas Tort Claims Act***

The Defendants are governmental units covered by the Texas Tort Claims Act. Defendants' employees while acting within the scope of employment, was negligent. When the employees were negligent they either used or misused tangible personal property or furnished the Plaintiffs with

inadequate or defective tangible personal property. *Smith v. Tarrant Cty.* 946 S.W.2d 496. Plaintiff's injury was proximately caused by the employee's use or furnishing of tangible personal property. The Defendants' employees would have been personally liable to the Plaintiff under Texas law. No exception to the waiver of immunity bars the claim because (1) no exception applies, or (2) an exception to an exception reinstates the waiver.

***Breach of Implied Warranty of Fitness for a Particular Purpose***

The Defendants sold goods to the Plaintiffs. The Defendant had knowledge the Plaintiffs were buying the goods for a particular purpose and relying on the Defendants' skill or judgment to select goods fit for that purpose. The Defendants delivered good that were unfit for the Plaintiff's particular purpose.

***Breach of Warranty and Strict Liability***

The Defendants sold goods to Plaintiffs that were unmerchantable. A condition of the goods rendered them unreasonably dangerous. Plaintiffs suffered injury as a result of the breach.

***Breach of Express Warranty for Goods***

The Defendants sold or leased goods to the Plaintiffs. The Defendants made representations to the Plaintiffs about the title, quality, or characteristics of the goods. The representation became part of the basis of the bargain. The goods did not comply with the representation. The Plaintiffs suffered injury.

***Attorney's Fees and Costs***

1. Plaintiffs request judgment for reasonable attorney's fees and costs under Sections

37.009 and 38.001, Texas Civil Practice and Remedies Code.

**B. Jury Demand**

2. Plaintiffs hereby request a jury trial.

**C. Initial Disclosures**

3. As provided in Rule 194, Texas Rules of Civil Procedure, required Initial Disclosures of all items listed in Rule 194.2 must be made at or within 30 days after the filing of the first answer unless a different time is set by the parties' agreement or court order. The Plaintiffs move below that Initial Disclosures be stayed.

**D. Motion to Stay**

4. This case is novel. It clearly is not typical for a criminal Defendant to also be civil Plaintiffs in a case arising from the same events or occurrences. That is especially so when those Plaintiffs were serving under orders as police officers and performing their duties honorably under impossible conditions. However, that is the circumstance in which we find ourselves. Plaintiffs are each under indictment for events that also gave rise to the below causes of action and this suit. This place in the unjust position of being faced with a "Hobson's Choice" between pursuing causes of action that are within their rights or invoking their right to remain silent so that their participation in litigation could not be twisted and contorted to be used against them in a criminal proceeding. On a previous case involving a litigant who was both a Plaintiff and potential criminal Defendant, the 5<sup>th</sup> Cir reversed the District Court's order denying a stay, *despite the fact the Plaintiff was not under indictment at the time Plaintiff moved to stay the proceedings. Wehling v. Columbia Broadcasting Sys.*, 608 F. 2d 1084 (5<sup>th</sup> Cir. 1979).

"Even if the rules did not contain specific language exempting privileged information,

it is clear that the Fifth Amendment would serve as a shield to any party who feared that complying with discovery would expose him to a risk of self-incrimination. The fact that the privilege is raised in a civil proceeding rather than a criminal prosecution does not deprive a party of its protection. *Lefkowitz v. Cunningham*, 431 U.S. 801, 805, 97 S. Ct. 2132, 53 L. Ed. 2d 1 (1977); *McCarthy v. Arndstein*, 266 U.S. 34, 40, 45 S. Ct. 16, 69 L. Ed. 158 (1924). Thus, under both the Federal Rules of Civil Procedure and the Constitution, Wehling was under no obligation to disclose to CBS information that he reasonably believed might be used against him as an accused in a criminal prosecution. *Maness v. Meyers*, 419 U.S. 449, 461, 95 S. Ct. 584, 42 L. Ed. 2d 574 (1975); *Hoffman v. United States*, 341 U.S. 479, 486, 71 S. Ct. 814, 95 L. Ed. 1118 (1951). The Supreme Court has disapproved of procedures which require a party to surrender one constitutional right in order to assert another. *Simmons v. United States*, 390 U.S. 377, 394, 88 S. Ct. 967, 19 L. Ed. 2d 1247 (1968). Similarly, the Court has emphasized that a party claiming the Fifth Amendment privilege should suffer no penalty for his silence: *'In this context "penalty" is not restricted to fine or imprisonment. It means, as we said in Griffin v. California, 380 U.S. 609, 85 S. Ct. 1229, 14 L. Ed. 2d 106, the imposition of any sanction which makes assertion of the Fifth Amendment privilege "costly."*'"

5. Considerations of judicial economy and the rule against splitting causes of action also support the motion to stay the proceedings. A cause of action for Malicious prosecution against Travis County District Attorney Jose Garza has as a requirement of one of the elements that the criminal case against Plaintiff has been disposed of in their favor. Though Plaintiffs are

confident this will be the result in their pending criminal cases this eventuality has not yet come to pass. The Courts have long held that causes of action arising out of the same transactional nucleus of facts should not be brought in separate or repetitious causes of action. *Kendall v. Stokes*, 44 U.S. 87, 99 (1845).

*E. Exemplary damages.*

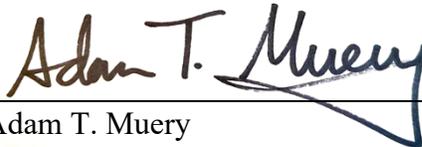
6. Plaintiff's injury resulted from Defendant's actual fraud, gross negligence, or malice, which entitles Plaintiff to exemplary damages under Texas Civil Practices and Remedies Code Section 41.003 (a).

*Prayer*

Plaintiffs pray that citation be issued commanding Defendants to appear and answer herein and that Plaintiffs be awarded judgment against Defendants, jointly and severally, for actual damages, pre-judgment interest, post-judgment interest, costs of Court and for all other relief to which Plaintiffs are entitled both in equity and at law.

Respectfully submitted,

MUERY & FARRELL, PC  
6200 La Calma Drive  
Suite 100  
Austin, Texas 78752  
Tel: (737) 808-0529  
Fax: (512) 727-6626

By:   
Adam T. Muery  
State Bar No. 24046495  
E-service: [filing@texanlegal.com](mailto:filing@texanlegal.com)  
Email: [adam@texanlegal.com](mailto:adam@texanlegal.com)

# **EXHIBIT K**

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

FILED

2021 JUL 27 PM 4:01

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY \_\_\_\_\_  
RECEIVED

JAVIER AMBLER, SR., AND MARITZA §  
AMBLER, INDIVIDUALLY, ON §  
BEHALF OF ALL WRONGFUL DEATH §  
BENEFICIARIES OF JAVIER AMBLER, §  
II, ON BEHALF OF THE ESTATE OF §  
JAVIER AMBLER II, AND AS NEXT §  
FRIENDS OF J.R.A., A MINOR CHILD; §  
AND MICHELE BEITIA, AS NEXT §  
FRIEND OF J.A.A., A MINOR CHILD, §  
PLAINTIFFS, §

CAUSE NO. 1:20-CV-1068-LY

V. §

WILLIAMSON COUNTY, ROBERT §  
CHODY, JAMES "JJ" JOHNSON, §  
ZACHARY CAMDEN, MICHAEL §  
NISSEN, CITY OF AUSTIN, AND §  
JASON NASSOUR, §  
DEFENDANTS. §

**ORDER**

Before the court in the above-styled and numbered cause are Defendants Williamson County, Robert Chody, James "JJ" Johnson, and Zachary Camden's motions to stay proceedings pending resolution of ongoing state criminal prosecutions filed April 27, 2021 (Docs. #56-59) and the associated responses (Docs. #61, 66-68) and replies (Docs. #76, 83-84, 87). Plaintiffs urge the court to deny the motions. Defendants Chody, Johnson, Camden, and Jason Nassour have all been indicted by grand juries in Williamson and Travis Counties for crimes arising from facts similar to those underlying this case. Having carefully considered the filings and applicable law, the court orders the following:

**IT IS ORDERED** that the motions to stay (Docs. #56-59) are **GRANTED** to the extent the case is **STAYED** pending further order of the court. In all other respects, the motions are **DENIED**.

**IT IS FURTHER ORDERED** that the Final Pretrial Conference set for May 27, 2022 at 3:00 p.m. and the jury trial set for June 2022 are **CANCELLED**.

**IT IS FURTHER ORDERED** that the parties file a joint status report describing the status of the state criminal prosecutions **on or before January 27, 2022**.

**IT IS FURTHER ORDERED** that the parties shall submit a similar status report **each six months thereafter**.

SIGNED this 27<sup>th</sup> day of July, 2021.

  
\_\_\_\_\_  
LEE YEAKEL  
UNITED STATES DISTRICT JUDGE

# **EXHIBIT L**

**From:** [Ramanjeet Gill](#)  
**To:** [Rebecca Webber](#)  
**Subject:** RE: intros  
**Date:** Friday, November 19, 2021 10:17:15 AM

---

Gotcha. And thanks for the connection.

---

**From:** Rebecca Webber <[rebecca@rebweblaw.com](mailto:rebecca@rebweblaw.com)>  
**Sent:** Friday, November 19, 2021 9:50 AM  
**To:** Ramanjeet Gill <[Ramanjeet.Gill@traviscountytexas.gov](mailto:Ramanjeet.Gill@traviscountytexas.gov)>; Michael Maloney <[michael@maloneyforensics.net](mailto:michael@maloneyforensics.net)>  
**Subject:** [CAUTION EXTERNAL] RE: intros

**CAUTION:** This email is from OUTSIDE Travis County. Links or attachments may be dangerous. Click the Phish Alert button above if you think this email is malicious.

---

Thanks for the invite but no need to copy me going forward!  
Reb

---

**From:** Ramanjeet Gill <[Ramanjeet.Gill@traviscountytexas.gov](mailto:Ramanjeet.Gill@traviscountytexas.gov)>  
**Sent:** Friday, November 19, 2021 7:42 AM  
**To:** Rebecca Webber <[rebecca@rebweblaw.com](mailto:rebecca@rebweblaw.com)>; Michael Maloney <[michael@maloneyforensics.net](mailto:michael@maloneyforensics.net)>  
**Subject:** RE: intros

Good morning Rebecca and Michael,

Michael, I would like to discuss the Sam Kirsch matter with you. I could speak later today if you have time, or any time next week M-W. Happy to have Rebecca on the call as well if her schedule permits.

Best,  
Raman

---

**From:** Rebecca Webber <[rebecca@rebweblaw.com](mailto:rebecca@rebweblaw.com)>  
**Sent:** Thursday, November 18, 2021 3:18 PM  
**To:** Michael Maloney <[michael@maloneyforensics.net](mailto:michael@maloneyforensics.net)>; Ramanjeet Gill <[Ramanjeet.Gill@traviscountytexas.gov](mailto:Ramanjeet.Gill@traviscountytexas.gov)>  
**Subject:** [CAUTION EXTERNAL] intros

**CAUTION:** This email is from OUTSIDE Travis County. Links or attachments may be dangerous. Click the Phish Alert button above if you think this email is malicious.

---

Dear Raman and Michael, I am writing to introduce you.

Raman is an Assistant District Attorney in the Civil Rights Unit of the Travis County District Attorney's Office.

Michael is a forensic consultant.

Warmly,  
Rebecca Webber  
Webber Law  
512-669-9506

---

This electronic mail message, including any attachments, may be confidential or privileged under applicable law. This email is intended solely for the use of the individual or entity to which it is addressed. If you are not the intended recipient of this email, you are notified that any use, dissemination, distribution, copying, disclosure or any other action taken in relation to the content of this email including any attachments is strictly prohibited. If you have received this email in error, please notify the sender immediately and permanently delete the original and any copy of this email, including secure destruction of any printouts.

# **EXHIBIT M**



**OFFICE OF THE  
DISTRICT ATTORNEY**

P.O. Box 1748, Austin, TX 78767

Telephone 512/854-9400

Telefax 512/854-4206

**JOSÉ P. GARZA**  
DISTRICT ATTORNEY

**TRUDY STRASSBURGER**  
FIRST ASSISTANT

**March 9, 2022**

**Travis County District Attorney's Office Restarts In-Person Criminal Jury Trials**  
District Attorney Secures Two Convictions For Acts of Violence

**TRAVIS COUNTY, TX** – Last week, the Travis County District Attorney's office secured two convictions in two of the first three in-person jury trials to proceed to resolution over the last two years.

On March 1, 2022, James Douglas Harris pled guilty to the offense Assault Family Violence Strangulation with a Prior Family Violence Conviction after jury selection began. He will be sentenced in April. On November 17, 2020, Mr. Harris was arrested and charged with Assault with Injury Family Violence / Strangulation.

On March 2, 2002, after the trial started and the state presented evidence, Santos Penaloza-Enriquez declined to continue with the trial and instead pled guilty to the offense Aggravated Sexual Assault of a Child. He was sentenced to serve 12 years in the Texas Department of Criminal Justice Institutional Division. The victim filed a report with the Austin Police Department on July 30, 2013, and reported that the first offense took place on June 1, 2009. Mr. Penaloza-Enriquez fled and was subsequently arrested and taken into custody on October 22, 2020.

“Resuming in-person criminal trials is crucial to make sure justice is served, to bring peace to the victims and provide them with closure,” said Travis County District Attorney José Garza. “Our office will seek justice for every victim of violent crime.”

###

# **EXHIBIT N**



## OFFICE OF THE DISTRICT ATTORNEY

P.O. Box 1748, Austin, TX 78767

Telephone 512/854-9400

Telefax 512/854-4206

**JOSÉ P. GARZA**  
DISTRICT ATTORNEY

**TRUDY STRASSBURGER**  
FIRST ASSISTANT

January 29, 2021

To the Travis County Community,

When I asked for your vote, I promised you that I would work with you to reimagine our criminal justice system. I believe that together we can build a system that treats all people equally, where our resources are spent fighting violent crimes, and that treats victims with dignity and respect.

We are facing unprecedented times in our criminal justice system. COVID-19 has created a backlog that means victims and people accused may be waiting months, if not years, for justice. Our jail currently houses over 1800 people, many of whom have not been convicted of a crime and are in jail because they are too poor to pay their bail to get out. Due to COVID-19, incarceration has become a potential death sentence. It has also put our public servants who work in jails and prisons, and their families, at risk.

We have much work to do, and change does not come quickly. However, now is the time to roll-up our sleeves and divert as many resources as we can into keeping our community safe. To that end, as of February 1 I am announcing that the following policies will be implemented:

**Violent Crimes.** Since March, there have been limited grand jury proceedings in Travis County. We are grateful for a group of grand jurors who committed to extending their service through the end of 2020. We will be triaging the backlog of cases to focus on violent offenses that pose a threat to public safety. In the last two weeks, the grand jury has returned over 55 indictments on violent offenses, including charges of murder, kidnapping, sexual assault, aggravated assault, and violent crimes against children.

**Victim Services.** It is imperative that our victim-witness counselors, who currently have a caseload of up to 800 people each, are able to do their jobs effectively. We have hired an experienced and nationally recognized victim-witness counselor, Neva Fernandez, who will be leading the team and moved the team under the supervision of Erin Martinson. Ms. Fernandez will work to train the counselors and prosecutors on trauma-informed interviewing, implement policies to reduce the counselor caseload, and ensure that all victims are treated with dignity and respect regardless of the facts of their case.

**Diversion.** In the past, many people who were accepted into pre-trial diversion programs through the District Attorney's Office were accepted because they had hired an attorney and could afford to pay the fees associated with diversion. Many were also excluded based solely on their criminal history. However, pre-trial diversion should recognize that all people are capable of change, and that helping a person through treatment or counseling makes our community more safe than jail or prison.

We have greatly expanded our pre-trial diversion program so that more people will be eligible, and have structured the program so that our prosecutors can seek to find eligible people instead of waiting on defense counsel to ask. We will also be asking stakeholders to work with us to expand services that we can offer. At this moment, a team of experienced prosecutors is reviewing cases to determine if the person is eligible for diversion. In order to fulfill our promise of transparency to you, we will update the community regularly on the number of people who have been accepted for diversion, and the number of people who have successfully completed it.

**Bail.** Those who have committed heinous crimes and are a danger to the community should remain in custody pending trial. But we must work to ensure that it is not just the wealthy who are given an opportunity to be released when they are not a danger to the community.

While we cannot set bail ourselves, we will be using this analysis to recommend bail to the Judges who make the final determination:

- We will not consider a person who is an attendance risk, meaning they have missed court in the past but have not attempted to evade the police, a flight risk.
- For anyone charged with a State Jail Felony, there will be a presumption of release with no conditions if it is determined that the person poses no threat to community safety or risk of flight.
- For anyone charged with a higher level felony, there will be a presumption of release with the least restrictive condition necessary to ensure that the person is not a risk to the community or risk of flight.
- Anyone who poses a future risk of harm to our community or a risk of a flight that cannot be addressed by conditions other than pre-trial incarceration should remain in custody.

**Conviction Integrity.** Over the last two decades, our community has learned hard lessons about the factors that can lead to wrongful convictions. We have a duty to ensure that no person who is innocent or is entitled to a new trial due to a wrongful conviction is forgotten in prison. We have created a conviction integrity team lead, and our team of lawyers will create processes and begin a thorough and careful review of past convictions. To this end, our office has been working since January 4th to ensure that a judge could hear evidence of Ms. Rosa Jimenez's innocence and ensure her release.

Soon our office will have a public form for our community to fill out if they have a loved one who needs their case reviewed.

**Civil Rights.** One of our most important jobs is to work with law enforcement to keep our community safe. That means we must work together to ensure that cases we bring to the point of prosecution have been thoroughly investigated, and we are confident that we are bringing the right person to trial with the right charges. It also means that in order to rebuild community trust and ensure the safety of our community, we must hold law enforcement accountable when they break the law.

If we have evidence that an officer's conduct calls into question the integrity of any case they have previously handled, we will be conducting a review of those cases and we will place them on a "do not call to testify" list. Before the list is made public, the officer will have a right to present evidence that they should be allowed to continue to testify in criminal cases.

**Sentencing.** I promised you that our practice would not be to seek excessive sentences. This office believes that all people are capable of change, and that we must use data to ensure that we are asking for sentences consistent with when we know that a person's criminogenic risk has been greatly reduced. For that reason, any prosecutor who believes that a sentence longer than twenty years is appropriate must seek permission from the director of the division and our first assistant or myself. Make no mistake, there will be times when a long sentence will be appropriate.

**Powerful Actors.** We have shifted the focus of the unit formally known as "special prosecutions" to Public Integrity and Complex Crimes. We will be focusing not only on elected officials who have committed crimes that fall under our jurisdiction, but we will be asking community members to come forward and inform us when they have been victims of wage theft, unsafe work conditions that rise to the level of criminal conduct, or landlords who have criminally taken advantage of tenants. We will soon be publishing a form that can be used to report complaints of this nature. We will be actively working with the community to identify these cases, and work to ensure that justice is done and that powerful actors are held accountable.

**Drugs.** I committed to you that my office would not spend our scant resources prosecuting people who suffer from substance abuse issues instead of using those resources to prosecute crimes like sexual assault and family violence. To that end, we will continue the practice started by the last administration of not prosecuting people who are in possession of a state jail amount of drugs and we will be ending the prosecution of the sale of small amounts of drugs unless there is a threat to public safety. Instead, when someone is arrested for a drug crime, we will prioritize prosecuting only sellers who pose a danger to the community because they engage in violent conduct.

**Magistration.** Right now, it is the police who decide what charges to file and the magistrates who set the initial bail. This is done without the input of the prosecutor or defense counsel. Our office, along with the county attorney, intends to begin an arrest review process in magistration as soon as we can. This will save time and money for the county, and potentially wasted days in jail, if we can review cases before a person sees a magistrate, and I look forward to working with criminal justice stakeholders to make this happen.

A handwritten signature in black ink, appearing to read "José Garza". The signature is fluid and cursive, with the first letter of each name being significantly larger and more stylized.

José Garza

# **EXHIBIT O**

**CAUSE NO. D-1-DC- 20-900092**

**THE STATE OF TEXAS**

§  
§  
§  
§  
§

**IN THE DISTRICT COURT**

**VS.**

**299th JUDICIAL DISTRICT**

**GREGORY GENTRY**

**TRAVIS COUNTY TEXAS**

**MOTION TO DISMISS**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES the State of Texas, by and through the District Attorney for Travis County, and respectfully requests the Court to dismiss the above entitled and numbered criminal action in which the defendant is charged with the offense of Aggravated Assault by Public Servant , for the reason:

- The evidence is insufficient;
- The defendant was convicted in another case;
- The complaining witness has requested dismissal;
- The case has been refiled;
- The defendant is unapprehended;
- The defendant is deceased;
- The defendant has been granted immunity in light of his testimony;
- The defendant has completed the drug court program
- Other: Best Interest of Justice

And for cause would show the Court the following: .

WHEREFORE, it is prayed that the above entitled and numbered cause be dismissed.

Respectfully submitted,

Filed in the District Court  
Of Travis County, Texas  
At 07/19/2021 7:23pm  
Velva L. Price, District Clerk

DocuSigned by:  
*Coulter Goodman*  
0710258596BF488...  
Assistant District Attorney

**ORDER**

The foregoing motion having been presented to me on this the 19th day of July, A.D. 2021, and the same having been considered, it is, therefore, ORDERED, ADJUDGED, and DECREED that the above entitled and numbered cause be and the same is hereby dismissed.

DocuSigned by:  
*Karen Sage*  
99ADDE0122AF43E...  
Judge of the 299th Judicial District Court  
Travis County, Texas



**OFFICE OF THE  
DISTRICT ATTORNEY**

P.O. Box 1748, Austin, TX 78767

Telephone 512/854-9400

Telefax 512/854-4206

**JOSÉ P. GARZA**  
DISTRICT ATTORNEY

**TRUDY STRASSBURGER**  
FIRST ASSISTANT

July 19, 2021

Doug O’Connell  
505 W 12<sup>th</sup> St, Ste 200  
Austin, TX, 78701

Ken Ervin  
1301 Rio Grande St  
Austin, TX 78701

Filed in the District Court  
Of Travis County, Texas

▲+ 07/19/2021 2:23pm

Velva L. Price, District Clerk

Re: State v. Gregory Gentry D1DC20900092

Dear Mr. O’Connell and Mr. Ervin:

I am writing to inform you that our Office is dismissing the pending indictment against Austin Police Department Officer Gregory Gentry. In my review of this case, I became aware that our Office had previously consulted with an expert regarding Officer Gentry’s use of force in this case. His opinion was that Officer Gentry’s use of force was lawful. As you know, I have previously made that opinion available to you in accordance with our obligations under *Brady v. Maryland* and corresponding Texas law.

In light of this information, we have decided that a dismissal in the interests of justice is the appropriate action to take in this case. Attached to this letter is the dismissal of the pending case.

Regards,

Coulter Goodman  
Assistant District Attorney  
(512) 854-9400

# **EXHIBIT P**

<https://www.austinchronicle.com/news/2021-07-23/district-attorney-drops-assault-case-against-apd-officer/>

## District Attorney Drops Assault Case Against APD Officer

D.A. Office's internal review of Gentry case uncovers previously undisclosed exculpatory evidence

BY AUSTIN SANDERS, JULY 23, 2021, NEWS

The **Travis County District Attorney's Office** has dropped its felony assault case against Austin Police Department Officer **Gregory Gentry**, after an internal review of the case file uncovered previously undisclosed exculpatory evidence. "Upon review, we have decided that a dismissal of the indictment is the appropriate action to take in this case and best serves the interest of justice," D.A. **José Garza** said in a statement. "I offer my sincere apologies to Officer Gentry who undoubtedly suffered as a result of this process."

A special grand jury indicted Gentry in January, along with fellow APD Officer **Chance Bretches**, on the first-degree felony charge of aggravated assault by a public servant, stemming from a March 2019 arrest. Charging documents allege that the two officers, and a third who was not indicted, struck a suspect with their hands, elbows, and knees. Body camera footage of the alleged beating has not been released, but sources who have seen it describe it as "disturbing."

The officers involved were cleared of wrongdoing after an APD Internal Affairs investigation, but a prosecutor under former D.A. **Margaret Moore** prepared a grand jury presentation to make the case for indictment, which never happened during her tenure. Earlier this year, Moore told the *Chronicle* that in the final weeks of her administration, the **Civil Rights Unit** – tasked with prosecuting officers accused of criminal conduct – was preoccupied by the **Javier Ambler** case, in which an unarmed Black man died in 2019 during an attempted arrest by Williamson County sheriff's deputies and APD officers.

When Garza took office earlier this year, his team moved forward with the case and secured an indictment of Bretches and Gentry. The case file compiled by the former prosecutor – whom Garza said is no longer employed by his office – included testimony from a retired APD detective who said that in his view Gentry's use of force in particular was justified and lawful. In his statement, Garza said the former assistant D.A. had not flagged this evidence and that no one else knew of its existence until a new prosecutor, preparing for trial, uncovered it in May.

At that point, Garza shared the testimony with the attorneys representing Gentry; under the law, this should have happened earlier, although the D.A. is not obligated to present exculpatory evidence to a grand jury. Those attorneys, **Doug O'Connell** and **Ken Ervin**, are also defending Bretches, whose case will still go to trial – and the two WilCo deputies indicted in Ambler's death, and **Christopher Taylor**, the APD officer charged with the murder

of **Mike Ramos** in April 2020. They took the humbling moment for Garza as an opportunity to attack the progressive D.A., even though the error involving their client happened under his predecessor.

"We have said all along that the indictments against our law enforcement clients ... were the result of selecting and presenting evidence to the grand jury in ways calculated to produce indictments," O'Connell and Ervin wrote in a statement. "Though we appreciate the dismissal of Officer Gentry's case and the acknowledgement of impropriety in obtaining his indictment, Mr. Garza still has several more illegitimate indictments to dismiss and apologies to give."

Garza also announced personnel changes to the Civil Rights Unit; **Jim Wheat**, previously chief of special crimes for the Bexar County D.A., will join the unit as a supervisor reporting to CRU Director **Dexter Gilford**, leading the team of three attorneys (JD Castro, Millie Thompson, and Coulter Goodman) working on cases involving law enforcement.

*Copyright © 2022 Austin Chronicle Corporation. All rights reserved.*

# **EXHIBIT Q**



# AUSTIN MONITOR



*Photo by Gabriel C. Pérez/KUT. Austin police officers clear demonstrators from I-35 on May 31, 2020. Hundreds took over the highway during a protest of the police killing of George Floyd.*

## Here's what we know about APD officers facing charges for using beanbag rounds in 2020 protests

TUESDAY, FEBRUARY 22, 2022 BY ANDREW WEBER, KUT

Nineteen Austin police officers face criminal charges for the use of so-called "less lethal" ammunition on demonstrators during racial justice protests in 2020.

Police use of the lead-pellet bags, which were fired from shotguns, severely injured protesters, at least 19 of whom were hospitalized.

The officers have been indicted on charges of aggravated assault by a public servant, a felony punishable by anywhere from five to 99 years in prison and a \$10,000 fine. The officers turned themselves in to the Travis County jail and were released on bond, according to the sheriff's office.

Travis County District Attorney José Garza released the indictments in 20 cases Tuesday.

Nineteen of the cases involve the use of beanbag rounds on protesters; one involves an officer who struck a demonstrator with a foam-tipped round fired from a 40 mm launcher.

Some of the indicted officers fired the beanbag rounds at protesters in an attempt to control the crowd and others were supervising officers, according to Ken Ervin, a lawyer representing eight of the officers.

At a news conference Monday, Ervin said the cases he's handling all stem from the clearing of Interstate 35 during protests over the police killings of George Floyd and Mike Ramos. He said the use of beanbag rounds to clear the highway was appropriate.

"It's consistent with not only training within the department, but within other law enforcement agencies across the country," he said. "If there is an issue with the use of beanbag rounds in this situation, that needs to be handled on a different level. It is unfair and entirely improper to use criminal indictments to try to effect some sort of change in a use-of-force policy." Garza said last week that his office considers the demonstrators involved in these cases to be "innocent bystanders" and that officers were using deadly weapons.

Austin Police Department Chief Joseph Chacon called news of the indictments extremely disappointing. Austin City Manager Spencer Cronk said in a statement that the city "did not believe that criminal indictments of the officers working under very difficult circumstances is the correct outcome."

Attorney Doug O'Connell, who is also representing officers, said Monday the officers were acting within APD's use-of-force guidelines. He said, however, that some of the protester injuries were "regrettable" and should be settled in civil court, not in criminal court.

"There very well may be righteous civil law, civil personal injury cases," he said. "That's not what's going on here. These are criminal indictments where these officers face up to 99 years, or life, in prison."

O'Connell said the officers are expected to be put on administrative duty while the cases move forward, and that he and Ervin plan to take their clients' cases to a jury trial.

Austin City Council last week approved \$10 million to settle the civil cases of two protesters who were injured.

---

*“First, we believe many protesters injured by law enforcement officers during the protest were innocent bystanders. We also believe that the overwhelming majority of victims in the incidents that were investigated suffered significant and lasting injuries.*

District Attorney José Garza

---

Austin Police Association President Ken Casaday has called the investigation politically motivated. One of the officers indicted, Justin Berry, is a Republican candidate for the Texas House.

“We think, again, the DA is just playing politics,” Casaday said Friday. His police union and other police advocacy groups made similar accusations about other police investigations by Garza's office. Six prior investigations have resulted in officers being indicted.

Garza, a Democrat, ran on a progressive platform to prosecute police misconduct. On Thursday, he described the facts discovered during this investigation as “disturbing.”

“First, we believe many protesters injured by law enforcement officers during the protest were innocent bystanders,” he said. “We also believe that the overwhelming majority of victims in the incidents that were investigated suffered significant and lasting injuries. Those injuries include significant and serious injuries to the head, face and body. Some will never fully recover.”

The district attorney's office has said the investigation into the use of force is ongoing.

*Below is a list of the 19 indicted officers.*

**Nicholas Gebhart** was charged with aggravated assault by a public servant, a first-degree felony. Gebhart is accused of shooting Brad Levi Ayala with a beanbag round during a protest on May 30, 2020. The Travis County Sheriff's Office told KUT he was booked on Feb. 18 and released the same day on bond.

**Kyu An** was charged with aggravated assault by a public servant, a first-degree felony. An is accused of shooting Bomani Barton with a beanbag round during a protest on May 30, 2020. The Travis County Sheriff's Office told KUT he was booked on Feb. 18 and released the same day on bond.

**Derrick Lehman** was charged with aggravated assault by a public servant, a first-degree felony. Lehman is accused of shooting Ge Micah Volter-Jones with a beanbag round during a protest on May 30, 2020. The Travis County Sheriff's Office told KUT he was booked on Feb. 21 and released the same day on bond.

**Eric Heim** was charged with aggravated assault by a public servant, a first-degree felony. Heim is accused of shooting Alyssa Sanders with a 40 mm foam-tipped round during a protest on May 30, 2020. The Travis County Sheriff's Office told KUT he was booked on Feb. 21 and released the same day on bond.

**Edward Boudreau** was charged with aggravated assault by a public servant, a first-degree felony. Boudreau is accused of shooting Ge Micah Volter-Jones with a beanbag round during a protest on May 30, 2020. The Travis County Sheriff's Office told KUT he was booked on Feb. 18 and released the same day on bond.

**Joseph Cast** was charged with aggravated assault by a public servant, a first-degree felony. Cast is accused of shooting Meredith Williams with a beanbag round during a protest on May 30, 2020. The Travis County Sheriff's Office told KUT he was booked on Feb. 21 and released on bond. Williams sued the City of Austin and the Austin Police Department over her injury.

**John Siegel** was charged with aggravated assault by a public servant, a first-degree felony. Siegel is accused of shooting Nicole Underwood with a beanbag round during a protest on May 30, 2020. The Travis County Sheriff's Office told KUT he was booked on Feb. 18 and released on bond. Underwood sued the City of Austin and the Austin Police Department over her injury.

**Kyle Felton** was charged with aggravated assault by a public servant, a first-degree felony, in two separate incidents. Felton is accused of shooting Anthony Evans with a beanbag round during a protest on May 31, 2020. He's also accused of shooting Justin Howell with a beanbag round during a protest on May 31, 2020. The Austin City Council [approved \\$10 million](#) in settlements for both Howell and Evans' civil cases against the city and APD last week.

The Travis County Sheriff's Office told KUT he was booked on Feb. 18 and released the same day on bond.

**Jeffrey Teng** was charged with aggravated assault by a public servant, a first-degree felony. Teng is accused of shooting Justin Howell with a beanbag round during a protest on May 31, 2020. The Travis County Sheriff's Office told KUT he was booked on Feb. 18 and released the same day on bond. The Austin City Council approved an \$8 million settlement in Howell's civil suit against the city [last week](#).

**Rolan Rast** was charged with aggravated assault by a public servant, a first-degree felony. Rast is accused of shooting Sam Kirsch with a beanbag round during a protest on May 31, 2020. The Travis County Sheriff's Office told KUT he was booked on Feb. 18 and released the same day on bond. [Kirsch sued](#) the City of Austin and the Austin Police Department over his injury.

**Justin Berry** was charged with aggravated assault by a public servant, a first-degree felony. Berry is accused of shooting Christen Warkoczewski with a beanbag round during a protest on May 31, 2020. The Travis County Sheriff's Office told KUT he was booked on Feb. 18 and released the same day on bond. Warkoczewski sued the City of Austin and the Austin Police Department over her injury.

**Alexander Lomostev** was charged with aggravated assault by a public servant, a first-degree felony. Lomovstev is accused of shooting Christen Warkoczewski with a beanbag round during a protest on May 31, 2020. The Travis County Sheriff's Office told KUT he was booked on Feb. 18 and released the same day on bond. Warkoczewski sued the City of Austin and the Austin Police Department over her injury.

**Todd Gilbertson** was charged with aggravated assault by a public servant, a first-degree felony. Gilbertson is accused of shooting Christen Warkoczewski with a beanbag round during a protest on May 31, 2020. The Travis County Sheriff's Office told KUT he was booked on Feb. 21 and released on bond. Warkoczewski sued the City of Austin and the Austin Police Department over her injury.

**Stanley Vick** was charged with aggravated assault by a public servant, a first-degree felony. Vick is accused of shooting Christen Warkoczewski with a beanbag round during a protest on May 31, 2020. The Travis County Sheriff's Office told KUT he was booked on Feb. 18 and released the same day on bond. Warkoczewski sued the City of Austin and the Austin Police Department over her injury.

**Christian Irwin** was charged with aggravated assault by a public servant, a first-degree felony. Irwin is accused of shooting Christen Warkoczewski with a beanbag round during a protest on May 31, 2020. Attorneys representing Irwin say he was booked and released the same day on bond. Warkoczewski sued the City of Austin and the Austin Police Department over her injury.

**Jeremy Fisher** was charged with aggravated assault by a public servant, a first-degree felony. Fisher is accused of shooting Christen Warkoczewski with a beanbag round during a protest on May 31, 2020. The Travis County Sheriff's Office told KUT he was booked on Feb. 21 and released on bond. Warkoczewski sued the City of Austin and the Austin Police Department over her injury.

**Joshua Jackson** was charged with aggravated assault by a public servant, a first-degree felony. Jackson is accused of shooting Christen Warkoczewski with a beanbag round during a protest on May 31, 2020. The Travis County Sheriff's Office told KUT he was booked on Feb. 18 and released the same day on bond. Warkoczewski sued the City of Austin and the Austin Police Department over her injury.

**Josh Blake** was charged with aggravated assault by a public servant, a first-degree felony. Blake is accused of shooting Christen Warkoczewski with a beanbag round during a protest on May 31, 2020. The Travis County Sheriff's Office told KUT he was booked on Feb. 21 and released on bond. Warkoczewski sued the City of Austin and the Austin Police Department over her injury.

**Brett Tableriou** was charged with aggravated assault by a public servant, a first-degree felony. Tableriou is accused of shooting Christen Warkoczewski with a beanbag round during a protest on May 31, 2020. The Travis County Sheriff's Office told KUT he was booked on Feb. 21 and released on bond. Warkoczewski sued the City of Austin and the Austin Police Department over her injury.

*This story has been updated. It was produced as part of the Austin Monitor's reporting partnership with KUT.*

*The Austin Monitor's work is made possible by donations from the community. Though our reporting covers donors from time to time, we are careful to keep business and editorial efforts separate while maintaining transparency. A complete list of donors is available [here](#), and our code of ethics is explained [here](#).*

## JOIN YOUR FRIENDS AND NEIGHBORS

We're a nonprofit news organization, and we put our service to you above all else. That will never change. But public-service journalism requires community support from readers like you. Will you join your friends and neighbors to support our work and mission?

DONATE TODAY

## RELATED STORIES

- [Austin OKs \\$850,000 settlement for volunteer medic shot with 'less-lethal' ammunition during protest](#)
- [City, police union negotiate new labor contract after eventful five years](#)

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

SAM KIRSCH,

Plaintiff,

v.

THE CITY OF AUSTIN and  
ROLAN ROMAN RAST,

Defendants.

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

CIVIL ACTION NO. 1:20-CV-01113-RP

**ORDER**

Before the Court is Defendant Rolan Rast’s Motion to Stay Further Proceedings. Having considered the motion, response, any reply, any arguments of counsel, the applicable law, and the case file as a whole, the Court enters the following orders:

**IT IS ORDERED THAT** Defendant Rolan Rast’s Motion to Stay Further Proceedings is **GRANTED;**

**IT IS FINALLY ORDERED THAT** all further proceedings in this matter as **STAYED** until further order of this Court.

SIGNED on \_\_\_\_\_.

\_\_\_\_\_  
HON. ROBERT PITMAN  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

SAM KIRSCH,

Plaintiff,

v.

THE CITY OF AUSTIN and  
ROLAN ROMAN RAST,

Defendants.

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

CIVIL ACTION NO. 1:20-CV-01113-RP

**DEFENDANT ROLAN RAST’S MOTION TO STAY FURTHER PROCEEDINGS**

Defendant Officer Rolan Rast (“Officer Rast”) files this motion to stay further proceedings, including remaining discovery, dispositive motion deadlines, and trial, until Officer Rast’s parallel criminal proceeding in state court is resolved. As part of the broader request for relief, Officer Rast also seeks a protective order with respect to his deposition, which Plaintiff unilaterally noticed for June 22, 2022.

**SUMMARY**

Austin Police Department Officer Rast is under indictment—as one of a host of criminal cases highly publicized by the Travis County District Attorney’s Office—for alleged actions taken in response to conduct by protesters in May 2020. The Travis County District Attorney announced the indictment of Officer Rast (and 18 other APD officers) publicly in February of this year, among other ways through a frequently updated press release that contains the introduction:

The following is a list of each officer-involved use of force or other misconduct matter involving injury to any person currently pending in the Office’s Civil Rights Unit.

*See, e.g., Ex. E*, at 1. The criminal case pending against Officer Rast unequivocally involves the same conduct at issue in this civil case.

The criminal case against Officer Rast remains pending on backlogged Travis County criminal dockets.

This civil case was filed on November 9, 2020, naming the City and a “John Doe” officer. (Dkt. 1.). Plaintiff alleged the “John Doe” was either Officer Jeffrey Teng or Officer Eric Heim. (Dkt. 1, ¶3). Plaintiff amended his pleading in January 2021 to substitute Officer Rast for the “John Doe” defendant. (Dkt. 4). The Travis County DA’s Office subsequently updated its regular press release, in May 2021, to name Officer Rast as the officer under investigation with respect to the protest incident involving Plaintiff. *See Ex. E*, at 43 (May 7, 2021 press release). (Prior to that time, the DA’s Office press release referred as early as January 2021—just days after the current elected DA first took office—to the protest-related matter involving Plaintiff as being under investigation through his office, with the description “SUBJECT OFFICER: NOT IDENTIFIED.” *See id.* at 5, 11.)

Officer Rast did not file a motion to stay this civil case in light of the pending criminal investigation and later indictment until his rights and ability to defend himself in this civil litigation—while maintaining his rights against self-incrimination—including his ability to develop a record on and present a qualified immunity defense came to be in jeopardy. That time of jeopardy has now arrived. Paper and deposition discovery concerning materials available through the City, over such things as personnel and training records, City policies, and the APD internal investigation of the incident, has been conducted. Plaintiff now seeks to take the deposition of Officer Rast, as well as other officers who worked alongside him in response to the protests on May 31, 2020. The purpose of such depositions—to solicit invocations of self-incrimination privilege—is apparent. Everyone understands Officer Rast—and potentially others on duty with him on the day of the incident whom Plaintiff seeks to depose—will assert federal

and state-law privileges against self-incrimination, *see Ex. B (Toland Dec.)*, including a Fifth Amendment right which exists to “protect *innocent* men who otherwise might be ensnared by ambiguous circumstances,” *Ohio v. Reiner*, 532 U.S. 17, 21 (2001) (cleaned up).

Asserting that privilege is not only the officer’s constitutional right; it is also a necessary defense to avoid giving a prosecutor additional evidence to use for the prosecution, or an otherwise unobtainable window into the officer’s criminal defense strategy. Everyone understands, or should understand, that Plaintiff will gain no useful knowledge about the underlying facts of the case from additional discovery he seeks, including Officer Rast’s deposition, but will instead merely generate invocations of the privilege to be used by Plaintiff or others to seek to imply guilt or civil liability. Furthermore, because of the simultaneous criminal and civil proceedings over the same conduct, Officer Rast is being deprived of the opportunity and right to develop a record on which he can establish and assert his defense of qualified immunity from this civil suit.

Officer Rast therefore asks this Court to stay this case, as this Court and other federal courts across Texas have done in similar circumstances. The stay is important not only for Officer Rast, but also for the City as well as non-defendant officers who may still face potential criminal liability arising out of the incident made the basis of this lawsuit.

### **BACKGROUND**

This is a civil rights case brought under 42 U.S.C. § 1983. Plaintiff has brought free speech and excessive force claims arising out of injuries he sustained while participating in protests in 2020. Plaintiff’s live complaint alleges that Officer Rast shot him in the head with a beanbag projectile while Plaintiff was demonstrating at those protests.

Travis County District Attorney Jose Garza (“DA Garza”), who took office on January 1, 2021, publicly campaigned on prosecution of law enforcement officers. *See, e.g.*, “Law

Enforcement Accountability Policy,” Jose for DA, available at <https://www.joseforda.com/law-enforcement-accountability>. Campaign ads for DA Garza included footage from Austin’s May 2020 protests, showing protestors displaying signs reading “ACAB” (“All Cops Are Bastards”) while DA Garza provides voiceover criticizing the incumbent District Attorney for failing to prosecute law enforcement. *E.g.*, “Jose Garza for Travis County District Attorney,” Bernie Sanders YouTube (June 16, 2020), available at <https://www.youtube.com/watch?v=yMtzEAYWAuI>. Protestors like Kirsch volunteered and helped DA Garza get elected on this platform. **Ex. F** (Plaintiff’s resume identifying work as a “Volunteer Field Organizer” for the Garza campaign).

DA Garza followed through on his campaign promises to prosecute law enforcement officers. DA Garza has trumpeted a number of indictments against members of law enforcement, including many arising out of the May 2020 protests. *See, e.g.*, Travis County DA Jose Garza discusses cases related to May 2020 protests,” KXAN (Feb. 17, 2022), available at <https://www.youtube.com/watch?v=yWY1bugSBIQ>; **Ex. G** (“19 Austin police officers accused of excessive force during 2020 protests are indicted”); **Ex. Q** (“Here’s what we know about APD officers facing charges for using beanbag rounds in 2020 protests”). DA Garza has also implemented policies within his office to put law enforcement conduct before grand juries as a matter of course. *See, e.g.*, **Ex. H** (describing DA Garza’s “promise to [the community] to take all officer involved excessive force cases to the grand jury”); **Ex. I** (reporting on recruiting email from Travis County DA’s Office supervisor reading “I am reaching out in the hopes that you may be looking to prosecute police officers or that you know someone who is”).

The criminal prosecution of Officer Rast (among others) fell in line with the campaign promises and the actions taken by DA Garza immediately upon taking office. The incident

involving Plaintiff was included as a matter under investigation in the first “list of each officer-involved use of force or other misconduct matter involving injury to any person currently pending in the Office’s Civil Rights Unit,” as first compiled and broadcast by the Travis County DA’s Office on January 11, 2021. **Ex. E**, at 1. The incident involving Plaintiff continued to be included in the publicly issued list—which has often been updated more than once a month—and in April 2021 DA Garza identified Officer Rast by name as being a person under criminal investigation in connection with that incident. *Id.* at 36. Through the paper discovery taken in this matter it has since become clear that Plaintiff’s counsel has been involved in communications with the Travis County DA’s Office about the incident, even putting an incident reconstruction expert they retained in touch with the prosecutor’s office. **Ex. L**.

Based on a grand jury presentation that remains secret under Texas law—such that it is impossible to know what evidence, if any, the Travis County DA’s Office presented to that grand jury—a Travis County grand jury returned an indictment against Officer Rast in February 2022 for allegedly firing the non-lethal round that struck Plaintiff. **Ex. A**. The Travis County DA’s Office then updated the list of “officer-involved use of force and other misconduct” press release to reflect the addition of the indictment against Officer Rast, among others. **Ex. E**, at 112 (March 7, 2022 press release).<sup>1</sup>

Following the indictment, limited discovery in this civil case continued. That limited discovery included the deposition of another APD officer on duty with Officer Rast on the day of the incident. Notwithstanding the allegations in both that indictment and Kirsch’s own complaint,

---

<sup>1</sup>DA Garza’s zeal to make good on campaign promises to prosecute law enforcement officers for their conduct in connection with the May 2020 protests is also reflected in the fact that Officer Rast is not even properly named in the updated press releases, which to this day provide a description of the case brought against Officer Rast that includes not Officer Rast’s name, but that of another APD officer. *See, e.g.*, **Ex. E**, at 112, 123, 131, 142, 149, 158.

Kirsch's counsel took the position that Officer Rast did *not* shoot Kirsch. Here is Kirsch's counsel proclaiming she "know[s] who shot Sam Kirsch" and pointing to *someone other than Officer Rast* as having fired the round that struck Plaintiff:

24 | Q. Okay. You shot Sam Kirsch, and so I'm  
25 | wondering why you know you didn't?

1 | MR. LAIRD: Well, what --

2 | MS. WEBBER: Excuse me.

3 | MR. LAIRD: If -- if you stop --

4 | MS. WEBBER: No. No. No. No.

5 | MR. LAIRD: Oh, yes. Yes. Yes.

6 | MS. WEBBER: Do you have an objection,  
7 | sir?

8 | MR. LAIRD: Well, if you've -- if you've  
9 | got some evidence that shows it, then, I mean --

0 | MS. WEBBER: That I -- you really want to  
1 | see it; don't you? Like, that's not an objection, Gray.  
2 | I know who shot Sam Kirsch.

3 | Q. (By Ms. Webber) Detective, you're sure it  
4 | wasn't you, right?

5 | A. From my vantage point, I was targeting the  
6 | individual described in my report.

See **Ex. D** (B. Pietrowski Depo., 4/20/2022), at 189:24-190:16. Moments later, during the same deposition, during a discussion about video footage of the underlying incident, Plaintiff's counsel explained that DA Garza got the "wrong guy" indicted for the incident involving Plaintiff:

2 MS. WEBBER: Boline did this, too. He  
3 testified that he synched these videos, so you can get  
4 it from him. This is --

5 MR. LAIRD: The synched videos that --  
6 well --

7 MS. WEBBER: Well, he did a crap job, and  
8 that's why --

9 MR. LAIRD: We can --

10 MS. WEBBER: -- you know, Officer Rast  
11 got indicted. The wrong guy got indicted, but that  
12 doesn't mean that I have to give you my work product  
13 just because it's better.

*Id.* at 196:2-13. Just a few weeks ago counsel told this Court the same thing, explaining in a pleading that the video footage “belies [the other officer’s] firm belief that he did not shoot Sam.” *See* Pl.’s Resp. to City’s Motion to Compel (Dkt. 44), at 8. In a recent meet-and-confer on this motion, Plaintiff’s counsel affirmed that they have now changed their position again, and that they once again contend that Officer Rast fired the non-lethal munition that struck Plaintiff.

Throughout the flip-flopping on who fired the non-lethal munition that struck Plaintiff, Officer Rast’s position throughout this litigation has been consistent and clear: while he has not opposed all discovery in the case, he has always opposed any effort to force him to testify (whether through written discovery responses or deposition) while his criminal case is pending. He has also been consistent and clear—as was obvious to all participants in the civil case—that he had and has a right to defend himself in this civil case, including by making a record on and presenting through appropriate motions his defense of qualified immunity. *See* Officer Rast’s Original Answer (Dkt. 9), at 6.

Until recently, the parties had proceeded with discovery under this understanding of Officer Rast's position, and Plaintiff and the City have engaged in document discovery and limited depositions, including the one quoted from above. During a recent meet-and-confer call regarding the parties' request to extend the dispositive motions deadline, counsel for Plaintiff and Officer Rast again discussed Officer Rast's position that any deposition should be delayed until after the resolution of the parallel criminal proceeding. Counsel agreed that Plaintiff would notice Officer Rast's deposition for a date in July after the parties' scheduled July 12 mediation, with the understanding that if the case continued after mediation Officer Rast would seek relief from the Court to prevent his deposition from moving forward. On May 26, 2022, Plaintiff noticed Officer Rast's deposition for July 20, 2022.

On June 2, 2022, Plaintiff unilaterally re-noticed Officer Rast's deposition for June 22, 2022. *See Ex. C* (Plaintiff's First Amended Notice of Video Deposition of Rolan Rast). The purported basis for rescheduling Officer Rast's deposition was that Officer Rast is a named plaintiff in a separate civil lawsuit filed in state court against the City of Austin and various other defendants, including DA Garza, related to the same 2020 protests.<sup>2</sup> Accordingly, Officer Rast now seeks the relief that all parties understood would be requested from the Court once his rights to defend himself in this civil case were precluded by the pendency of the parallel criminal proceeding.

---

<sup>2</sup>Although that case was apparently filed at the latest possible time to avoid statute of limitations issues, the original petition filed on behalf of Officer Rast and others itself includes a request to stay the suit pending the outcome of the named plaintiff officers' criminal trials. *See* Pls.' Original Petition, *Jackson v. City of Austin*, No. D-1-GN-22-002502 (201st Dist. Ct., Travis Cnty., Tex.) (filed May 31, 2022, 11:50 PM), copy attached as **Exhibit J**. The need to invoke self-incrimination protections obviously does not foreclose Officer Rast's ability to protect his right to pursue such affirmative claims. *E.g., Wehling v. Columbia Broadcasting System*, 608 F.2d 1084, 1086-88 (5th Cir. 1979).

## ARGUMENT

Under controlling Fifth Circuit precedent, Officer Rast is entitled to a complete stay of this case pending resolution of his parallel criminal proceeding. Officer Rast did not file this motion preemptively, while the incident was on DA Garza's list of "unindicted" "officer-involved use of force or other misconduct" cases. This allowed the parties to make progress in paper discovery and limited deposition discovery without directly implicating Officer Rast's rights to defend himself in the case. Now that this non-infringing discovery has been completed, and now that Plaintiff is pressing for Officer Rast's deposition, Officer Rast now seeks a stay to prevent his and other depositions from occurring and to prevent the case from progressing to and past critical deadlines, including disclosures of experts, dispositive motions, and trial, before Officer Rast can prepare and mount a fulsome defense to the civil allegations against him.

### **I. This Court has the authority to stay discovery.**

As this Court knows, federal courts often stay civil proceedings to allow overlapping and parallel criminal proceedings to run their course. Judges in the Austin Division have encountered this issue with increasing frequency in the last few years and have issued such stays. Last year, Judge Yeakel stayed a civil suit arising from the death of Javier Ambler so that criminal proceedings arising from Ambler's death could be resolved first. *See Javier Ambler et al. v. Williamson County et al.*, No. 1:20-CV-1068-LY, Order Staying Case (Dkt. 89) (W.D. Tex. July 27, 2021) (copy attached as **Ex. K**). A few months ago, Magistrate Judge Hightower stayed all discovery in a civil case arising from the death of Mauris DeSilva so that criminal proceedings arising from that incident could be resolved first. *DeSilva v. Taylor*, No. 1:21:cv-00129-RP, 2022 WL 545063 (W.D. Tex. Feb. 23, 2022). Sister courts throughout the Western District have recently stayed discovery on this basis. *See, e.g., SEC v. Mueller*, No. 21-cv-00785-XR, 2022 WL

818678, at \*4 (W.D. Tex. Mar. 17, 2022) (staying discovery against individual defendant facing parallel criminal investigation). Other federal courts in the state have done the same. *See, e.g., Jean v. City of Dallas, Texas*, No. 3:18-CV-2862-M, 2019 WL 4597580, at \*5 (N.D. Tex. Sept. 22, 2019) (staying civil case against officer indicted for and eventually convicted of murder of Botham Jean). This case presents the same issue and also warrants a stay.

Federal district courts have “broad discretion to stay proceedings as an incident to [their] power to control [their] own docket[s].” *Clinton v. Jones*, 520 U.S. 681, 707 (1997). The United States Supreme Court has recognized that there are “special circumstances” in which “the interests of justice” support or even require temporary stays. *United States v. Kordel*, 397 U.S. 1, 12 & n.27 (1970); *SEC v. First Fin. Grp. of Tex., Inc.*, 659 F.2d 660, 668 (5th Cir. 1981) (stays may be necessary “to prevent a party from suffering substantial and irreparable prejudice”). In particular, stays are “common practice” when civil and criminal liability arise from the same incident because “criminal prosecutions often take priority over civil actions.” *Wallace v. Kato*, 549 U.S. 384, 394 (2007); *In re Grand Jury Subpoena*, 866 F.3d 231, 234 (5th Cir. 2017); *Kmart Corp v. Aronds*, 123 F.3d 297, 300 (5th Cir. 1997).

The existence of parallel civil and criminal proceedings poses a unique constitutional danger to a civil litigant because every person facing criminal liability has the constitutional right against self-incrimination provided by the Fifth Amendment. *Wehling v. Columbia Broadcasting Sys.*, 608 F.2d 1084, 1087-88 (5th Cir. 1979). At the same time, every person facing civil liability has a due process right to have that matter fully and fairly adjudicated. *Id.* Courts must avoid scenarios that “require a party to surrender one constitutional right in order to assert another.” *Id.* at 1088. A civil defendant invoking his Fifth Amendment rights “should suffer no penalty for his silence.” *Id.* (citing *Spevack v. Klein*, 385 U.S. 511, 515 (1967)). Temporary stays protect these

competing rights by allowing the criminal process to resolve before the civil process. *Id.* at 1089 (reversing district court for refusing to stay case “for approximately three years” while criminal process was resolved).

When tasked with determining the propriety of a stay in these situations, courts generally consider six factors: “(1) the extent to which the issues in the criminal case overlap with those presented in the civil case; (2) the status of the criminal case, including whether the defendants have been indicted; (3) the private interests of the plaintiffs in proceeding expeditiously, weighed against the prejudice to the plaintiffs caused by the delay; (4) the private interests of and burden on the defendants; (5) the interests of the courts; and (6) the public interest.” *Bean v. Alcorta*, 220 F.3d 772, 775 (W.D. Tex. 2016); *Meyers v. Pamerleau*, No. 5:15-CV-524-DAE, 2016 WL 393552, at \*5 (W.D. Tex. Feb. 1, 2016); *Shaw v. Hardberger*, No. SA-06-CA-751-XR, 2007 WL 1465850, at \*2 (W.D. Tex. May 16, 2007).

## **II. The Court should stay discovery to protect Officer Rast’s constitutional rights.**

Each of the six factors identified above supports a temporary stay of discovery in this case. As in *Ambler*, *DeSilva*, and other cases in which stays have been granted, the individual law enforcement officer named as a defendant here is facing criminal prosecution regarding the same conduct at issue in the civil case. *See Ambler* Order, **Ex. K**; *DeSilva*, 2022 WL 545063, at \*3. Forcing the officer to choose between asserting one constitutional right in defense of his criminal case or enforcing another constitutional right in his civil case is unnecessary, prejudicial, and wholly avoidable.

### **A. There is complete overlap between the civil and criminal cases.**

There can be no dispute that there is complete overlap between Plaintiff’s allegations in this case and the allegations that form the basis of Officer Rast’s indictment. Plaintiff alleges

Officer Rast “shot him in the head” at a protest on May 31, 2020 causing serious injury. *E.g.*, Pl.’s 1st Am. Compl. (Dkt. 4), ¶¶ 8-14. The indictment similarly alleges that on that same date, Officer Rast shot Plaintiff with a firearm, causing bodily injury. *See Ex. A.* This overlap in theories is also reflected in the fact that Plaintiff’s counsel helped DA Garza’s office coordinate with at least one of Plaintiff’s retained experts prior to the return of the indictment against Officer Rast. *See Ex. L.*

This complete overlap of subject matter supports a stay because “[w]here there is significant overlap, self-incrimination is more likely” and Fifth Amendment concerns are at their greatest. *Bean*, 220 F. Supp. 3d at 776 (“significant and perhaps even complete overlap” between criminal and civil proceedings “weighs strongly in favor of staying the case”); *Meyers*, 2016 WL 393552, at \*6 (factor favored stay where civil and criminal lawsuits arose “from the same facts”); *Shaw*, 2007 WL 1465850, at \*2 (civil and criminal allegations “aris[ing] from the same set of operative facts . . . weighs heavily in favor of granting a stay”). For this reason, courts often describe this factor as the “most important” consideration for issuing a stay. *E.g.*, *DeSilva*, 2022 WL 545063, at \*3 (“Because there is significant overlap between the issue presented in this case and Defendants’ criminal proceedings . . . [t]he first and most important factor weighs strongly in favor of staying the case.”); *Frierson v. City of Terrell*, No. 3:02CV2340-H, 2003 WL 21355969, at \*3 (N.D. Tex. June 6, 2003) (staying case); *Librado v. M.S. Carriers, Inc.*, No. 3:02-CV-2095D, 2002 WL 31495988, at \*2 (N.D. Tex. Nov. 5, 2002) (staying case).

**B. Officer Rast was indicted and still faces criminal liability.**

Officer Rast was indicted in February 2022 for the same conduct that forms the basis of Plaintiff’s claims in this case. **Ex. A.** “A stay of a civil case is more appropriate where a party to the civil case has already been indicted for the same conduct.” *Bean*, 220 F. Supp. 3d at 776

(staying case where defendant's criminal conviction was pending on appeal); *DeSilva*, 2022 WL 545063, at \*3 (“Because [the officer defendants] have been indicted, the second factor also weighs in favor of a stay.”); *Meyers*, 2016 WL 393552, at \*6 (staying case where defendant was indicted); *Shaw*, 2007 WL 1465850, at \*2 (staying case where plaintiffs were indicted).

**C. Plaintiff will suffer no prejudice beyond mere delay.**

Stays by their very nature delay proceedings. To avoid a stay, courts require plaintiffs to (among other things) demonstrate “more prejudice than simply a delay” in resolving their pending claims. *DeSilva*, 2022 WL 545063, at \*3; *Bean*, 220 F. Supp. 3d at 776; *Meyers*, 2016 WL 393552, at \*6. To meet this burden, a plaintiff could identify some specific “discovery that is available now but would be unavailable later should a stay be granted,” or identify specific “witnesses [who] will be unable to testify” after a stay is lifted. *DeSilva*, 2022 WL 545063, at \*3. There is no such discovery here. Moreover, any such discovery concerns are mitigated by the discovery the parties have already conducted in the case. This includes production of the available documentary and video records of the incident and subsequent investigation and deposition testimony from the Austin Police Department's lead investigator as well as from an officer Plaintiff's counsel alleged during the deposition actually fired the round that struck Plaintiff. **Ex. D.**

Furthermore, any claims of prejudice to Plaintiff from such a delay should ring hollow. Plaintiff's counsel have actively encouraged and participated in DA Garza's efforts to prosecute Officer Rast along with other officers on duty during the May 2020 protests. Having encouraged prosecution, Plaintiff cannot effectively argue against delay in the resolution of his civil claims resulting from that criminal prosecution.

Officer Rast and his counsel cannot predict with certainty how long the stay will need to last to allow the criminal process to complete. The Travis County criminal district courts resumed

in-person criminal jury trials in March 2022, after a nearly two-year-long hiatus. **Ex. M** (“Travis County District Attorney’s Office Restarts In-Person Criminal Jury Trials”). Officer Rast’s case has not been set for trial. **Ex. B.** A stay of remaining discovery and deadlines is appropriate under these circumstances. The Fifth Circuit has reversed a district court for refusing to stay a case even when the delay caused by the stay would have been *three years*. *Wehling*, 608 F.2d at 1089. Any mere delay caused by a stay of this case is not so prejudicial as to weigh against a stay. *DeSilva*, 2022 WL 545063, at \*3.

**D. Proceeding with civil discovery is highly prejudicial and potentially wasteful.**

One of the fundamental goals of stays in this context is avoiding the natural prejudice that arises from forcing parties to defend litigation while simultaneously asserting their Fifth Amendment rights. The Fifth Amendment “privileges [a person] not to answer official questions put to him in any other proceeding, civil or criminal, formal or informal, where the answers might incriminate him in future criminal proceedings.” *Baxter v. Palmigiano*, 425 U.S. 308, 316 (1976). A person cannot be compelled “to answer deposition questions, over a valid assertion of his Fifth Amendment right.” *Pillsbury Co. v. Conboy*, 459 U.S. 248, 256–57 (1983).

If this case continues, including through deposition of Officer Rast and on to disclosures of experts, filing of dispositive motions, and trial, these Fifth Amendment concerns will be directly implicated. Officer Rast will face “a conflict between asserting his Fifth Amendment rights and fulfilling his legal obligations as a witness” and defendant in this civil case. *DeSilva*, 2022 WL 545063, at \*4. Officer Rast has an interest in preventing his defense in this civil case from providing evidence that the Travis County DA’s Office may use in his prosecution, and from prematurely disclosing to DA Garza’s office his defense in the criminal case. *Id.* (“Defendants have an interest in staying the civil trial to avoid exposing their criminal defense strategies to the

prosecution.”). This factor weighs in favor of a stay. *Id.*; *Bean*, 220 F. Supp. 3d at 777; *Meyers*, 2016 WL 393552, at \*7 & n.3 (noting the potential for plaintiffs to use civil discovery as a means of prejudicing criminal defendants); *Librado*, 2002 WL 31495988 at \*3.

**E. A stay supports the Court’s interests.**

A stay also favors judicial economy and this Court’s management of its docket. *Bean*, 220 F. Supp. 3d at 777; *Meyers*, 2016 WL 393552, at \*7; *Librado*, 2002 WL 31495988, at \*3. If the civil case continues, Officer Rast will be placed in a position to assert his Fifth Amendment rights. If the prospect of criminal liability has been eliminated by the time of trial, he would likely then be in a position of withdrawing the privilege and testifying in his own defense. *Davis-Lynch, Inc. v. Moreno*, 667 F.3d 539, 547-48 (5th Cir. 2012) (discussing circumstances in which “a party may withdraw its assertion of the Fifth Amendment privilege, even at a late stage in the litigation”). That withdrawal may raise new concerns of prejudice and delay, the prospect of additional depositions, extensions of expert discovery or *Daubert* deadlines, and more. *See id.* This Court can avoid any need to raise or resolve those legal questions by temporarily staying the proceedings. *See DeSilva*, 2022 WL 545063, at \*4 (noting the possibility that resolution of the criminal case may also resolve or eliminate issues in the civil trial).

**F. A stay supports the public’s interests.**

The public “has an interest in protecting the constitutional rights of criminal defendants” as well as in seeing both civil and criminal cases resolved promptly. *Bean*, 220 F. Supp. 3d at 778. The public interest factor weighs against a stay “only where, unlike here, a civil case is pending and no criminal investigation has begun.” *DeSilva*, 2022 WL 545063, at \*4; *Meyers*, 2016 WL 393552, at \*7. Here, the public’s interests are best served by temporarily staying civil discovery until the criminal process concludes so Officer Rast’s constitutional rights can be protected, along

with the City's rights to defend the City against claims for damages with all available evidence, including evidence from Officer Rast. *DeSilva*, 2022 WL 545063, at \*4; *Bean*, 220 F. Supp. 3d at 778; *Meyers*, 2016 WL 393552, at \*7; *Shaw*, 2007 WL 1465850, at \*2; *Librado*, 2002 WL 31495988.

The public is also served by both criminal and civil matters being resolved fairly and accurately. DA Garza has told the public that it is important to ensure his office is "bringing the right person to trial with the right charges." *See Ex. N*. For example, the Travis County DA's Office previously dismissed an indictment it obtained against an officer after a prosecutor apparently "uncovered" exculpatory evidence from the prosecution's own expert opining that the officer's conduct was "justified and lawful." *See Ex. O; Ex. P* (DA Garza offering previously indicted officer his "sincere apologies" for wrongfully indicting him). Similarly, in this case, the same civil plaintiff who worked to get DA Garza elected, and whose counsel encouraged the indictment of Officer Rast, has claimed that DA Garza indicted the "wrong guy." *See Ex. D; Ex. F; Ex. L*. The public has an interest in seeing these accusations against the City, against Officer Rast, and against other non-defendant officers resolved based on all the evidence, not based on a rush to prosecute, much less inaccurate allegations or inferences drawn from assertions of constitutional rights. That can only occur if the criminal process is allowed to play out first.

**III. The Court should stay these proceedings so that Officer Rast can defend himself, including through developing and presenting qualified immunity defense.**

As the Court knows, the defense of qualified immunity "provides government officials with immunity from suit so long as they do not violate clearly established statutory or constitutional rights of which a reasonable person would have known." *Hutcheson v. Dallas Cnty., Tex.*, 994 F.3d 477, 480 (5th Cir. 2021) (internal quotations omitted). Officer Rast will be entitled to qualified immunity unless Plaintiff can prove both (1) that Officer Rast violated his

constitutional rights, and (2) that Officer Rast's actions were objectively unreasonable in light of clearly established law at the time. *Id.* This qualified immunity analysis obviously includes a consideration of what actions Officer Rast actually took on the day in question: a matter on which he has knowledge, but to which he cannot testify without abrogating his rights against self-incrimination in light of the ongoing criminal case.

In addition, one of the constitutional rights Plaintiff alleges Officer Rast violated was his First Amendment right to freedom of speech. Plaintiff's First Amendment retaliation claim requires him to prove (1) that he was engaged in a constitutionally protected activity; (2) that Officer Rast's actions caused him to suffer an injury that would chill a person of ordinary firmness from continuing to engage in that activity; and (3) that Officer Rast's actions were "substantially motivated" against Plaintiff's exercise of his constitutionally protected conduct. *Keenan v. Tejada*, 290 F.3d 252, 258 (5th Cir. 2002). The last element is critically important to the qualified immunity analysis, because the fifth Circuit has held that "government retaliation against a private citizen for exercise of First Amendment rights cannot be objectively reasonable." *Id.* at 261 & n.7.

To establish his qualified immunity defense, then, Officer Rast must present evidence of (1) what his actions on the day in question were, and (2) that if he in fact fired the shot that hit Kirsch, he was *not* "substantially motivated" by Kirsch's legitimate activities as a protestor. *See, e.g., Singleton v. Darby*, 609 Fed. App'x 190, 194 (5th Cir. 2015) (unpublished) (qualified immunity warranted where evidence showed officer pepper sprayed protestors "not because they were protesting, but because they were blocking traffic in violation of Texas law"). Officer Rast cannot develop that evidentiary record, such as through a declaration or answers in a deposition, prior to the resolution of the parallel criminal case, without sacrificing his rights against self-incrimination.

**IV. As part of the broader stay, the Court should grant protection against Officer Rast's deposition moving forward pending the resolution of the criminal case.**

Federal Rule of Civil Procedure 26(c) authorizes “[a] party . . . from whom discovery is sought [to] move for a protective order” to forbid or specify terms for a sought deposition. FED. R. CIV. P. 26(c)(1). A court may place restrictions on discovery “for good cause . . . to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense.” *Cazorla v. Koch Foods of Miss., LLC*, 838 F.3d 540, 549 (5th Cir. 2016) (quoting FED. R. CIV. P. 26(c)(1)).

As part of the broader stay of proceedings and further discovery, Officer Rast is entitled to protection from his deposition occurring prior to the resolution of the parallel criminal proceeding for the reasons explained above. Even if that were not enough—which it is—Officer Rast would otherwise be entitled to protection from the deposition occurring on the noticed date of June 22, 2022. Plaintiff noticed the deposition for that date unilaterally, without agreement from Officer Rast, three hours after requesting by email that Officer Rast be made available for deposition that week. Officer Rast was and is scheduled to be out of the country from June 20 through July 11, 2022, as his counsel informed Plaintiff's counsel following issuance of the notice. Thus, Officer Rast would not be available to participate in any deposition on the noticed June 22, 2022 date, regardless of the broader requested stay of proceedings and discovery in the case.

**CONCLUSION**

For the foregoing reasons, Officer Rast respectfully requests the Court grant this motion and stay all further proceedings in this matter, including but not limited to the noticed deposition of Officer Rast, until after the resolution of the pending parallel criminal proceeding styled *The State of Texas v. Rolan Rast*, No. D-1-DC-20-900080 (331st Crim. Dist. Ct., Travis Cnty., Tex.). Officer Rast would also respectfully request that the Court conduct a hearing on this motion,

following the completion of briefing, and all other relief to which he may show himself to be entitled in connection with this motion.

Respectfully submitted,

**BUTLER SNOW LLP**

By: /s/ Karson Thompson  
Eric J.R. Nichols  
State Bar No. 14994900  
[eric.nichols@butlersnow.com](mailto:eric.nichols@butlersnow.com)  
Karson Thompson  
State Bar No. 24083966  
[karson.thompson@butlersnow.com](mailto:karson.thompson@butlersnow.com)  
1400 Lavaca Street, Suite 1000  
Austin, Texas 78701  
Tel: (737) 802-1800  
Fax: (737) 802-1801

**ATTORNEYS FOR DEFENDANT  
ROLAN RAST**

**CERTIFICATE OF CONFERENCE**

I hereby certify that I have repeatedly conferred with counsel for Plaintiff about the relief sought in this motion by Zoom video conference. Most recently, meet-and-confer discussions were held on June 14, 2022 and on June 8, 2022. Following those discussions, Plaintiff remains opposed to the relief sought in this motion and remains opposed to withdrawing the notice for Officer Rast's deposition to occur on June 22, 2022. I have also conferred with counsel for Defendant the City of Austin, and the City does not oppose the relief requested in the motion.

/s/ Eric J.R. Nichols  
Eric J.R. Nichols

**CERTIFICATE OF SERVICE**

I hereby certify that on June 15, 2022, a true and correct copy of the foregoing document was served on all counsel of record by filing with the Court's CM/ECF system.

/s/ Karson Thompson  
Karson Thompson

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

SAM KIRSCH,  
*Plaintiff*

v.

CITY OF AUSTIN, ROLAN  
ROMAN RAST,  
*Defendants*

§  
§  
§  
§  
§  
§  
§

No. A-20-CV-01113-RP

**ORDER**

Before the Court are Defendant Rolan Rast’s Motion to Stay Further Proceedings (Dkts. 51 & 53).<sup>1</sup> In these motions, Rast requests the Court to stay further proceedings in this case, including remaining discovery, dispositive motion deadlines, and trial, until Officer Rast’s parallel criminal proceeding in state court is resolved. As part of the broader request for relief, Officer Rast also seeks a protective order with respect to his deposition, which Plaintiff unilaterally noticed for June 22, 2022.

These motions were filed on June 15, 2022, and referred to the undersigned on June 17, 2022, and responses have yet to be filed. In light of the nature of the requested relief now referred to the undersigned, and the date of the impending deposition, the undersigned enters the following Order.

---

<sup>1</sup> Also before the undersigned is Defendant City of Austin’s Motion to Compel and Motion for Expedited Protective Order. Dkt. 41.

It is **ORDERED** that Defendant Rolan Rast's deposition, scheduled for June 22, 2022, is **STAYED** until the referred motions to stay and other pending referred discovery motions are resolved.

SIGNED June 21, 2022.



---

DUSTIN M. HOWELL  
UNITED STATES MAGISTRATGE JUDGE

**IN THE UNITED STATES DISTRICT  
COURT FOR THE WESTERN DISTRICT  
OF TEXAS AUSTIN DIVISION**

<p><b>SAM KIRSCH,</b> <i>Plaintiff,</i></p>	<p>§ § § § § § §</p>	<p>v. <b>CIVIL ACTION NO. 1:20-cv-01113-RP</b></p>
<p><b>CITY OF AUSTIN AND ROLAN RAST,</b> <i>Defendants.</i></p>		

**DEFENDANT CITY OF AUSTIN’S MOTION TO STAY FURTHER  
PROCEEDINGS**

Defendant City of Austin (the “City”) files this motion to stay further proceedings and corresponding scheduling order deadlines in this matter, including discovery, pretrial exchanges, dispositive motion deadlines, and trial, pending resolution of the criminal proceeding related to this case that remains pending in Travis County criminal district court.

**SUMMARY**

This civil case has proceeded as far as it reasonably can before an overarching and inevitable question has been reached: How can the City effectively prepare its defenses, at summary judgment or trial, given the pendency of related criminal proceedings? As the Court is well aware, Defendant Rolan Rast, and numerous other Austin Police Department officers named as individual defendants in similar protest-related cases are under indictment in Travis County district court for alleged actions taken in response to conduct by protesters in Austin in May 2020. The overlapping nature of the criminal cases in this and other federal civil rights cases is plain from the federal and state dockets and corresponding pleadings:

Civil Case Name:	Officers under indictment:	Criminal Docket Number:
<i>Jason Gallagher</i> (No. 1:20-CV-00901)	1. John Siegel	1. D-1-DC-20-900072

<i>Alyssa Sanders</i> (No. 1:22-CV-314)	1. Eric Heim	1. D-1-DC-20-900076
<i>Steven Arawn</i> (No. 1:20-CV-1118-RP)	1. Joshua Jackson 2. John Siegel 3. Nicholas Gebhart 4. Justin Berry	1. D-1-DC-22-900010 2. D-1-DC-20-900072 3. D-1-DC-20-900060 4. D-1-DC-20-900055
<i>Nicole Underwood</i> (No. 1:22-CV-00032)	1. John Siegel	1. D-1-DC-20-900072
<i>Samuel Kirsch</i> (No. 1:20-CV-01113-RP)	1. Rolan Rast	1. D-1-DC-20-900080 2. D-1-DC-23-900062
<i>Jose Herrera</i> (No. 1:20-CV-01134-RP)	1. James Morgan	1. D-1-DC-22-900053
<i>Bomani Ray Barton</i> (No. 1:22-CV-00221-RP)	1. Kyu An	1. D-1-DC-20-900057
<i>Meredith Drake</i> (No. 1:20-CV-00956-RP)	1. Chance Bretches	1. D-1-DC-20-900056
<i>Anthony Evans</i> (No. 1:20-CV-01057-RP)	1. Kyle Felton	1. D-1-DC-20-900054
<i>Justin Howell</i> (No. 1:21-CV-00749-RP)	1. Kyle Felton 2. Jeffrey Teng	1. D-1-DC-20-900059 2. D-1-DC-23-900066 3. D-1-DC-22-900005 4. D-1-DC-23-900065
<i>Meredith Williams</i> (No. 1:22-CV-00042-RP)	1. Joseph Cast	1. D-1-DC-20-900061
<i>Christen Warkoczewski</i> (No. 1:21-CV-00739-RP)	1. Brett Tableriou 2. Jeremy Fisher 3. Christopher Irwin 4. Todd Gilbertson 5. Alexander Lomovstev 6. Joshua Blake 7. Joshua Jackson 8. Stanley Vick 9. Justin Berry	1. D-1-DC-22-900018 2. D-1-DC-22-900011 3. D-1-DC-22-900012 4. D-1-DC-21-900125 5. D-1-DC-21-900126 6. D-1-DC-22-900019 7. D-1-DC-21-900010 8. D-1-DC-22-900009 9. D-1-DC-20-900055
<i>Ge'Micah Volter-Jones</i> (No. 1:22-CV-00511)	1. Edward Boudreau 2. Derrick Lehman	1. D-1-DC-22-900020 2. D-1-DC-20-900071
<i>Brenda Ramos</i> (No. 1:20-CV-01256-RP)	3. Christopher Taylor	3. D-1-DC-20-900048
<i>Maurice DeSilva</i> (No. 1:21-CV-00129- RP)	4. Christopher Taylor 5. Karl Krycia	4. D-1-DC-19-900111 5. D-1-DC-21-900071
<i>Paul Mannie</i> (No. 1:21-CV-00202-JRN)	6. Chance Bretches	6. D-1-DC-20-900091

Copies of the state criminal indictments of Rast are attached as Exhibits 1 and 2.

Plaintiff has brought excessive force claims against the officer defendant arising out of injuries Plaintiff alleges he sustained while participating in the protests in 2020 and has brought related *Monell* claims against the City over claimed policies and practices, among others, concerning use of force and protest response.

The Travis County District Attorney’s Office (“TCDAO”) announced the indictment of 19 APD officers publicly in February 2022—including the indictment of the officer defendant in this case—among other ways through an often-updated press release that contains the following introduction:

The following is a list of each officer-involved use of force or other misconduct matter involving injury to any person currently pending in the Office’s Civil Rights Unit.

Ex. 3. The TCDAO press release was most recently updated on April 19, 2023.

Recently, another five indictments have been returned against Austin Police Department officers arising out of the protests, including an indictment for deadly conduct discharge firearm against Defendant Rolan Rast arising out of the incident which is the subject of this lawsuit.

(Ex. 2) Among these five indictments is an indictment charging Officer Joseph Peche with deadly conduct discharge firearm. (Ex. 4) This indictment states that Peche: “did then and there knowingly discharge a firearm at or in the direction of one or more individuals, namely: Samuel Kirsch.” (Ex. 4)

None of the pending Travis County criminal cases related to the protests—including the one pending against the officer defendant in this case—has resulted in a trial or other disposition. There is no dispute, nor can there be, that the subject matter of the pending Travis County criminal cases against the officer defendant here overlaps with the subject matter of

Plaintiff's civil rights case. **Ex. 1; Ex. 2; Ex. 3.**

Keeping in mind the differences between claims against the individual officer and the City,<sup>1</sup> the City has participated in as much discovery and pretrial proceedings as it reasonably can before getting to the point of confronting the inevitable question of how it can prepare and present its defenses in light of the pending criminal cases. The City has produced over 4,000 pages of documents in this case along with approximately one million documents in similar protest-related cases in this court. The bulk of this production consists of internal Austin Police Department personnel and investigation files, emails from within APD and other City departments, and multimedia files. The City has also participated in myriad depositions in this and other cases. As has been shown along the way, discovery involving the individual officers—who are critical fact witnesses under indictment—has forced upon the individual officers the impossible choice of invoking their Fifth Amendment rights in light of the pending criminal cases or defending themselves against civil liability by waiving those rights and testifying.

Given the dilemma presented by the parallel proceedings, this Court recently granted the City's motions to stay further proceedings in *Sanders v. City of Austin*. See Order (Dkt. 72), *Sanders v. City of Austin*, No. 1:22-cv-00314-RP (W.D. Tex. May 12, 2023) (Howell, M.J.) and *Volter-Jones v. City of Austin, et al.* See Order (Dkt. 26), *Volter-Jones v. City of Austin, et al.*, No. 1:22-cv-00511-RP (W.D. Tex. June 8, 2023)(Howell, M.J.). Additionally, the Court has entered stays of discovery and/or other proceedings in recent matters arising out of the May 2020 protests, as well as in other cases involving parallel civil and criminal

---

<sup>1</sup> *E.g.*, *Martin v. Dallas County*, 822 F.2d 553, 555-56 (5th Cir. 1987); *Beltran v. City of Austin*, 2022 WL 11455897 (W.D. Tex. 2022); *Ramirez v. Escajeda*, 2022 WL 1744454 (W.D. Tex. 2022); *Rhoten v. Stroman*, 2020 WL 3545661 (W.D. Tex. 2020).

proceedings over officer conduct. *See, e.g.*, Order (Dkt. 39), *Sanders v. City of Austin*, No. 1:22-cv-00314-RP (W.D. Tex. Nov. 15, 2022) (Howell, M.J.) (staying all discovery against officer defendant); *Doe v. City of Austin*, No. 1:22- CV-00299-RP, 2022 WL 4234954, at \*8 (W.D. Tex. Sept. 14, 2022) (Hightower, M.J.) (staying all discovery against city and officer defendant); *Kirsch v. City of Austin*, No. A-20-CV-01113- RP, 2022 WL 4280908, at \*3 (W.D. Tex. Aug. 5, 2022) (Howell, M.J.) (staying all discovery against officer defendant); *DeSilva v. Taylor*, No. 1:21:cv-00129-RP, 2022 WL 545063, at \*4 (W.D. Tex. Feb. 23, 2022) (Hightower, M.J.) (staying all discovery against officer defendants); Text Order dated May 30, 2023 Granting Agreed Motion to Stay Further Proceedings, *Griffith v. City of Austin, et al.*, No. 1:21-cv-01170-DII; Order Staying Case (Dkt. 89), *Ambler v. Williamson Cnty.*, No. 1:20-CV-1068-LY (W.D. Tex. July 27, 2021) (staying entire case).

Given the lack of resolution of the criminal case that factually overlaps this one, it has now become readily apparent that the parties (including the City) will not be able to conduct additional and necessary discovery that is unavailable while the criminal case is pending. It has likewise become apparent that it is not possible to conduct expert discovery without the necessary and currently unavailable testimony of essential fact witnesses, as well as physical and other evidence in the possession of the TCDAO. It has become readily apparent that without this unavailable testimony and other evidence, the City will not be able to prepare its defenses for summary judgment, much less for trial. The practical effects of the parallel criminal proceedings preclude the completion of expert disclosures and reports, summary judgment briefing, trial preparation, and presentation of the claims and defenses at trial. These roadblocks to a full and fair defense constitute a due process issue for the City.

The City therefore moves to stay all further proceedings in this case until the resolution

of the corresponding parallel criminal proceedings pending against the officer defendant. Once the overlapping criminal matters are resolved, the parties will be able to complete remaining discovery, summary judgment proceedings, and any pretrial preparations.

### **ARGUMENT**

The City requests a stay of further proceedings in this matter pending resolution of the parallel criminal proceeding. The City did not file this motion immediately upon the case having been filed, or when the officer defendant was added to the case.<sup>2</sup> This allowed the parties to make progress in paper discovery and limited deposition discovery without directly implicating an officer's right to defend himself in parallel criminal cases, or the City's ultimate ability to prepare and present its defenses. The discovery and proceedings have reached the point at which the City cannot prepare and mount a full and fair defense to the civil allegations against it.

#### **I. This Court has the authority to stay discovery.**

As this Court knows, federal courts often stay civil proceedings to allow overlapping and parallel criminal proceedings to run their course. As indicated above, this has been the case with this Court having recently imposed a stay with respect to proceedings against not only individual law enforcement officers but also the government entities with which the officers were employed during the time period at issue. *See cases cited supra at pp 4-5.*

This case presents the same issue and also warrants a stay. Federal district courts have "broad discretion to stay proceedings as an incident to [their] power to control [their] own docket[s]." *Clinton v. Jones*, 520 U.S. 681, 707 (1997). The United States Supreme Court has recognized that there are "special circumstances" in which "the interests of justice" support or even require temporary stays. *United States v. Kordel*, 397 U.S. 1, 12 & n.27 (1970); *SEC v.*

---

<sup>2</sup> The officer defendant was added in the First Amended Complaint, which was filed January 21, 2021. Dkt. 4.

*First Fin. Grp. of Tex., Inc.*, 659 F.2d 660, 668 (5th Cir. 1981) (stays may be necessary “to prevent a party from suffering substantial and irreparable prejudice”). In particular, stays are “common practice” when civil and criminal liability arise from the same incident because “criminal prosecutions often take priority over civil actions.” *Wallace v. Kato*, 549 U.S. 384, 394 (2007); *In re Grand Jury Subpoena*, 866 F.3d 231, 234 (5th Cir. 2017); *Kmart Corp v. Aronds*, 123 F.3d 297, 300 (5th Cir. 1997); *United States v. Little Al*, 712 F.2d 133, 136 (5th Cir. 1983) (“Certainly, a district court may stay a civil proceeding during the pendency of a parallel criminal proceeding.”).

The existence of parallel civil and criminal proceedings poses a unique constitutional danger because every person facing criminal liability has the constitutional right against self-incrimination provided by the Fifth Amendment. *Wehling v. Columbia Broad. Sys.*, 608 F.2d 1084, 1087-88 (5th Cir. 1979). At the same time, every person facing civil liability has a due process right to have that matter fully and fairly adjudicated. *Id.* Courts must avoid scenarios that “require a party to surrender one constitutional right in order to assert another.” *Id.* at 1088. A civil defendant invoking his Fifth Amendment rights “should suffer no penalty for his silence.” *Id.* (citing *Spevack v. Klein*, 385 U.S. 511, 515 (1967)). Temporary stays protect these competing rights by allowing the criminal process to resolve before the civil process. *Id.* at 1089 (reversing district court for refusing to stay case “for approximately three years” while criminal process was resolved).

Here, Plaintiff’s theories of municipal liability depend on a requested finding that the officer violated the constitutional rights of persons who participated in the protests. First Am. Complaint (Dkt. 4) at 13-14 (“Officer Rast shot Sam because Sam was protesting Austin police and other police departments around the country for their habitual use of excessive

force. Officer Rast was acting under color of law when he shot Sam as retribution for Sam exercising his First Amendment rights. Officer Rast was acting under color of law when he directly and proximately caused Sam's injuries."). As pled and discovered to date, it is clear that the alleged actions of the individual officer is the source of the claimed harm at issue in this case and the other protest-related civil cases. Testimony from those officers, including the officer defendant in this case, is not currently available, and testimony from other officers who were present and have been indicted is just as unreachable. The witness officers' right against self-incrimination is therefore just as likely to prevent usable testimony. Without that essential testimony, from both defendants and witnesses, the City is precluded from essential factual information that would demonstrate that "a person has suffered no constitutional injury at the hands of the individual police officer." *City of Los Angeles v. Heller*, 106 S. Ct. 1571, 1573 (1986). As the Supreme Court has stated:

But this was an action for damages, and neither *Monell v. New York City Dept. of Social Services*, 436 U.S. 658, 98 S. Ct. 2018, 56 L. Ed. 2d 611 (1978), nor any other of our cases authorizes the award of damages against a municipal corporation based on the actions of one of its officers when in fact the jury has concluded that the officer inflicted no constitutional harm.

*Id.*

In the circumstances of these cases, the City is precluded—by virtue of the lack of access to an indicted officer's testimony—from completing discovery that would allow it to marshal its defenses. Thus, a stay as to the City on Plaintiff's *Monell* claims is appropriate. *See Doe*, 2022 WL 4234954 at \* 7; *see also, e.g., Anderson v. City of Chicago*, 2016 WL 7240765 (N.D. Ill. 2016) ("Even if the City had a policy or practice of permitting its officers' to coerce false confessions through force, the harm caused by the policy could only manifest itself through the officers' actions."); *Williams v. City of Chicago*, 315 F. Supp. 3d 1060, 1080 (N.D.

Ill. 2018) (“Even if the City had a policy or practice of permitting its officers to coerce false testimony or to create false investigative reports, the harm caused by the practice could only manifest itself through the officers’ actions.”)

When tasked with determining the propriety of a stay in light of parallel civil and criminal proceedings, courts generally consider six factors:

- “(1) the extent to which the issues in the criminal case overlap with those presented in the civil case;
- (2) the status of the criminal case, including whether the defendants have been indicted;
- (3) the private interests of the plaintiffs in proceeding expeditiously, weighed against the prejudice to the plaintiffs caused by the delay;
- (4) the private interests of and burden on the defendants;
- (5) the interests of the courts; and
- (6) the public interest.”

*Bean v. Alcorta*, 220 F.3d 772, 775 (W.D. Tex. 2016); *Doe*, 2022 WL 4234954, at \*4.

## **II. The Court should stay further proceedings here.**

Each of the six factors identified above supports a stay of further proceedings here. As in *Doe*, *Sanders*, *Kirsch*, *DeSilva*, and other cases in which stays have been granted, the individual law enforcement officer named as a defendant here is facing criminal prosecution regarding the same conduct at issue in the civil case. *See Doe*, 2022 WL 4234954, at \*5; *Kirsch*, 2022 WL 4280908, at \*2; *DeSilva*, 2022 WL 545063, at \*3. When previously faced with that overlap between civil and criminal issues, this Court has chosen to stay the civil cases, for both the officers and the City, based largely on that overlap and the resulting danger of civil discovery forcing the officers to incriminate themselves. *See Sanders v. City of Austin*.

See Order (Dkt. 72), *Sanders v. City of Austin*, No. 1:22-cv-00314-RP (W.D. Tex. May 12, 2023) (Howell, M.J.), *Doe*, 2022 WL 4234954, at \*6-7; see also *Ambler*, No. 1:20-CV-1068-LY (W.D. Tex. July 27, 2021) (staying entire case in light of officers' indictment for crimes arising from facts similar to the civil case). The Court should exercise its discretion in favor of a stay in this case as well.

**A. There is complete overlap between the civil and criminal cases.**

There is no dispute that there is complete overlap between the Plaintiff's allegations in this civil case and the allegations that undergird the indictment against the APD officer named as a co-defendant with the City. The civil allegations in the First Amended Complaint and the criminal allegations contained in the indictment arise from the same set of facts and essentially mirror each other. "The question is simple: do the facts overlap? Here, they undeniably do." See Order (Dkt. 39), at 4, *Sanders v. City of Austin*, No. 1:22-cv-00314-RP (W.D. Tex. Nov. 15, 2022) (Howell, M.J.).

This complete overlap of subject matter supports a stay because "[w]here there is significant overlap, self-incrimination is more likely" and Fifth Amendment concerns are at their greatest. *Bean*, 220 F. Supp. 3d at 776 ("significant and perhaps even complete overlap" between criminal and civil proceedings "weighs strongly in favor of staying the case"); *Meyers*, 2016 WL 393552, at \*6 (factor favored stay where civil and criminal lawsuits arose "from the same facts"); *Shaw*, 2007 WL 1465850, at \*2 (civil and criminal allegations "aris[ing] from the same set of operative facts . . . weighs heavily in favor of granting a stay"). For this reason, courts often describe this factor as the "most important" consideration for issuing a stay. *E.g.*, *Doe*, 2022 WL 4234954, at \*5; *DeSilva*, 2022 WL 545063, at \*3 ("Because there is significant overlap between the issue presented in this case and

Defendants’ criminal proceedings . . . . [t]he first and most important factor weighs strongly in favor of staying the case.”); *Frierson v. City of Terrell*, No. 3:02CV2340-H, 2003 WL 21355969, at \*3 (N.D. Tex. June 6, 2003) (staying case); *Librado v. M.S. Carriers, Inc.*, No. 3:02-CV-2095D, 2002 WL 31495988, at \*2 (N.D. Tex. Nov. 5, 2002) (staying case).

It is no answer to this analysis to say that the City itself is not facing criminal charges. This Court rejected that argument in *Doe*. “Although the City is not a party to the criminal proceedings, the Court finds that Dodds’ oppression charge substantially overlaps with Doe’s *Monell* claims against the City.” *Doe*, 2022 WL 4234954, at \*5. The same is true here. The *Monell* claims against the City allege that various City policies resulted in officers engaging in the exact conduct that undergirds the individual excessive force claims and the basis of the criminal charges. *See, e.g.*, First Am. Compl. (Dkt. 4) ¶¶ 36-39. And as in *Doe*, “the first and most important factor weighs strongly in favor of staying this case.” *Doe*, 2022 WL 4234954, at \*5.

**B. The officer defendant has been indicted and still faces criminal liability.**

As noted above, the individual officer defendant in this case has been indicted for aggravated assault by a public servant and deadly conduct discharge firearm. **Ex. 1; Ex. 2.** “A stay of a civil case is more appropriate where a party to the civil case has already been indicted for the same conduct.” *Bean*, 220 F. Supp. 3d at 776 (staying case when defendant’s criminal conviction was pending on appeal); *Doe*, 2022 WL 4234954, at \*5 (staying case when indictment issued while motion to stay was pending); *Kirsch*, 2022 WL 4280908, at \*2 (staying case when defendant was indicted); *DeSilva*, 2022 WL 545063, at \*3 (same); *Meyers*, 2016 WL 393552, at \*6 (same); *Shaw*, 2007 WL 1465850, at \*2 (staying case when

plaintiffs were indicted).

**C. Plaintiff will suffer no prejudice beyond mere delay.**

Stays by their very nature delay proceedings. A claim that stays cause delay or result in witness memories fading over time is not enough to affect the analysis. As this Court has recognized, that “is true in any case in which a stay is granted.” *Kirsch*, 2022 WL 4280908, at \*2; *see also* Order (Dkt. 39), at 5, *Sanders v. City of Austin*, No. 1:22-cv-00314-RP (W.D. Tex. Nov. 15, 2022)(Howell, M.J.)(rejecting arguments about “a COVID-19 induced backlog of criminal cases” in Travis County).

Instead, to avoid a stay, courts require plaintiffs to, *inter alia*, demonstrate “more prejudice than simply a delay” in resolving their pending claims. *DeSilva*, 2022 WL 545063, at \*3; *Doe*, 2022 WL 4234954, at \*5-6; *Bean*, 220 F. Supp. 3d at 776; *Meyers*, 2016 WL 393552, at \*6. To meet this burden, a plaintiff could identify some specific “discovery that is available now but would be unavailable later should a stay be granted,” or identify specific “witnesses [who] will be unable to testify” after a stay is lifted. *DeSilva*, 2022 WL 545063, at \*3.

Plaintiff cannot establish such prejudice here. Moreover, any discovery concerns are mitigated by the discovery the parties have already conducted in the case. This includes extensive production of the available documentary and multimedia records of the incidents and later investigations, the evidentiary value of which will not decay over time. To the contrary, the massive amount of reporting and video and audio evidence of the conduct at issue in this and similar cases means the parties are less likely to need to rely exclusively on witnesses’ memories than in other types of cases in which stays might be more prejudicial.

**D. Proceeding with the civil case further would be highly prejudicial and potentially wasteful.**

One of the fundamental goals of stays in this context is avoiding the natural prejudice that arises from forcing parties to defend litigation while also asserting their Fifth Amendment rights. The Fifth Amendment “privileges [a person] not to answer official questions put to him in any other proceeding, civil or criminal, formal or informal, where the answers might incriminate him in future criminal proceedings.” *Baxter v. Palmigiano*, 425 U.S. 308, 316 (1976). A person cannot be compelled “to answer deposition questions, over a valid assertion of his Fifth Amendment right.” *Pillsbury Co. v. Conboy*, 459 U.S. 248, 256–57 (1983).

If this case continues, including through further officer depositions and on to disclosures of experts, filing of dispositive motions, and trial, these Fifth Amendment concerns will continue to be directly implicated. Each of the officer defendants in the protest-related cases—including the officer defendant named in this case—will face “a conflict between asserting his Fifth Amendment rights and fulfilling his legal obligations as a witness” and defendant in this civil case. *DeSilva*, 2022 WL 545063, at \*4. The officers have an interest in preventing their defenses in these civil cases from providing evidence that the TCDAO may use in its prosecutions, and from prematurely disclosing to the TCDAO their defenses in the criminal cases. *Id.* (“Defendants have an interest in staying the civil trial to avoid exposing their criminal defense strategies to the prosecution.”). While these concerns are present—as they continue to play out indisputably with officers refusing to testify—the prejudice to the City in preparing its defenses continues.

The prejudice the parties, including but not limited to the City, face is further illustrated by a recent letter from the TCDAO. Unsurprisingly, the TCDAO is in possession of physical evidence relevant to both his criminal prosecution and to these civil cases. *See Ex. 5*

(“including 12-gauge shotguns, 40MM launchers, and ‘less lethal’ ammunition rounds”). The TCDAO is refusing to allow experts retained in these civil cases to access, inspect, or test this evidence until “the pending criminal investigations and matters collectively referred to as ‘The Protest Cases’” are resolved. *Id.* No party to these civil proceedings, including the City, can adequately prepare for trial without access to the relevant evidence, including evidence currently being held under the exclusive control of the District Attorney. Thus, it is not only lack of access to the testimony of the officers facing criminal charges but also lack of access to critical physical evidence that creates the prejudice to the City’s efforts to prepare its defenses.

This factor favors a stay. *Id.*; *Doe*, 2022 WL 4234954, at \*6; *Kirsch*, 2022 WL 4280908, at \*3; *Bean*, 220 F. Supp. 3d at 777; *Meyers*, 2016 WL 393552, at \*7 & n.3 (noting the potential for plaintiffs to use civil discovery to prejudice criminal defendants); *Librado*, 2002 WL 31495988, at \*3.

**E. A stay supports the Court’s interests.**

A stay also favors judicial economy and this Court’s management of its docket. *Bean*, 220 F. Supp. 3d at 777; *Meyers*, 2016 WL 393552, at \*7; *Librado*, 2002 WL 31495988, at \*3. If the civil cases continue, more officers will be placed in a position to assert their Fifth Amendment rights. If the prospect of criminal liability has been eliminated before trial, they would likely then be in a position of withdrawing the privilege and testifying in their own defense and on behalf of the City in support of its defenses. *Davis-Lynch, Inc. v. Moreno*, 667 F.3d 539, 547-48 (5th Cir. 2012) (discussing circumstances in which “a party may withdraw its assertion of the Fifth Amendment privilege, even at a late stage in the litigation”). That withdrawal may raise new concerns of prejudice and delay, the prospect of additional depositions, extensions of expert discovery or *Daubert* deadlines, and more. *See id.* This Court

can avoid any need to raise or resolve those legal questions by temporarily staying the proceedings. *See DeSilva*, 2022 WL 545063, at \*4 (noting the possibility that resolution of the criminal case may also resolve or eliminate issues in the civil trial). Additionally, resolution of the criminal proceedings may help resolve the civil cases as well, in whole or in part, through encouraging settlement or through potential estoppel- or preclusion-type rulings. *Kirsch*, 2022 WL 4280908, at \*3.

**F. A stay supports the public's interests.**

The public “has an interest in protecting the constitutional rights of criminal defendants” as well as in seeing both civil and criminal cases resolved promptly. *Bean*, 220 F. Supp. 3d at 778. The public interest factor weighs *against* a stay “only where, unlike here, a civil case is pending and no criminal investigation has begun.” *DeSilva*, 2022 WL 545063, at \*4; *Meyers*, 2016 WL 393552, at \*7. Here, the public's interests are best served by temporarily staying civil discovery until the criminal process concludes so officers' constitutional rights can be protected, along with the City's rights to defend itself against claims for damages with all available evidence, including evidence from the officers. *DeSilva*, 2022 WL 545063, at \*4; *Bean*, 220 F. Supp. 3d at 778; *Meyers*, 2016 WL 393552, at \*7; *Shaw*, 2007 WL 1465850, at \*2; *Librado*, 2002 WL 31495988.

The public has an interest in seeing these accusations against the City, against the officers, and against other non-defendant officers resolved based on all the evidence, not based on any rush to prosecute. The public also has an interest in avoiding a situation in which the City's rights to defend itself are limited by the pendency of the criminal cases. This interest can and should be protected by allowing the remaining criminal process to play out first.

**III. The Court should stay these proceedings so the defendants can fully defend themselves, including through developing and presenting defenses.**

The City, just like any other defendant, has a right to defend itself. A cornerstone of its defense will be whether the officer involved in the above-captioned civil rights case (or any other officers implicated in conduct Plaintiff claims affected him) committed a constitutional injury. If they did not, the related *Monell* claims against the City may fail. *See Lucky Tunes #3, L.L.C. v. Smith*, 812 Fed. Appx. 176, 183 (5th Cir. 2020) (citing *City of Los Angeles v. Heller*, 475 U.S. 796, 799 (1986)). With the lack of access to the officer testimony and essential physical evidence, the City's defense will be hopelessly hamstrung.

A municipality cannot be found liable on a *Monell* claim if the plaintiff cannot show that the municipality's employees, here the officers, violated the Constitution. *Heller*, 475 U.S. at 796; *Malbrough v. Stelly*, 814 Fed. Appx. 798, n. 15 (5th Cir. 2020). The claims against the officers are thus linked by a common core of evidence to the claims against the City. *Doe*, 2022 WL 4232954, at \*7. As the Court knows, the defense of qualified immunity "provides government officials with immunity from suit so long as they do not violate clearly established statutory or constitutional rights of which a reasonable person would have known." *Hutcheson v. Dallas Cnty., Tex.*, 994 F.3d 477, 480 (5th Cir. 2021) (internal quotations omitted). In this matter, the officer also has a right to pursue a qualified immunity defense, which will protect him against liability unless Plaintiff can prove both (1) that the officer involved violated his constitutional rights, and (2) that the officer's actions were objectively unreasonable in light of clearly established law at the time. *Id.* This analysis includes what actions the officer took on the day in question—a matter on which the officer has unique personal knowledge, but to which he cannot testify without abrogating his rights against self-incrimination given the ongoing criminal case.

Defending against a *Monell* claim that is based on claims of inadequate policies regarding the use of force and protest response, while the officer at issue is under criminal indictment awaiting trial, puts the City in an untenable position. The evidence the City needs to defend itself is evidence and testimony from the officers who, under advice of their counsel, have invoked and will continue to invoke their rights against self-incrimination. As this Court has noted before, when self-incrimination is at issue, neither the Plaintiff nor the City will be able to obtain the necessary discovery to prove, or disprove, their claims or defenses. *Doe*, 2022 WL 4232954, at \*7. The only equitable solution at this point is a stay.

Other courts, presented with similar situations and facts, have chosen to stay *Monell* claims. *See, e.g., Trent v. Wade*, 3:12-cv-01244-P, 2013 WL 12176988, at \*3 (N.D. Tex. 2013). A stay under these circumstances would be based in equity and due process. If the underlying issue of whether a constitutional violation occurred or not cannot be determined because of the threat of self-incrimination faced by essential witnesses, the correct response is not to force the issue and make either side litigate with half the facts. The correct response is a stay. *Doe*, 2022 WL 4232954, at \*7.

### **CONCLUSION**

For all these reasons, Defendant City of Austin respectfully requests the Court grant this motion, stay all further proceedings in each of these matters until after the resolution of the pending parallel criminal proceeding, and award the City all other relief to which it may show itself to be entitled in connection with this motion.

RESPECTFULLY SUBMITTED,

ANNE L. MORGAN, CITY ATTORNEY  
MEGHAN L. RILEY, LITIGATION  
DIVISION CHIEF

/s/ H. Gray Laird III  
H. GRAY LAIRD III  
State Bar No. 24087054  
Assistant City Attorney  
City of Austin-Law Department  
P. O. Box 1546  
Austin, Texas 78767-1546  
[gray.laird@austintexas.gov](mailto:gray.laird@austintexas.gov)  
Telephone (512) 974-1342  
Facsimile (512) 974-1311

**ATTORNEYS FOR DEFENDANT CITY  
OF AUSTIN**

**CERTIFICATE OF CONFERENCE**

I hereby certify that I have conferred with counsel for Plaintiff and he is opposed to the relief sought in this motion. We have also conferred with counsel for co-defendant Rolan Rast and understand that the co-defendant is unopposed to the relief requested in this motion.

/s/ H. Gray Laird III  
H. GRAY LAIRD III

**CERTIFICATE OF SERVICE**

I hereby certify that on June 27, 2023, a true and correct copy of the foregoing document was served on all counsel of record by filing with the Court's CM/ECF system.

/s/ H. Gray Laird III  
H. GRAY LAIRD III

# **Exhibit 1**

D.A. #D1DC20900080 MNI # 7973550 TRN:

DPS: 13150010 Court: 390th

The State of Texas v. ROLAN RAST

**INDICTMENT**

**COUNT I -AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) - F1  
(OFFENSE CODE: 13150010)**

**COUNT II - AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) -  
F1 (OFFENSE CODE: 13150010)**

Bond \$

---

In The 390th Judicial District Court (Special) of Travis County, Texas

---

---

**IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS:**

**THE GRAND JURY**, for the County of Travis, State of Texas, duly selected, empaneled, sworn, charged, and organized as such at the July Term, 2021, of the 390th Judicial District Court (Special) for said County, upon its oath presents in and to said Court at said term, that ROLAN RAST, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause serious bodily injury to SAMUEL KIRSCH, by shooting Stanley Kirsch with a firearm; to wit, a shotgun, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment,

Paragraph B

The Grand Jury further presents that ROLAN RAST, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause bodily injury to SAMUEL KIRSCH, by shooting Samuel Kirsch with a firearm; to wit, a shotgun, and the Defendant did use and exhibit a deadly weapon, a firearm; to wit, a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under the color of his office and employment,

COUNT II

The Grand Jury further presents that ROLAN RAST, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally and knowingly threaten SAMUEL KIRSCH, with imminent bodily injury by discharging a firearm; to wit, a shotgun, at and in the direction of Samuel Kirsch, and the Defendant did use and exhibit a deadly weapon, a firearm, to-wit; a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment, against the peace and dignity of the State,

2/17/2022 | 10:29 AM CST

DocuSigned by:



DS  
LE

DocuSigned by:

Jose Alvarado

7AB83C812DCE4FD...

Foreperson of the Grand Jury

# **Exhibit 2**

D.A. #D1DC23900062 MNI # 7973550 TRN: DPS: 52130005 Court: 331st

The State of Texas v. ROLAN RAST

**INDICTMENT**

**DEADLY CONDUCT DISCHARGE FIREARM - PC 22.05(b)(1) - F3**

Bond \$

Grand Jury Witness:

\_\_\_\_\_  
In The 299th Judicial District Court (Special) of Travis County, Texas  
\_\_\_\_\_

**IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS:**

**THE GRAND JURY**, for the County of Travis, State of Texas, duly selected, empaneled, sworn, charged, and organized as such at the January Term, 2023, of the 299th Judicial District Court (Special) for said County, upon its oath presents in and to said Court at said term, that ROLAN RAST, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there knowingly discharge a firearm at or in the direction of one or more individuals, namely: SAMUEL KIRSCH,

against the peace and dignity of the State,

DocuSigned by:

DocuSigned by:  
*George Blanchard*  
AF78AE90DAB2479...  
Foreperson of the Grand Jury

DS  
6E  
Filed in the District Court  
Of Travis County, Texas  
Velva L. Price, District Clerk

5/30/2023 | 2:18 PM CDT

# **Exhibit 3**



## OFFICE OF THE DISTRICT ATTORNEY

P.O. Box 1748, Austin, TX 78767

Telephone 512/854-9400

Telefax 512/854-4206

**JOSÉ P. GARZA**  
DISTRICT ATTORNEY

**TRUDY STRASSBURGER**  
FIRST ASSISTANT

### **Travis County DA Civil Rights Unit Case Summaries - April 19, 2023**

The following is a current list of each officer-involved use of force or other misconduct matter involving injury to any person currently pending in the Office's Civil Rights Unit.

#### **INDICTED CASES**

**INDICTED: STATE OF TEXAS VS BRETT TABLERIOU, D-1-DC-22-900018:** At the time of the incident, Mr. Tableriou was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Tableriou was indicted for Aggravated Assault by Public Servant, a first-degree felony, by the 390<sup>th</sup> District Court Special Grand Jury. The case is pending in the 460<sup>th</sup> District Court.

The next court setting is April 20, 2023

**INDICTED: STATE OF TEXAS VS. ALEJANDRO GAITAN, D-1-DC-21-900058:** At the time of the incident, Mr. Alejandro was employed as an officer with the Austin Police Department. On Thursday, March 9, 2021, Officer Gaitan was indicted with Aggravated Assault by Public Servant, a first-degree felony, Assault Bodily Injury a Class A misdemeanor and Official Oppression a Class A misdemeanor by the 331<sup>st</sup> District Grand Jury. The case is pending in the 331<sup>st</sup> District Court.

The next court setting is April 21, 2023

**INDICTED: STATE OF TEXAS VS KYU AN, D-1-DC-20-900057:** At the time of the incident, Mr. An was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. An was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> District Court Special Grand Jury. The case is pending in the 403<sup>rd</sup> District Court.

The next court setting is April 24, 2023

**INDICTED: STATE OF TEXAS VS JEREMY FISHER, D-1-DC-22-900011:** At the time of the incident, Mr. Fisher was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Fisher was indicted for Aggravated Assault by Public Servant, a first-degree felony, by the 390<sup>th</sup> District Court Special Grand Jury. The case is pending in the 403<sup>rd</sup> District Court.

The next court setting is April 24, 2023

**INDICTED: STATE OF TEXAS VS EDWARD BOUDREAU, D-1-DC-22-900020:** At the time of the incident, Mr. Boudreau was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Boudreau was indicted for Aggravated Assault by Public Servant, a first-degree felony, by the 390<sup>th</sup> District Court Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is April 26, 2023

**INDICTED: STATE OF TEXAS VS CHRISTOPHER IRWIN, D-1-DC-22-900012:** At the time of the incident, Mr. Irwin was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Irwin was indicted for Aggravated Assault by Public Servant, a first-degree felony, by the 390<sup>th</sup> District Court Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is April 26, 2023

**INDICTED: STATE OF TEXAS VS JAMES MORGAN, D-1-DC-22-900053:** At the time of the incident, Mr. Morgan was employed as a police officer with the Austin Police Department. On Thursday May 26, 2022, Mr. Morgan was indicted for Aggravated Assault by Public Servant, a first-degree felony, by the 460<sup>th</sup> District Court Special Grand Jury. The case is pending in the 427<sup>th</sup> District Court.

The next court setting is May 2, 2023

**INDICTED: STATE OF TEXAS VS JOHN SIEGEL, D-1-DC-20-900072:** At the time of the incident, Mr. Siegel was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Siegel was indicted for Aggravated Assault by Public Servant, a first-degree felony, by the 390<sup>th</sup> District Court Special Grand Jury. The case is pending in the 147<sup>th</sup> District Court.

The next court setting is May 2, 2023

**INDICTED: STATE OF TEXAS VS KYLE FELTON, D-1-DC-20-900054 / D-1-DC-20-900059:** At the time of the incident, Mr. Felton was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Felton was indicted for Aggravated Assault by Public Servant, a first-degree felony, by the 390<sup>th</sup> District Court Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is May 3, 2023

**INDICTED: STATE OF TEXAS VS TODD GILBERTSON, D-1-DC-21-900125:** At the time of the incident, Mr. Gilbertson was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Gilbertson was indicted for Aggravated Assault by Public Servant, a first-degree felony, by the 390<sup>th</sup> District Court Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is May 3, 2023

**INDICTED: STATE OF TEXAS VS ALEXANDER LOMOVSTEV, D-1-DC-21-900126:** At the time of the incident, Mr. Lomovstev was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Lomovstev was indicted for Aggravated Assault by Public Servant, a first-degree felony, by the 390<sup>th</sup> District Court Special Grand Jury. The case is pending in the 427<sup>th</sup> District Court.

The next court setting is May 4, 2023.

**INDICTED: STATE OF TEXAS VS. CHRISTOPHER TAYLOR, D-1-DC-19-900111:** At the time of the incident, Mr. Taylor was employed as an officer for the Austin Police Department. On Thursday, August 26, 2021, Mr. Taylor was indicted for Murder, a first-degree felony, and for Deadly Conduct Discharge of Firearm, a third-degree felony, by the 331st District Court Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is May 4, 2023

**INDICTED: STATE OF TEXAS VS. CHRISTOPHER TAYLOR, D-1-DC-20-900048:** At the time of the incident, Mr. Taylor was employed as an officer with the Austin Police Department. On Wednesday, March 10, 2021, Officer Taylor was indicted with Murder, a first-degree felony, by the 147<sup>th</sup> District Court Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is May 4, 2023

**INDICTED: STATE OF TEXAS VS. WALTER DODDS, D-1-DC-20-301555:** At the time of the incident, Mr. Dodds was employed as a police officer with the Austin Police Department. On Tuesday, August 30, 2022, Mr. Dodds was indicted by the 427<sup>th</sup> District Court Grand Jury for one count of Aggravated Sexual Assault, and two counts of Burglary Habitation Intend Sex Offense, all of which are first-degree felonies Mr. Dodds was also indicted for two counts of Official Oppression, both of which are class-A misdemeanors. The case is pending in the 460<sup>th</sup> District Court.

The next court setting is May 5, 2023

**INDICTED: STATE OF TEXAS VS DERRICK LEHMAN, D-1-DC-20-900071:** At the time of the incident, Mr. Lehman was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Lehman was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> District Court Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is May 11, 2023

**INDICTED: STATE OF TEXAS VS. KARL KRYCIA, D-1-DC-21-900071:** At the time of the incident, Mr. Krycia was employed as an officer for the Austin Police Department. On Thursday, August 26, 2021, Mr. Krycia was indicted for Murder, a first-degree felony, and for Deadly Conduct Discharge of Firearm, a third-degree felony, by the 331st District Court Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is May 15, 2023

**INDICTED: STATE OF TEXAS VS ERIC HEIM, D-1-DC-20-900076:** At the time of the incident, Mr. Heim was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Heim was indicted for Aggravated Assault by Public Servant, a first-degree felony, by the 390<sup>th</sup> District Court Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is June 20, 2023

**INDICTED: STATE OF TEXAS VS JEFFREY TENG, D-1-DC-22-900005:** At the time of the incident, Mr. Teng was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Teng was indicted for Aggravated Assault by Public Servant, a first-degree felony, by the 390<sup>th</sup> District Court Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is June 20, 2023

**INDICTED: STATE OF TEXAS VS. CHANCE BRETCHES, D-1-DC-20-900091:** At the time of the incident, Mr. Bretches was employed as a police officer with the Austin Police Department. On Wednesday, January 20, 2021, Officer Bretches was indicted with Aggravated Assault by a Public Servant, Serious Bodily Injury/Deadly Weapon, a first-degree felony, by the extended 147<sup>th</sup> District Court Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is June 20, 2023

**INDICTED: STATE OF TEXAS VS CHANCE BRETCHES, D-1-DC-20-900056:** At the time of the incident, Mr. Bretches was employed as a police officer with the Austin Police Department. On Thursday May 26, 2022, Mr. Bretches was indicted for Aggravated Assault by Public Servant, a first-degree felony, by the 460<sup>th</sup> District Court Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is June 20, 2023

**INDICTED: STATE OF TEXAS VS JOSHUA BLAKE, D-1-DC-22-900019:** At the time of the incident, Mr. Blake was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Blake was indicted for Aggravated Assault by Public Servant, a first-degree felony, by the 390<sup>th</sup> District Court Special Grand Jury. The case is pending in the 147<sup>th</sup> District Court.

The next court setting is June 22, 2023

**INDICTED: STATE OF TEXAS VS ROLAN RAST, D-1-DC-20-900080:** At the time of the incident, Mr. Siegel was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Siegel was indicted for Aggravated Assault by Public Servant, a first-degree felony, by the 390<sup>th</sup> District Court Special Grand Jury. The case is pending in the 331<sup>st</sup> District Court.

The next court setting is June 28, 2023

**INDICTED: STATE OF TEXAS VS. ZACHARY CAMDEN, D-1-DC-20-900069:** At the time of the incident, Mr. Camden was employed as a deputy with the Williamson County Sheriff's Office. On Monday, March 29, 2021, Mr. Camden was indicted with Manslaughter, a second-degree felony, by the 147<sup>th</sup> District Court Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is July 18, 2023

**INDICTED: STATE OF TEXAS VS. JAMES JOHNSON, D-1-DC-20-900070:** At the time of the incident, Mr. Johnson was employed as a deputy with the Williamson County Sheriff's Office. On Monday, March 29, 2021, Mr. Johnson was indicted for Manslaughter, a second-degree felony, by the 147<sup>th</sup> District Court Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is July 18, 2023

**INDICTED: STATE OF TEXAS VS JOSHUA JACKSON, D-1-DC-22-900010:** At the time of the incident, Mr. Jackson was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Jackson was indicted for Aggravated Assault by Public Servant, a first-degree felony, by the 390<sup>th</sup> District Court Special Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is August 21, 2023

**INDICTED: STATE OF TEXAS VS STANLEY VICK, D-1-DC-22-900009:** At the time of the incident, Mr. Vick was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Vick was indicted for Aggravated Assault by Public Servant, a first-degree felony, by the 390<sup>th</sup> District Court Special Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is August 21, 2023

**INDICTED: STATE OF TEXAS VS JUSTIN BERRY, D-1-DC-20-900055:** At the time of the incident, Mr. Berry was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Berry was indicted for Aggravated Assault by Public Servant, a first-degree felony, by the 390<sup>th</sup> District Court Special Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is August 21, 2023

**INDICTED: STATE OF TEXAS VS JOSEPH CAST, D-1-DC-20-900061:** At the time of the incident, Mr. Cast was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Cast was indicted for Aggravated Assault by Public Servant, a first-degree felony, by the 390<sup>th</sup> District Court Special Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is August 21, 2023

**INDICTED: STATE OF TEXAS VS. ROBERT CHODY, D-1-DC-21-904036:** At the time of the incident, Mr. Chody was the elected Sheriff in Williamson County, Texas. On Wednesday, March 31, 2021, Mr. Chody was indicted for Tampering with Physical Evidence with Intent to Impair, a third-degree felony by the 147<sup>th</sup> District Court Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is not scheduled

**INDICTED: STATE OF TEXAS VS. JASON NASSOUR, D-1-DC-21-904035:** At the time of the incident, Mr. Nassour was employed as General Counsel for the Williamson County Attorney's Office. On Wednesday, March 31, 2021, Mr. Nassour was indicted for Tampering with Physical Evidence with Intent to Impair, a third-degree felony by the 147<sup>th</sup> District Court Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is not scheduled

### **UNINDICTED**

**COMPLAINANT: NAME WITHHELD/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 09/18/2021):** On September 18, 2021, the complainant was struck by an Austin Police Department Officer after multiple requests to leave the area.

The case is being jointly investigated by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit.

**GRAND JURY TERM OF PRESENTATION: JANUARY 2023 TERM**

**DECEDENT: CARLOS ELI CHACON-CASTILLO/SUBJECT OFFICERS: JOHN ZAVALA, SPENCER BRADLEY, and DENNIS KERLIN (Date of Incident: 06/12/2022)** On June 12, 2022, Mr. Chacon-Castillo died as a result of a gunshot wound sustained during an incident with Austin Police Department Officers.

The case is being jointly investigated by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit.

**GRAND JURY TERM OF PRESENTATION: JANUARY 2023 TERM**

**COMPLAINANT: TYREE TALLEY/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 05/31/2020):** On May 31, 2020, Mr. Talley was struck by less-lethal ammunition while attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos.

The investigation into, and review of, the use of force allegations arising out of the May 30 and May 31, 2020, protests is still underway.

**GRAND JURY TERM OF PRESENTATION: TBD**

**COMPLAINANT: SAMUEL KIRSCH/SUBJECT OFFICERS: NAME WITHHELD (Date of Incident: 5/31/2020):** On May 31, 2020, Mr. Kirsch was struck by less-lethal ammunition while attending a protest in downtown Austin following the deaths of George Floyd and Michael Ramos.

The investigation into, and review of, the use of force allegations arising out of the May 30 and May 31, 2020, protests is still underway.

**GRAND JURY TERM OF PRESENTATION: TBD**

**DECEDENT: ENRIQUE QUIROZ/SUBJECT OFFICERS: EDUARDO PINEDA, SPENCER HANNA, ZANE DOWDELL, LUCAS PARKER, MARK YALETCHKO and TRINITHAD GARCIA (Date of Incident: 03/21/2020):** Mr. Quiroz died while in the custody of the Austin Police Department after an encounter with multiple officers on March 31, 2020.

The case is being jointly investigated by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit.

**GRAND JURY TERM OF PRESENTATION: TBD**

**COMPLAINANT: NAME WITHHELD/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 11/26/2020):** On November 26, 2020, the complainant was arrested by the Austin Police Department for interfering with a crime scene. The complainant was struck by the subject officer while being handcuffed.

The case is being jointly investigated by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit.

**GRAND JURY TERM OF PRESENTATION: TBD**

**DECEDENT: MICHAEL CAROTHERS/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 10/09/2021):** On October 9, 2021, there was gunfire between civilians. Subsequently, an officer discharged his weapon. Mr. Carothers died from a gunshot wound.

The case is being jointly investigated by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit.

**GRAND JURY TERM OF PRESENTATION: TBD**

**COMPLAINANT: JUVENTINO NAVEJAR/SUBJECT OFFICER: JAVIER RODRIGUEZ (Date of Incident: 12/24/2021)** On December 24, 2021, Mr. Navejar was shot by an Austin Police Department Officer. Mr. Navejar is expected to recover from his injuries.

The case is being jointly investigated by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit.

**GRAND JURY TERM OF PRESENTATION: TBD**

**COMPLAINT: NAME WITHHELD/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 06/24/2021):** On June 24, 2021, the juvenile complainant was struck by less-lethal ammunition while officers were executing a search warrant and arrest warrant.

The case is currently under investigation by the Travis County District Attorney's Office Civil Rights Unit.

**GRAND JURY TERM OF PRESENTATION: TBD**

**COMPLAINANT: SIMONE GRIFFITH/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 10/30/2021):** On October 30, 2021, Ms. Griffith was arrested for criminal trespass. While officers attempted to place Ms. Griffith under arrest, she was struck by Austin Police Department Officers.

The case is currently under investigation with the Travis County District Attorney's Office Civil Rights Unit.

**GRAND JURY TERM OF PRESENTATION: TBD**

**COMPLAINANT: TERRY GONZALES/SUBJECT OFFICER: JON RIORDAN (Date of Incident 01/29/2022)** On January 29, 2022, Mr. Gonzales sustained a gunshot wound during an incident with Austin Police Department Officers. Mr. Gonzales is expected to recover from his injuries.

The case is being jointly investigated by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit.

**GRAND JURY TERM OF PRESENTATION: TBD**

**COMPLAINANT: BRANDON MUNOZ/SUBJECT OFFICER: NAME WITHHELD (Date of Incident 08/08/2022)** On August 8, 2022, Mr. Munoz was sustained a gunshot wound during an incident involving an Austin Police Department Officer and a Texas Department of Public Safety Trooper. Mr. Munoz is expected to recover from his injuries.

The case is being jointly investigated by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit.

**GRAND JURY TERM OF PRESENTATION: TBD**

**COMPLAINANT: CLATEACHIA STEWART/SUBJECT OFFICER: ZACHARY MAINI (Date of Incident: 08/28/2022):** On August 28, 2022, Ms. Stewart was pulled over for an alleged traffic violation. During the encounter, Ms. Stewart was tased by DPS Trooper Zachary Maini.

The case is currently under investigation with the Travis County District Attorney's Office Civil Rights Unit.

**GRAND JURY TERM OF PRESENTATION: TBD**

**DECEDENT: RITO PAUL MORALES/SUBJECT OFFICERS: NAMES WITHHELD (Date of Incident: 9/17/2022):** On September 17, 2022, a civilian died following an incident during which shots were fired by a Travis County Deputy and Elgin PD Officer.

The case is being jointly investigated by the Texas Rangers and the Travis County District Attorney's Office Civil Rights Unit.

**DECEDENT: ANTONIO GONZALES/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 09/23/2022):** On September 23, 2022, a civilian died following an incident during which shots were fired by Austin Police Department Officer.

The case is being jointly investigated by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit.

**GRAND JURY TERM OF PRESENTATION: TBD**

**COMPLAINANT: EMEKA WILLIAMS/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 10/23/2022):** On October 23, 2022, a civilian was shot following an incident during which shots were fired by Austin Police Department Officers. Mr. Williams is expected to recover from his injuries.

The case is being jointly investigated by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit.

**GRAND JURY TERM OF PRESENTATION: January 2023 Term**

**DECEDENT: RAJAN DAVID MOONESINGHE/SUBJECT OFFICER: DANIEL SANCHEZ (Date of Incident: 11/15/2022):** On November 15, 2022, a civilian died following an incident during which shots were fired by Austin Police Department Officer.

The case is being jointly investigated by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit.

**GRAND JURY TERM OF PRESENTATION: TBD**

**DECEDENT: ANTHONY MARUIS FRANKLIN/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: January 15, 2023):** On January 15, 2023, a civilian died following an incident during which shots were fired by Austin Police Department Officer.

The case is being jointly investigated by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit.

**GRAND JURY TERM OF PRESENTATION: TBD**

# **Exhibit 4**

D.A. #D1DC23900063 MNI # 7966838 TRN: DPS: 52130005 Court: 331st

The State of Texas v. JOSEPH PECHE

**INDICTMENT**

**DEADLY CONDUCT DISCHARGE FIREARM - PC 22.05(b)(1) - F3**

Bond \$

Grand Jury Witness:

In The 299th Judicial District Court (Special) of Travis County, Texas

**IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS:**

**THE GRAND JURY**, for the County of Travis, State of Texas, duly selected, empaneled, sworn, charged, and organized as such at the January Term, 2023, of the 299th Judicial District Court (Special) for said County, upon its oath presents in and to said Court at said term, that JOSEPH PECHE, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there knowingly discharge a firearm at or in the direction of one or more individuals, namely: SAMUEL KIRSCH,

against the peace and dignity of the State,

DocuSigned by:

DocuSigned by:

*George Blanchard*

AF78AE99DAB2470...

Foreperson of the Grand Jury

DS

*LE*

Filed in the District Court  
Of Travis County, Texas  
Velva L. Price, District Clerk

5/30/2023 | 2:18 PM CDT

# **Exhibit 5**



**OFFICE OF THE  
DISTRICT ATTORNEY**

P.O. Box 1748, Austin, TX 78767

Telephone 512/854-9400

Telefax 512/854-4206

**JOSÉ P. GARZA**  
DISTRICT ATTORNEY

**TRUDY STRASSBURGER**  
FIRST ASSISTANT

October 19, 2022

Dear Lieutenant Streepy:

I am responding to your inquiry of a week ago regarding our office's position on the request you have received regarding certain experts being able to access and test evidence – including 12-gauge shotguns, 40MM launchers, and “less lethal” ammunition rounds – currently being preserved as evidence in the pending criminal investigations and matters collectively referred to as “The Protest Cases.”

I understand that a request was specifically made as concerns *State v. Rast*, D-1-DC-20-900080, and the corresponding civil matter involving victim Sam Kirsch.

In order to protect the integrity of our ongoing criminal investigations in The Protest Cases, we regret that we must express our opposition to allowing these experts retained in the corresponding civil cases to access the firearms and ammunition evidence for inspection or testing. This evidence needs to be preserved for State and Defense inspection, testing, and use in the criminal investigations and indicted cases; and chain of custody concerns must also be considered. Allowing this access prior to the resolution of the criminal matters could compromise those cases/investigations.

This approach is consistent with our office's position in other pending criminal matters and is even more pressing in this situation given the limited amount of less lethal ammunition available for testing.

Please let me know if you have further questions or concerns and thank you for your patience.

Best,

*/s/ Ramanjeet Gill*

**Ramanjeet Gill**

Assistant District Attorney

Travis County District Attorney's Office

**IN THE UNITED STATES DISTRICT  
COURT FOR THE WESTERN DISTRICT  
OF TEXAS AUSTIN DIVISION**

**SAM KIRSCH,**  
*Plaintiff,*

v.

**CITY OF AUSTIN AND ROLAN RAST,**  
*Defendants.*

§  
§  
§  
§  
§  
§  
§

**CIVIL ACTION NO. 1:20-cv-01113-RP**

**ORDER**

Before the Court is Defendant City of Austin's Motion to Stay Further Proceedings.

Having considered the motion, the applicable law, and the case file as a whole, the Court orders as follows:

**IT IS ORDERED** that Defendant City of Austin's Motion to Stay Further Proceedings is **GRANTED.**

SIGNED on \_\_\_\_\_.

\_\_\_\_\_  
HON. ROBERT PITMAN  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

SAM KIRSCH,	§	
<i>Plaintiff,</i>	§	
v.	§	
CITY OF AUSTIN AND ROLAN RAST,	§	CIVIL ACTION NO. 1:20-cv-01113-RP
<i>Defendants.</i>	§	

**PLAINTIFF'S RESPONSE PARTIALLY OPPOSING DEFENDANT CITY OF AUSTIN'S  
MOTION TO STAY FURTHER PROCEEDINGS**

TO THE HONORABLE ROBERT PITMAN:

Plaintiff respectfully opposes *Defendant City of Austin's Motion to Stay Further Proceedings* (doc. 87) as to his state law negligence claim. Plaintiff concedes that this Court's recent ruling in the *Sanders* protest injury case is indistinguishable from the situation here and thus, the constitutional claims should be stayed pending resolution of Officer Rast's indictments.

**1. Kirsch has a negligence claim in addition to constitutional claims.**

Plaintiff's state law claim is pursuant to the Texas Tort Claims Act. "A governmental unit in the state is liable for . . . personal injury and death so caused by a condition or use of tangible personal or real property if the governmental unit would, were it a private person, be liable to the claimant according to Texas law." Tex. Civ. Prac. & Rem. Code § 101.021(2).

Plaintiff alleges that the City negligently maintained its stockpile of less lethal munitions and armed its police officers with defective munitions on May 31, 2020. (Doc. 4, at p. 15).

41. The City had a duty to every Austinite, including Sam, to maintain and keep its stockpiles of police equipment functional and up to date. The City had a duty to Sam and every other protester not to arm its police with expired munitions that become more dangerous with age when its police were sent to control crowds during demonstrations. Nonetheless, upon information and belief, the City knowingly armed its police with expired munitions on May 30 and May 31, 2020 and thus breached its duty to Austinites including Sam.

In other words, the substandard condition of tangible personal property (*ie* the less lethal shotgun rounds) caused Plaintiff's injuries.

**2. There is little overlap between Kirsch's negligence claim and Rast's indictments.**

Other than the fact that Plaintiff was impacted by one of the City's less lethal munitions, the events of May 31, 2020 are not relevant to Plaintiff's negligence claim. It doesn't matter for purposes of the TTCA claim who shot Kirsch or why they shot him or whether their use of force was justified or excessive. Plaintiff does not need to depose Officer Rast or any of the other indicted officers to prove his negligence claim.

If allowed to proceed with discovery related to the City's negligence, Plaintiff's requests will focus on the City's pre-May 31, 2020 purchase, storage, and maintenance of the munitions that were used on May 31, 2020. None of that has anything to do with the indicted officers and their Fifth Amendment rights.

**3. The protracted criminal prosecutions weigh in favor of allowing the negligence claim to proceed on its own.**

If Rast's criminal case was set for trial sometime in the next six to 12 months, that might be a reason to keep Plaintiff's constitutional claims and TTCA claim on the same schedule. But the fact that there is no end to the criminal cases in sight means that the Court's, public's, and parties' interests are better served by allowing the negligence case to proceed to resolution. *See* Rule 42 ("For convenience, to avoid prejudice, or to expedite and economize, the court may order a separate trial of one or more

separate issues”). It is certainly possible that resolution of the negligence claim will lead to a resolution of all Kirsch’s claims.

For these reasons, Plaintiff respectfully requests that the Court deny the City’s motion as to his negligence claim and allow it to proceed under the current scheduling order.

**Dated: July 5, 2023**

**Respectfully submitted,**

/s/ Rebecca Webber  
Rebecca Webber  
TX Bar No. 24060805  
[rebecca@rebweblaw.com](mailto:rebecca@rebweblaw.com)  
4228 Threadgill Street  
Austin, Texas 78723  
512-537-8833

**ATTORNEY FOR PLAINTIFF**

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing was filed on July 5, 2023 via the Court’s CM/ECF system, which will serve all counsel of record.

/s/ Rebecca Webber  
Rebecca Webber

**IN THE UNITED STATES DISTRICT  
COURT FOR THE WESTERN DISTRICT  
OF TEXAS AUSTIN DIVISION**

**SAM KIRSCH,**  
*Plaintiff,*

v.

**CITY OF AUSTIN AND ROLAN RAST,**  
*Defendants.*

§  
§  
§  
§  
§  
§  
§

**CIVIL ACTION NO. 1:20-cv-01113-RP**

**DEFENDANT CITY OF AUSTIN’S REPLY IN SUPPORT OF ITS MOTION TO  
STAY FURTHER PROCEEDINGS**

Defendant City of Austin (the “City”) files this Reply in Support of its Motion to Stay Further Proceedings (Doc. 87) as follows:

**ARGUMENT AND AUTHORITIES**

In his response, Plaintiff concedes that his constitutional claims should be stayed pending resolution of Officer Rast’s indictments. Plaintiff contends that his state law negligence claim regarding the alleged substandard condition of the less-lethal shotgun rounds should not be stayed.

Plaintiff’s argument is without merit. Plaintiff essentially argues that he can conduct discovery on the negligence claim in a vacuum without affecting the constitutional claims since he purportedly does not need to depose Officer Rast or any other indicted officer to prove his negligence claim. He argues that his discovery will focus solely on the City’s purchase, storage and maintenance of the less-lethal munitions. However, Plaintiff ignores the fact that the need for a stay is not based only on the discovery Plaintiff needs to pursue his claims, but also on the discovery the Defendants need to defend the claims.

For example, although the Plaintiff may not need to depose the officers on the negligence claim, it is certainly reasonable in the City’s defense of the negligence claim for it to consider

deposing the officers and questioning them about their knowledge of the condition of the munitions and their observations of the performance of the munitions when they deployed them during training and during the protests. If the negligence claim is not stayed, the officers likely would invoke their Fifth Amendment rights in response to this line of questioning. As a result, the City would be precluded from discovering factual information useful in the defense of the negligence claim.

Conducting discovery in piecemeal fashion in this manner does not protect the interests of the Court, parties or public. It also does not advance potential resolution of the claims since it would likely lead to piecemeal expert designations and dispositive motions practice, neither of which will aid in any ultimate resolution of the claims. The interests of the Court, parties and public are better served by a stay of the entire case pending resolution of the criminal proceedings. Upon resolution of the criminal proceedings, the parties can adequately and properly prosecute and defend all the claims in the normal course.

### **CONCLUSION**

For all these reasons, Defendant City of Austin respectfully requests the Court grant the Motion to Stay and award the City all other relief to which it may show itself to be entitled in connection with this motion.

RESPECTFULLY SUBMITTED,

ANNE L. MORGAN, CITY ATTORNEY  
MEGHAN L. RILEY, LITIGATION  
DIVISION CHIEF

/s/ H. Gray Laird III  
H. GRAY LAIRD III  
State Bar No. 24087054  
Assistant City Attorney  
City of Austin-Law Department  
P. O. Box 1546

Austin, Texas 78767-1546  
[gray.laird@austintexas.gov](mailto:gray.laird@austintexas.gov)  
Telephone (512) 974-1342  
Facsimile (512) 974-1311

**ATTORNEYS FOR DEFENDANT CITY  
OF AUSTIN**

**CERTIFICATE OF SERVICE**

I hereby certify that on July 12, 2023, a true and correct copy of the foregoing document was served on all counsel of record by filing with the Court's CM/ECF system.

/s/ H. Gray Laird III  
H. GRAY LAIRD III

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

**SAM KIRSCH,**  
*Plaintiff*

v.

**CITY OF AUSTIN, ROLAN  
ROMAN RAST,**  
*Defendants*

§  
§  
§  
§  
§  
§  
§

**No. 1:20-CV-01113-RP**

**ORDER**

Defendant City of Austin moves to stay all further proceedings in its litigation with Plaintiff Sam Kirsch until the resolution of criminal proceedings currently pending against several Austin Police Department Officers, including Defendant Officer Roman Rast. Dkt. 87. Kirsch only partially opposes the proposed stay, conceding that the Court should grant the stay in part as to his pending constitutional claims, but asks for his negligence claim against the City to continue forward through discovery and on to trial. Dkt. 88. Having considered the record, arguments in the parties' filings, and the applicable law, the Court grants the City's motion in full and stays all further proceedings involving the City until further order from the Court.

**I. BACKGROUND**

Kirsch asserts various claims against Officer Rast and the City of Austin alleging violations of Kirsch's constitutional rights that allegedly occurred during his participation in a protest in downtown Austin in May 2020. Dkt. 4. Kirsch asserts two claims against the City. *Id.* at 14-16. The first arises under 42 U.S.C. § 1983,

asserting municipal liability in connection with Austin Police Department officers' use of "kinetic projectiles" (also referred to as munitions) to disperse the protesters in a manner that violated their constitutional rights. *Id.* at 14-15. This same conduct led the Travis County District Attorney to obtain criminal indictments against several of the officers, including Defendant Officer Rast.<sup>1</sup> *See* Dkt. 53-1. The undersigned has already granted Officer Rast's motion to stay the claims against him based on this same conduct, Dkt. 63, and Kirsch concedes that his § 1983 claim against the City arising from this incident should also be stayed, Dkt. 88, at 1.

But Kirsch asserts another claim against this City, this one for negligence, claiming that "[t]he City was negligent when it used expired munitions against protesters" like Kirsch and that Kirsch's injuries were more serious than they otherwise would have been because the allegedly expired munitions had "hardened." Dkt. 4, at 15-16. Kirsch opposes the City's motion to stay all proceedings related to his negligence claim. Dkt. 88.

## II. LEGAL STANDARD

"The Court has broad discretion to stay proceedings in the interest of justice and in order to control its docket." *Raymond v. J.P. Morgan Chase Bank*, No. SA-20-CA-161-OLG, 2020 WL 10731935, at \*1 (W.D. Tex. Sept. 24, 2020). "Proper use of this authority calls for the exercise of judgment, which must weigh competing interests and maintain an even balance." *Id.* (internal quotation marks omitted). "When a defendant in a civil case is facing criminal charges, a district court may, in its

---

<sup>1</sup> The criminal case against Officer Rast is styled *The State of Texas v. Rolan Rast*, No. D-1-DC-20-900080 (331st Crim. Dist. Ct., Travis Cnty., Tex.).

discretion, stay the civil action.” *U.S. ex rel. Gonzalez v. Fresenius Med. Care N. Am.*, 571 F. Supp. 2d 758, 761 (W.D. Tex. 2008); *see also United States v. Little Al*, 712 F.2d 133, 136 (5th Cir. 1983) (“Certainly, a district court may stay a civil proceeding during the pendency of a parallel criminal proceeding.”). Such a stay contemplates “special circumstances” and the need to avoid “substantial and irreparable prejudice.” *Little Al*, 712 F.2d at 136.

When deciding whether “special circumstances” warrant a stay, courts in the Fifth Circuit have found the following factors relevant: (1) the extent to which the issues in the criminal and civil cases overlap, (2) the status of the criminal case, (3) the private interests of the plaintiffs in proceeding expeditiously, (4) the burden on the defendants, (5) the interest of the courts, and (6) the public interest. *Olson ex rel. H.J. v. City of Burnet*, No. A-20-CV-00162-JRN, 2020 WL 9076545, at \*1 (W.D. Tex. July 17, 2020) (citing *Alcala v. Texas Webb Cnty.*, 625 F. Supp. 2d 391, 397-98 (S.D. Tex. 2009)). Courts have found special circumstances where a defendant attempts to preserve his Fifth Amendment right against self-incrimination and must resolve “the conflict he would face between asserting this right and defending the civil action.” *Bean v. Alcorta*, 220 F. Supp. 3d 772, 775 (W.D. Tex. 2016) (quoting *Alcala*, 625 F. Supp. 2d at 397); *see also, e.g., In re Grand Jury Subpoena*, 866 F.3d 231, 234 (5th Cir. 2017) (observing that “less restrictive civil discovery could undermine an ongoing criminal investigation and subsequent criminal case”).

### III. DISCUSSION

Kirsch devotes less than one page of argument to his opposition. First, he contends that the facts underlying his civil negligence claim and the criminal case pending against the officers do not overlap significantly. Without any discussion or explanation, Kirsch also argues that the officers' criminal prosecution will likely drag on and that thus, "the Court's, public's, and parties' interests are better served by allowing the negligence case to proceed to resolution." Dkt. 88, at 2. While the Court agrees that there is little overlap between the facts underlying the claims, and that certainly *Kirsch's* interests would be benefitted by allowing the negligence case to go forward, the undersigned concludes that the other factors outweigh these interests and therefore finds that the requested stay is appropriate.

#### A. Overlap

Kirsch contends that the facts giving rise to his negligence claim all focus on the City's actions prior to the alleged constitutional violations, focusing instead on "the City's pre-May 31, 2020[,] purchase, storage, and maintenance of the munitions that were used [during the protests]" and that this discovery and an ultimate trial on this discrete claim would not implicate the indicted officers' Fifth Amendment rights. *Id.* The City responds that Kirsch ignores the fact that while his own discovery might focus on pre-protest activity, the City, in preparing its defense, might need to depose its officers and that certain lines of questioning might stray into material that would lead an officer to invoke his Fifth Amendment rights, depriving the City of facts it might need to defend itself. The City's concern, however, is short on specifics, and the

undersigned cannot conceive of how the City's defense of this discrete claim could implicate the indicted officers' Fifth Amendment rights in any significant manner. The Court, therefore, agrees with Kirsch that this factor weighs in his favor.

**B. The Parties', Public's, and Court's Interests**

Kirsch undoubtedly would benefit from expeditious resolution of his claim against the City, and, even setting aside the City's concerns expressed above, the City would undoubtedly be prejudiced by being forced to litigate these claims separately, given the double-expenditure of resources it would incur. In the Court's view, these factors cancel each other out. And the undersigned sees the public's interest here as neutral (and neither party meaningfully addressed this factor).

The Court's interest, however, strongly favors trying all of Kirsch's claims in a single lawsuit. The Court has already stayed all proceedings related to Kirsch's claims against Officer Rast. And Kirsch himself concedes that his constitutional claim against the City should also be stayed. These already-stayed claims will represent the vast majority of litigation in this suit, from discovery, motion practice, and ultimately the evidence presented at trial. While it may be true that Kirsch's negligence claim *could* be carved out, the economies of scale achieved by litigating all of these claims together would be lost entirely. The parties and the Court would be forced to engage in full-blown fact and expert discovery (and any attendant motion practice), dispositive and *Daubert* motions, and a jury trial, only to do it all over again once the stay is lifted over what no one could dispute is the "main" part of the case. The undersigned cannot conclude that in this case, such an expenditure of judicial

resources, not to mention the parties', is appropriate to achieve the end proposed by Kirsch.

Having considered the factors governing the stay requested by the City, the Court concludes that the stay should be granted in full and that all proceedings in this case should be stayed until further order from the Court.

#### IV. ORDER

The Court **GRANTS** the City's motion, Dkt. 87, and **ORDERS** that all discovery and further proceedings in this case are **STAYED** until further order of this Court.

The Court **FURTHER ORDERS** that the City is now subject to the same obligation set out in its previous order requiring Officer Rast to periodically notify the Court of the status of the criminal proceedings pending against the indicted officers. *See* Dkt. 63, at 8. Defendants can comply with their obligations under this order by filing joint notices going forward.

SIGNED August 8, 2023.



---

DUSTIN M. HOWELL  
UNITED STATES MAGISTRATE JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

SAM KIRSCH,

Plaintiff,

v.

THE CITY OF AUSTIN and  
ROLAN ROMAN RAST,

Defendants.

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

CIVIL ACTION NO. 1:20-CV-01113-RP

**DEFENDANTS THE CITY OF AUSTIN’S AND ROLAN RAST’S FIRST JOINT  
STATUS REPORT**

Pursuant to the Court’s orders (Dkts. 63, 86), Defendants The City of Austin and Rolan Rast file this First Joint Status Report.

As of the date of this report, the parallel state criminal proceeding *State of Texas v. Rolan Rast*, No. D-1-DC-23-900062, remains pending in the 331st Judicial District Court of Travis County, Texas. The next court setting—a pre-trial appearance—is scheduled for October 30, 2023.

Defendants therefore do not believe the Court’s existing stay orders need to be modified at this time. Per the Court’s orders, Defendants will file their next joint status report with the Court on Dec. 1, 2023.

Respectfully submitted,

**BUTLER SNOW LLP**

By: /s/ Eric J.R. Nichols

Eric J.R. Nichols  
State Bar No. 14994900  
[eric.nichols@butlersnow.com](mailto:eric.nichols@butlersnow.com)  
1400 Lavaca Street, Suite 1000  
Austin, Texas 78701  
Tel: (737) 802-1800  
Fax: (737) 802-1801

**ATTORNEY FOR DEFENDANT  
ROLAN RAST**

ANNE L. MORGAN, CITY  
ATTORNEY  
MEGHAN L. RILEY, LITIGATION  
DIVISION CHIEF

/s/ H. Gray Laird III

H. GRAY LAIRD III  
State Bar No. 24087054  
Assistant City Attorney  
City of Austin-Law Department  
P. O. Box 1546  
Austin, Texas 78767-1546  
[gray.laird@austintexas.gov](mailto:gray.laird@austintexas.gov)  
Telephone (512) 974-1342  
Facsimile (512) 974-1311

**ATTORNEYS FOR DEFENDANT  
CITY OF AUSTIN**

**CERTIFICATE OF SERVICE**

I hereby certify that on September 12, 2023, a true and correct copy of the foregoing document was served on all counsel of record by filing with the Court's CM/ECF system.

/s/ Eric J.R. Nichols

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

**SAM KIRSCH,**  
*Plaintiff,*

v.

**CITY OF AUSTIN AND ROLAN RAST,**  
*Defendants.*

§  
§  
§  
§  
§  
§  
§

**CIVIL ACTION NO. 1:20-cv-01113-RP**

**PLAINTIFF’S MOTION TO LIFT STAY**

COMES NOW, Plaintiff Sam Kirsch, by and through the undersigned counsel of record, and respectfully files this opposed Motion to Lift Stay. Plaintiff files this Motion because Defendant Rast is no longer subject to criminal prosecution for his shooting of Sam Kirsch.

As of October 16, 2023, all criminal charges against Defendant Rast have been dismissed. Ex. A, Aug. 1, 2023 Dismissal Order in Cause No. D-1-DC-20-900080; Ex. B, Oct. 16, 2023 Dismissal Order in Cause No. D-1-DC-23900062. Rast’s criminal dismissal neutralizes all the factors the Court found justified staying the proceedings against Rast—overlap between the criminal and civil cases, status of the criminal case against Rast, burden on Defendant Rast, and the interests of the Court and the public. *See* Order Granting Rast’s Motion to Stay (Dkt. 63) at 5-7. Officer Rast is no longer at risk of potentially making incriminating statements in his civil case that could be used against him in his criminal case. *See id.* at 5 (citing *DeSilva v. Taylor*, No. 1:21-CV-00129-RP, 2022 WL 545063, at \*3 (W.D. Tex. Feb. 23, 2022)). Nor does Rast face a conflict between his Fifth Amendment rights and fulfilling his legal obligations as a witness and defendant in this case. *Id.* at 6.

None of the remaining indicted officers with current criminal proceedings pending against them for their actions during the 2020 protests are defendants in this case. The interest of the Court and the public interest now tip in favor of an expeditious resolution of this case. Because the Court based the stay of proceedings against the City of Austin on the Rast criminal trial and stay, both stays should now be lifted, and the case allowed to proceed. *See* Order Granting City of Austin's Motion to Stay (Dkt. 91) at 4-6.

For the reasons stated herein, Plaintiff respectfully requests the Court lift the stay of this case and allow litigation to proceed fully so that his claims against Defendants Rast and the City of Austin may be resolved.

**Dated: November 3, 2023**

**Respectfully submitted,  
HENDLER FLORES LAW, PLLC**

/s/ Leigh A. Joseph  
Scott M. Hendler - Texas Bar No. 0944550  
[shendler@hendlerlaw.com](mailto:shendler@hendlerlaw.com)  
Leigh A. Joseph - Texas Bar No. 24060051  
[ljoseph@hendlerlaw.com](mailto:ljoseph@hendlerlaw.com)  
901 S. MoPac Expressway  
Bldg. 1, Suite #300  
Austin, Texas 78746  
Telephone: (512) 439-3200  
Facsimile: (512) 439-3201

*-And-*

Rebecca Ruth Webber  
Texas Bar No. 24060805  
[rwebber@rebweblaw.com](mailto:rwebber@rebweblaw.com)  
4228 Threadgill Street  
Austin, Texas 78723  
Tel: (512) 669-9506

**ATTORNEYS FOR PLAINTIFF**

**CERTIFICATE OF CONFERENCE**

I certify that the following took place before the filing of this Motion: Counsel for Plaintiff emailed counsel for both defendants on October 20, 2023, and again on October 23, 2023, to discuss lifting the stay based on the dismissal of the Rast criminal case. Counsel for both defendants responded via email on October 24, 2023, stating their opposition. The undersigned attempted to reach counsel for both defendants via telephone on November 2, 2023 to further discuss their positions. The undersigned spoke with counsel for Officer Rast on November 3, 2023, at which time he reiterated his opposition. The undersigned was not able to reach counsel for the City of Austin via telephone.

/s/ Leigh Joseph  
Leigh A. Joseph

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing served on all counsel of record via the electronic mail on November 3, 2023.

/s/ Leigh Joseph  
Leigh A. Joseph

**CAUSE NO. D-1-DC- 20-900080**

**THE STATE OF TEXAS**

§  
§  
§  
§  
§

**IN THE DISTRICT COURT**

**VS.**

**331st JUDICIAL DISTRICT**

Roland Rast

**TRAVIS COUNTY, TEXAS**

**MOTION TO DISMISS**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES the State of Texas, by and through the District Attorney for Travis County, and respectfully requests the Court to dismiss the above entitled and numbered criminal action in which the defendant is charged with the offense of **Count I - Aggravated Assault by Public Servant**, for the reason:

**Count II - Aggravated Assault by Public Servant**

- The evidence is insufficient;
- The defendant was convicted in another case;
- The complaining witness has requested dismissal;
- The case has been refiled;
- The defendant is unapprehended;
- The defendant is deceased;
- The defendant has been granted immunity in light of his testimony;
- The defendant has completed the drug court program
- Other: case was re-indicted to cause #  
D-1-DC-23-900062

And for cause would show the Court the following: .

WHEREFORE, it is prayed that the above entitled and numbered cause be dismissed.

Respectfully submitted,

DocuSigned by:

*Josie Smalley*

4737A2C5BCF4420...

Assistant District Attorney

**ORDER**

The foregoing motion having been presented to me on this the 1 day of August, A.D. 2023, and the same having been considered, it is, therefore, ORDERED, ADJUDGED, and DECREED that the above entitled and numbered cause be and the same is hereby dismissed.

Filed in the District Court  
Of Travis County, Texas

DocuSigned by:

*Chantal Eldridge*

A6D776BF000441C...

Judge of the 331 Judicial District Court  
Travis County, Texas

At Aug 01, 2023 4:50 pm ERN  
Velva L. Price, District Clerk

**EXHIBIT A**

**CAUSE NO. D1DC23900062**

**THE STATE OF TEXAS**

§  
§  
§  
§  
§

**IN THE DISTRICT COURT**

**VS.**

**331st JUDICIAL DISTRICT**

**ROLAN RAST**

**TRAVIS COUNTY, TEXAS**

**MOTION TO DISMISS**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES the State of Texas, by and through the District Attorney for Travis County, and respectfully requests the Court to dismiss the above entitled and numbered criminal action in which the defendant is charged with the offense of DEADLY CONDUCT DISCHARGE FIREARM, for the reason: Conditional Dismissal

Filed in the District Court  
Of Travis County, Texas  
At 10/17/2023 1:15pm SP  
Velva L. Price, District Clerk

And for cause would show the Court the following:

WHEREFORE, it is prayed that the above entitled and numbered cause be dismissed.

Respectfully submitted,

*Josh Smalley*

Assistant District Attorney

**ORDER**

The foregoing motion having been presented to me and the same having been considered, it is, therefore, ORDERED, ADJUDGED, and DECREED that the above entitled and numbered cause be and the same is hereby dismissed.

DocuSigned by:

*Chantal Eldridge*

A6D776BF000441C...

Judge of the 331st Judicial District Court  
Travis County, Texas

10/16/2023 | 3:06 PM CDT

Date

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

SAM KIRSCH,  
*Plaintiff,*

v.

CITY OF AUSTIN AND ROLAN RAST,  
*Defendants.*

§  
§  
§  
§  
§  
§  
§

CIVIL ACTION NO. 1:20-cv-01113-RP

**ORDER GRANTING PLAINTIFFS' MOTION TO LIFT STAY**

Before the Court is Plaintiff's Motion to Lift Stay. Good cause having been show, the motion is hereby **GRANTED**.

**IT IS HEREBY ORDERED** that the stay in this case be lifted, and that litigation be allowed to proceed fully.

**SO ORDERED.**

**SIGNED AND ENTERED** this \_\_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
**HONORABLE ROBERT PITMAN**  
**UNITED STATES DISTRICT JUDGE**

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

SAM KIRSCH,

Plaintiff,

v.

THE CITY OF AUSTIN and  
ROLAN ROMAN RAST,

Defendants.

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

CIVIL ACTION NO. 1:20-CV-01113-RP

**DEFENDANTS' JOINT RESPONSE TO PLAINTIFF'S MOTION TO LIFT STAY**

Defendant The City of Austin (the "City") and Officer Defendant Rolan Roman Rast ("Officer Rast") (collectively, "Defendants") file this joint response opposing the motion by Plaintiff Sam Kirsch ("Plaintiff") to lift the stay currently in place in this matter (Dkt. 94).

**SUMMARY**

Plaintiff's page-and-a-half motion does not provide sufficient grounds on which to lift the stay currently in place for this civil case. The motion wholly fails to address the core principle that the Defendants cannot defend themselves while officers whose testimony is crucial to address Plaintiff's claims and the Defendants' defenses are under indictment. Plaintiff seeks to impose civil liability on the Defendants with respect to conduct over which Austin Police Department officers still face pending criminal charges. This includes the 2020 protest incident allegedly involving Kirsch, as well as other incidents for which Plaintiff seeks to establish a "pattern" on which he claims the City is liable under a *Monell* theory.

The Court, when staying this case first as to Officer Rast and then as to the City of Austin, recognized that the charges against Officer Rast were not the sole basis for the stay. Instead, there

were and are current criminal indictments and investigations against Austin Police Department officers which prevent potentially necessary witnesses from testifying in this civil matter.

<i>Civil Case Name:</i>	Officers under indictment:	Criminal Docket Number:
<i>Jason Gallagher</i> (NO. 1:20-CV-00901)	1. John Siegel	1. D-1-DC-20-900072
<i>Alyssa Sanders</i> (NO. 1:22-CV-314)	1. Eric Heim	1. D-1-DC-20-900076
<i>Steven Arawn</i> (NO. 1:20-CV-1118-RP)	1. Joshua Jackson 2. John Siegel 3. Justin Berry	1. D-1-DC-22-900010 2. D-1-DC-20-900072 3. D-1-DC-20-900055
<i>Nicole Underwood</i> (NO. 1:22-CV-00032)	1. John Siegel	1. D-1-DC-20-900072
<i>Jose Herrera</i> (No. 1:20-CV-01134-RP)	1. James Morgan	1. D-1-DC-22-900053
<i>Bomani Ray Barton</i> (No. 1:22-CV-00221-RP)	1. Kyu An	1. D-1-DC-20-900057
<i>Meredith Drake</i> (No. 1:20-CV-00956-RP)	1. Chance Bretches	1. D-1-DC-20-900056
<i>Anthony Evans</i> (No. 1:20-CV-01057-RP)	1. Kyle Felton	1. D-1-DC-20-900054
<i>Justin Howell</i> (No. 1:21-CV-00749-RP)	1. Kyle Felton 2. Jeffrey Teng	1. D-1-DC-23-900066 2. D-1-DC-23-900065
<i>Meredith Williams</i> (No. 1:22-CV-00042-RP)	1. Joseph Cast	1. D-1-DC-20-900061
<i>Christen Warkoczewski</i> (No. 1:21-CV-00739-RP)	1. Brett Tableriou 2. Jeremy Fisher 3. Christopher Irwin 4. Todd Gilbertson 5. Alexander Lomovstev 6. Joshua Blake 7. Joshua Jackson 8. Stanley Vick 9. Justin Berry	1. D-1-DC-22-900018 2. D-1-DC-22-900011 3. D-1-DC-22-900012 4. D-1-DC-21-900125 5. D-1-DC-21-900126 6. D-1-DC-22-900019 7. D-1-DC-22-900010 8. D-1-DC-22-900009 9. D-1-DC-20-900055
<i>Ge'Micah Volter-Jones</i> (No. 1:22-CV-00511)	1. Edward Boudreau 2. Derrick Lehman	1. D-1-DC-22-900020 2. D-1-DC-20-900071

See also **Ex. 1** (TCDAO Civil Right's Unit's Case Summary Press Release).

The pending criminal cases prevent key witnesses from testifying in this civil case, which in turn prevents Defendants from working up, much less presenting, a full defense against the civil claims. In addition, physical evidence related to the pending charges is held under the control of the Travis County District Attorney's Office. Regardless of Officer Rast's ability to testify in this matter, both he and the City will need access to testimony and evidence that is currently unavailable due to these ongoing criminal proceedings. There is no proper basis at this time for a motion to lift the Court's stay.

### **BACKGROUND AND ARGUMENT AND AUTHORITIES**

In his amended complaint (Dkt. 4), Plaintiff asserted claims against both Officer Rast and the City. Plaintiff's claims against Officer Rast focus on Officer Rast's alleged violation of Plaintiff's constitutional rights. *Id.* at 13-14. Plaintiff asserted two claims against the City; one for negligence relating to the storage and handling of the munitions used by the Austin Police Department during the protests, and the other a *Monell* claim that alleged a litany of failures by the City, including failure to train, failure to supervise, failure to intervene, failure to investigate, and a failure to discipline. *Id.* at 14-15. The *Monell* claim's allegations reach far beyond Officer Rast into the Austin Police Department. *See id.*

After Plaintiff filed his complaint against the City and Officer Rast, the TCDAO indicted Rast for conduct allegedly involving Plaintiff. **Ex. 2** (Feb. 2022 Indictment for two counts of Aggravated Assault by a Public Servant). Based on his indictment, Officer Rast moved to stay the entire case in June 2022. (Dkt. 51.) The Court granted the motion, staying all discovery and further proceedings against Officer Rast. (Dkt. 63.) In reaching that decision, the Court noted that Kirsch's claims ". . . are based almost entirely on the conduct forming the basis of the indictment

pending against him . . .” *Id.* at 4. That overlap between the indictment and Kirsch’s claims favored a stay. *Id.*

In May 2023, after the Court stayed this case as to Officer Rast, the TCDAO reindicted Officer Rast, as well as other two Austin Police Departments officers—Officer Joseph Peche (“Officer Peche”) and Officer Joseph Murray (“Officer Murray”), for allegedly discharging a firearm at Kirsch. **Exs. 3-5** (Indictments of Officer Rast, Officer Peche, and Officer Murray for Deadly Conduct Discharge Firearm).

A month after the new indictments, the City moved to stay the remainder of the case. (Dkt. 87.) Since the issuance of the first stay, the City had worked to conduct discovery as much as possibly but ran eventually ran into the same wall that still exists: evidence and testimony necessary to its defense was unobtainable due to potential criminal liability and ongoing criminal actions and investigations. In its motion, the City expanded on this issue, specifically arguing that Officer Rast’s indictment and threat of criminal liability prevented it from obtaining testimony and evidence necessary to defend itself but also urging the Court to look beyond Officer Rast to the numerous other Austin Police Department officers who had been indicted by the TCDAO, or who at the time were still under investigation by the TCDAO Civil Rights Unit. The City argued that the criminal indictments and investigations of those officers overlapped with Plaintiff’s *Monell* allegations to an extent that was actively preventing the City from obtaining necessary testimony and evidence. *See id.* at 2-5. This conflict between the individual officer’s rights against self-incrimination and the City’s right to defend itself thus warranted a stay.

The Court agreed. (Dkt. 91.) In its order, the Court noted that Plaintiff’s *Monell* claim involves “the same conduct [that] led the Travis County District Attorney to obtain criminal indictments against *several* of the officers, including Defendant Officer Rast.” *Id.* at 2 (emphasis

added). It also expressed that its interest “strongly favors trying all of Kirsch’s claims in a single lawsuit” and that the *Monell* claim and the individual Section 1983 claims against Officer Rast “represent the vast majority of litigation in this suit, from discovery, motion practice, and ultimately the evidence presented at trial.” *Id.* at 5. That decision mirrored the analysis the Court has applied to other motions to stay filed by the City in other civil claims arising out of the 2020 protest response, such as in *Sanders v. City of Austin*, No. 1-22-CV-00314-RP.

On October 16, 2023, the TCDAO dismissed its indictment against Officer Rast. **Ex. 6** (Dismissal of Indictment), **Ex. 7** (docket sheet). The indictments against Officer Murray and Officer Peche, which also alleged deadly conduct with respect to Plaintiff, were not dismissed and remain pending. **Ex. 8** (docket sheet from Officer Murray’s criminal proceeding); **Ex. 9** (docket sheet from Officer Peche’s criminal proceeding). So do the other indictments as listed above filed against other officers involved in the 2020 protest response.

After Officer Rast’s indictment was dismissed, Plaintiff moved to lift the Court’s entire stay, based solely on the argument that “Defendant Rast is no longer subject to criminal prosecution for his shooting of Sam Kirsch.” (Dkt. 94.) Plaintiff does not attempt to address the City’s previous arguments, or the Court’s findings, that other Austin Police Department officers who are either currently indicted—like Officer Murray and Officer Peche, who are indicted for actions allegedly taken against Plaintiff during the protests—or who are facing criminal indictments arising out of other incidents that form the basis of Plaintiff’s claims and cannot be called to testify without fear of self-incrimination. He instead attempts to hand-wave that issue away by noting that no officers other than Officer Rast have been named as defendants in this case. *Id.* Defendants now file this response opposing Plaintiff’s motion.

The Court’s prior analysis staying this case was clear: on balance, the applicable factors favored staying this case in light of the ongoing overlap between criminal indictments and investigations of Austin Police Department officers—including but not limited to Officer Rast—and the claims in this case. The fact that an indictment against one officer was dismissed does not change that analysis, nor does the fact that the officer in question is a named defendant in this case and the other officers are not. Defendants’ position, argued in previous motions in this matter and in similar issues in other related cases before this Court, is unchanged: civil matters arising out of the 2020 protests should be stayed until *all* pending criminal issues connected to this case are resolved.

There is no dispute that there are Austin Police Department officers who still face the potential criminal liability for actions taken during the 2020 protests, actions which this Court has noted are part and parcel of Plaintiff’s claims in this case. There is also no dispute that there are Austin Police Department officers who are currently under indictment with respect to actions allegedly taken with respect to Plaintiff. And there is no dispute that the pending criminal cases investigations against all those officers overlap with the subject matter of this case. Plaintiff’s motion thus fails to address the Court’s full reasoning for staying this matter in the first place.

Instead, Plaintiff concludes in summary fashion that Officer Rast’s dismissal “neutralizes” all the factors the Court found “justifying” its current stay. (Dkt. 94.) Kirsch wholly fails to address the aspect of the Court’s order that is based on the Defendants’ ability to present an adequate defense against his claims. Officer Rast is one witness among many relevant to the sweeping nature of Kirsch’s claims.

The relevant law that underlies the Court’s order has not changed either. “The Court has broad discretion to stay proceedings in the interest of justice and in order to control its docket.”

*Raymond v. J.P. Morgan Chase Bank*, No. SA-20- CA-161-OLG, 2020 WL 10731935, at \*1 (W.D. Tex. Sept. 24, 2020). “Proper use of this authority calls for the exercise of judgment, which must weigh competing interests and maintain an even balance.” *Id.* (internal quotation marks omitted); *see also United States v. Little Al*, 712 F.2d 133, 136 (5th Cir. 1983) (“Certainly, a district court may stay a civil proceeding during the pendency of a parallel criminal proceeding.”). Such a stay contemplates “special circumstances” and the need to avoid “substantial and irreparable prejudice.” *Little Al*, 712 F.2d at 136. When deciding whether “special circumstances” warrant a stay, courts in the Fifth Circuit have found the following factors relevant: (1) the extent to which the issues in the criminal and civil cases overlap, (2) the status of the criminal case, (3) the private interests of the plaintiffs in proceeding expeditiously, (4) the burden on the defendants, (5) the interest of the courts, and (6) the public interest. *Olson ex rel. H.J. v. City of Burnet*, No. A-20-CV-00162-JRN, 2020 WL 9076545, at \*1 (W.D. Tex. July 17, 2020) (citing *Alcala v. Texas Webb Cnty.*, 625 F. Supp. 2d 391, 397-98 (S.D. Tex. 2009)); *see also, e.g., In re Grand Jury Subpoena*, 866 F.3d 231, 234 (5th Cir. 2017) (observing that “less restrictive civil discovery could undermine an ongoing criminal investigation and subsequent criminal case”).

### **1. Overlap**

“The extent to which issues in the criminal case overlap with those presented in the civil case generally is regarded as the most important factor in the analysis.” *DeSilva v. Taylor*, No. 1:21-CV-00129-RP, 2022 WL 545063, at \*3 (W.D. Tex. Feb. 23, 2022) (internal quotation marks omitted). The overlap between this civil matter and parallel ongoing criminal investigations and prosecutions is well-documented, in both this matter and in similar protests cases in front of this Court. The Court itself acknowledged this in granting Officer Rast’s motion to stay. (Dkt. 63 at 4.)

The problem this overlap creates is also well-documented. *See, e.g.*, **Ex. 10** (Excerpt of Deposition of Officer K. An) at 12:10-22. Officers called to testify about the actions, events, orders, and training surrounding 2020 protests have and will continue to invoke their Fifth Amendment rights against self-incrimination. The threat of criminal liability on essential witnesses is not ephemeral or illusory—it is real.

This presents a problem for both the City and for Officer Rast. For the City, testimony of officers besides Officer Rast is essential to defending itself against Plaintiff's *Monell* claim. For Officer Rast, testimony from those same officers will be necessary to present a full defense against Plaintiff's claims of alleged constitutional violations; those officers who have and would likely invoke their right against self-incrimination are the same individuals who could be called as witnesses to testify to the conduct of the protest crowd (allegedly including Plaintiff) and responding officers (alleged including Officers Rast, Murray, and Peche), as well as a number of other relevant issues in this case, such as officer deployment, training, and tactics. This conundrum is particularly apparent for Officer Murray and Officer Peche; like Officer Rast, they were indicted for Deadly Conduct Discharge of Firearm. Specifically, all three were charged in indictments carrying the identical language: "on or about the 31st day of May, 2020 . . . did then and there knowingly discharge a firearm at or in the direction of one or more individuals, namely: SAMUEL KIRSCH." **Exs. 4-5** (emphasis added). In other words, Officers Murray and Peche are under active indictment for the alleged conduct that underlies Kirsch's claims against Officer Rast.

## **2. The Status of the Criminal Cases**

Officer Murray's and Officer's Peches's criminal cases are ongoing. So too are many other indictments against Austin Police Department officers for actions taken in the 2020 protests, and

more are under investigation by the TCDAO for potential indictment. These ongoing indictments and investigations, which have already been shown to be impediments to these cases, favor a stay.

**3. The Parties' and the Public's Interest**

Kirsch obviously has an interest in having his claims against the City and Officer Rast proceed. (Dkt. 63 at 5; Dkt. 91 at 5.) But Officer Rast and the City have a countervailing interest in being allowed to defend themselves against those claims, with testimony and physical evidence. The Court's prior conclusion that these interests weighed equally was sound then, and remains so in light of the indisputably pending criminal proceedings. (Dkt. 91.)

**4. The Court's Interests**

The Court has been clear that it will try all of Kirsch's claims together. (Dkt. 91 at 5.) When it has been asked to sever claims within this suit and parse which may proceed and which should be stayed, it has declined to do so, citing the unnecessary potential expenditure of judicial resources. *Id.* Regardless of the status of Officer Rast's personal indictment, neither Defendant can present a full defense of all claims brought by Kirsch at this time. As such, lifting the stay, even as to only one party or one claim, would breach the line the Court has already set. It also invites subsequent motion practice and wasted resources as individual witnesses make the decision on whether to invoke their right against self-incrimination and the parties fight about which are necessary to this case and which are not. The Court's prior resolution on suggestions of piecemeal litigation was sound then and is sound now. The stay should remain in place.

**CONCLUSION**

For all these reasons, and those briefed in connection with the stay issues, Defendants The City of Austin and Rolan Roman Rast respectfully request that the Court deny Plaintiff Sam

Kirsch's motion, keep the stay in this case, and award the City all other relief to which it may show itself to be entitled in connection with this motion.

Respectfully submitted,

ANNE L. MORGAN, CITY ATTORNEY  
MEGHAN RILEY, CHIEF, LITIGATION

By: /s/ H. Gray Laird  
H. Gray Laird III  
State Bar No. 24087504  
[gray.laird@austintexas.gov](mailto:gray.laird@austintexas.gov)  
CITY OF AUSTIN  
P.O. Box 1546  
Austin, Texas 78767-1546  
Tel: (512) 974-1342  
Fax: (512) 974-1311

**ATTORNEYS FOR DEFENDANT THE  
CITY OF AUSTIN**

By: /s/ Eric J.R. Nichols  
Eric J.R. Nichols  
State Bar No. 14994900  
[eric.nichols@butlersnow.com](mailto:eric.nichols@butlersnow.com)  
BUTLER SNOW LLP  
1400 Lavaca Street, Suite 1000  
Austin, Texas 78701  
Tel: (737) 802-1800  
Fax: (737) 802-1801

**ATTORNEYS FOR DEFENDANT  
ROLAN ROMAN RAST**

**CERTIFICATE OF SERVICE**

I hereby certify that November 10, 2023, a true and correct copy of the foregoing document was served on all counsel of record by filing with the Court's CM/ECF system.

/s/ Eric J.R. Nichols  
Eric J.R. Nichols

# Exhibit 1



**OFFICE OF THE  
DISTRICT ATTORNEY**

P.O. Box 1748, Austin, TX 78767

Telephone 512/854-9400

Telefax 512/854-4206

**JOSÉ P. GARZA**  
DISTRICT ATTORNEY

**TRUDY STRASSBURGER**  
FIRST ASSISTANT

**Travis County DA Civil Rights Unit Case Summaries – October 19, 2023**

The following is a current list of each officer involved use of force or other misconduct matter involving injury to any person currently pending in the Office's Civil Rights Unit.

**INDICTED CASES**

**INDICTED: STATE OF TEXAS VS. ALEJANDRO GAITAN, D-1-DC-21-900058:** At the time of the incident, Mr. Alejandro was employed as an officer with the Austin Police Department. On Thursday, March 9, 2021, Mr. Gaitan was indicted with Aggravated Assault by Public Servant, a first-degree felony, Assault Bodily Injury a Class A misdemeanor and Official Oppression a Class A misdemeanor by the 331<sup>st</sup> District Grand Jury. The case is pending in the 331<sup>st</sup> District Court.

The next court setting is October 20, 2023

**INDICTED: STATE OF TEXAS VS. CHRISTOPHER TAYLOR, D-1-DC-19-900111:** At the time of the incident, Mr. Taylor was employed as an officer for the Austin Police Department. On Thursday, August 26, 2021, Mr. Taylor was indicted for Murder, a first-degree felony, and for Deadly Conduct Discharge of Firearm, a third-degree felony, by the 331<sup>st</sup> District Court Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is October 23, 2023

**INDICTED: STATE OF TEXAS VS. CHRISTOPHER TAYLOR, D-1-DC-20-900048:** At the time of the incident, Mr. Taylor was employed as an officer with the Austin Police Department. On Wednesday, March 10, 2021, Officer Taylor was indicted with Murder, a first-degree felony, by the 147<sup>th</sup> District Court Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is October 23, 2023

**INDICTED: STATE OF TEXAS VS EDWARD BOUDREAU, D-1-DC-22-900020:** At the time of the incident, Mr. Boudreau was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Boudreau was indicted for Aggravated Assault by Public Servant, a first-degree felony, by the 390<sup>th</sup> District Court Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is October 24, 2023

**INDICTED: STATE OF TEXAS VS CHRISTOPHER IRWIN, D-1-DC-22-900012:** At the time of the incident, Mr. Irwin was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Irwin was indicted for Aggravated Assault by Public Servant, a first-degree felony, by the 390<sup>th</sup> District Court Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is October 24, 2023

**INDICTED: STATE OF TEXAS VS. JOSEPH PECHE, D-1-DC-23-900063:** At the time of the incident, Mr. Peche was employed as a police officer with the Austin Police Department. On Tuesday, May 30, 2023, Mr. Peche was indicted for Deadly Conduct Discharge Firearm, a third-degree felony, by the 299<sup>th</sup> District Court Grand Jury. The case is pending in the 331<sup>st</sup> District Court.

The next court setting is October 30, 2023

**INDICTED: STATE OF TEXAS VS JOHN SIEGEL, D-1-DC-20-900072:** At the time of the incident, Mr. Siegel was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Siegel was indicted for Aggravated Assault by Public Servant, a first-degree felony, by the 390<sup>th</sup> District Court Special Grand Jury. The case is pending in the 147<sup>th</sup> District Court.

The next court setting is November 01, 2023

**INDICTED: STATE OF TEXAS VS KYU AN, D-1-DC-20-900057:** At the time of the incident, Mr. An was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. An was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> District Court Special Grand Jury. The case is pending in the 403<sup>rd</sup> District Court.

The next court setting is November 13, 2023

**INDICTED: STATE OF TEXAS VS. JOSEPH MURRAY, D-1-DC-22-900063:** At the time of the incident, Mr. Murray was employed as a police officer with the Austin Police Department. On Tuesday, May 30, 2023, Mr. Murray was indicted with Deadly Conduct Discharge Firearm, a third-degree felony by the 299<sup>th</sup> District Grand Jury. The case is pending in the 331<sup>st</sup> District Court.

The next court setting is November 17, 2023

**INDICTED: STATE OF TEXAS VS JAMES MORGAN, D-1-DC-22-900053:** At the time of the incident, Mr. Morgan was employed as a police officer with the Austin Police Department. On Thursday May 26, 2022, Mr. Morgan was indicted for Aggravated Assault by Public Servant, a first-degree felony, by the 460<sup>th</sup> District Court Special Grand Jury. The case is pending in the 427<sup>th</sup> District Court.

The next court setting is November 21, 2023

**INDICTED: STATE OF TEXAS VS BRETT TABLERIOU, D-1-DC-22-900018:** At the time of the incident, Mr. Tableriou was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Tableriou was indicted for Aggravated Assault by Public Servant, a first-degree felony, by the 390<sup>th</sup> District Court Special Grand Jury. The case is pending in the 460<sup>th</sup> District Court.

The next court setting is November 21, 2023

**INDICTED: STATE OF TEXAS VS JOSHUA BLAKE, D-1-DC-22-900019:** At the time of the incident, Mr. Blake was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Blake was indicted for Aggravated Assault by Public Servant, a first-degree felony, by the 390<sup>th</sup> District Court Special Grand Jury. The case is pending in the 147<sup>th</sup> District Court.

The next court setting is November 28, 2023

**INDICTED: STATE OF TEXAS VS TODD GILBERTSON, D-1-DC-21-900125:** At the time of the incident, Mr. Gilbertson was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Gilbertson was indicted for Aggravated Assault by Public Servant, a first-degree felony, by the 390<sup>th</sup> District Court Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is January 09, 2024

**INDICTED: STATE OF TEXAS VS. KARL KRYCIA, D-1-DC-21-900071:** At the time of the incident, Mr. Krycia was employed as an officer for the Austin Police Department. On Thursday, August 26, 2021, Mr. Krycia was indicted for Murder, a first-degree felony, and for Deadly Conduct Discharge of Firearm, a third-degree felony, by the 331<sup>st</sup> District Court Special Grand Jury. The case is pending in the 167<sup>th</sup> District Court.

The next court setting is January 9, 2024

**INDICTED: STATE OF TEXAS VS ERIC HEIM, D-1-DC-20-900076:** At the time of the incident, Mr. Heim was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Heim was indicted for Aggravated Assault by Public Servant, a first-degree felony, by the 390<sup>th</sup> District Court Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is January 16, 2024

**INDICTED: STATE OF TEXAS VS KYLE FELTON, D-1-DC-20-900054 / D-1-DC-20-900059:** At the time of the incident, Mr. Felton was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Felton was indicted for Aggravated Assault by Public Servant, a first-degree felony, by the 390<sup>th</sup> District Court Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is January 16, 2024

**INDICTED: STATE OF TEXAS VS. CHANCE BRETCHES, D-1-DC-20-900091:** At the time of the incident, Mr. Bretches was employed as a police officer with the Austin Police Department. On Wednesday, January 20, 2021, Officer Bretches was indicted with Aggravated Assault by a Public Servant, Serious Bodily Injury/Deadly Weapon, a first-degree felony, by the extended 147<sup>th</sup> District Court Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is January 16, 2024

**INDICTED: STATE OF TEXAS VS CHANCE BRETCHES, D-1-DC-20-900056:** At the time of the incident, Mr. Bretches was employed as a police officer with the Austin Police Department. On Thursday May 26, 2022, Mr. Bretches was indicted for Aggravated Assault by Public Servant, a first-degree felony, by the 460<sup>th</sup> District Court Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is January 16, 2024

**INDICTED: STATE OF TEXAS VS. JEFFREY TENG, D-1-DC-23-900065:** At the time of the incident, Mr. Teng was employed as a police officer with the Austin Police Department. On Tuesday, May 30, 2023, Mr. Teng was indicted for Deadly Conduct Discharge Firearm, a third-degree felony by the 299<sup>th</sup> District Court Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is January 16, 2024

**INDICTED: STATE OF TEXAS VS. KYLE FELTON, D-1-DC-23-900066:** At the time of the incident, Mr. Felton was employed as a police officer with the Austin Police Department. On Tuesday, May 30, 2023, Mr. Felton was indicted for Deadly Conduct Discharge Firearm, a third-degree felony by the 299<sup>th</sup> District Court Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is January 16, 2024

**INDICTED: STATE OF TEXAS VS ALEXANDER LOMOVSTEV, D-1-DC-21-900126:** At the time of the incident, Mr. Lomovstev was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Lomovstev was indicted for Aggravated Assault by Public Servant, a first-degree felony, by the 390<sup>th</sup> District Court Special Grand Jury. The case is pending in the 427<sup>th</sup> District Court.

The next court setting is January 17, 2024.

**INDICTED: STATE OF TEXAS VS JEREMY FISHER, D-1-DC-22-900011:** At the time of the incident, Mr. Fisher was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Fisher was indicted for Aggravated Assault by Public Servant, a first-degree felony, by the 390<sup>th</sup> District Court Special Grand Jury. The case is pending in the 403<sup>rd</sup> District Court.

The next court setting is January 29, 2024

**INDICTED: STATE OF TEXAS VS. ZACHARY CAMDEN, D-1-DC-20-900069:** At the time of the incident, Mr. Camden was employed as a deputy with the Williamson County Sheriff's Office. On Monday, March 29, 2021, Mr. Camden was indicted with Manslaughter, a second-degree felony, by the 147<sup>th</sup> District Court Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is February 13, 2024

**INDICTED: STATE OF TEXAS VS. JAMES JOHNSON, D-1-DC-20-900070:** At the time of the incident, Mr. Johnson was employed as a deputy with the Williamson County Sheriff's Office. On Monday, March 29, 2021, Mr. Johnson was indicted for Manslaughter, a second-degree felony, by the 147<sup>th</sup> District Court Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is February 13, 2024

**INDICTED: STATE OF TEXAS VS DERRICK LEHMAN, D-1-DC-20-900071:** At the time of the incident, Mr. Lehman was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Lehman was indicted for Aggravated Assault by Public Servant, a first-degree felony by the 390<sup>th</sup> District Court Special Grand Jury. The case is pending in the 450<sup>th</sup> District Court.

The next court setting is February 22, 2024

**INDICTED: STATE OF TEXAS VS JOSHUA JACKSON, D-1-DC-22-900010:** At the time of the incident, Mr. Jackson was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Jackson was indicted for Aggravated Assault by Public Servant, a first-degree felony, by the 390<sup>th</sup> District Court Special Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is March 8, 2024

**INDICTED: STATE OF TEXAS VS STANLEY VICK, D-1-DC-22-900009:** At the time of the incident, Mr. Vick was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Vick was indicted for Aggravated Assault by Public Servant, a first-degree felony, by the 390<sup>th</sup> District Court Special Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is March 8, 2024

**INDICTED: STATE OF TEXAS VS JUSTIN BERRY, D-1-DC-20-900055:** At the time of the incident, Mr. Berry was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Berry was indicted for Aggravated Assault by Public Servant, a first-degree felony, by the 390<sup>th</sup> District Court Special Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is March 8, 2024

**INDICTED: STATE OF TEXAS VS JOSEPH CAST, D-1-DC-20-900061:** At the time of the incident, Mr. Cast was employed as a police officer with the Austin Police Department. On Thursday, February 17, 2022, Mr. Cast was indicted for Aggravated Assault by Public Servant, a first-degree felony, by the 390<sup>th</sup> District Court Special Grand Jury. The case is pending in the 390<sup>th</sup> District Court.

The next court setting is March 8, 2024

**INDICTED: STATE OF TEXAS VS. ROBERT CHODY, D-1-DC-21-904036:** At the time of the incident, Mr. Chody was the elected Sheriff in Williamson County, Texas. On Wednesday, March 31, 2021, Mr. Chody was indicted for Tampering with Physical Evidence with Intent to Impair, a third-degree felony by the 147<sup>th</sup> District Court Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is not scheduled.

**INDICTED: STATE OF TEXAS VS. JASON NASSOUR, D-1-DC-21-904035:** At the time of the incident, Mr. Nassour was employed as General Counsel for the Williamson County Attorney's Office. On Wednesday, March 31, 2021, Mr. Nassour was indicted for Tampering with Physical Evidence with Intent to Impair, a third-degree felony by the 147<sup>th</sup> District Court Extended Special Grand Jury. The case is pending in the 299<sup>th</sup> District Court.

The next court setting is not scheduled.

### **UNINDICTED**

**DECEDENT: CARLOS ELI CHACON-CASTILLO/SUBJECT OFFICERS: JOHN ZAVALA, SPENCER BRADLEY, and DENNIS KERLIN (Date of Incident: 06/12/2022)** On June 12, 2022, Mr. Chacon-Castillo died after sustaining multiple gunshot wounds during an incident in which Austin Police Department officers discharged their firearms.

The case is being jointly investigated by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit.

### **GRAND JURY TERM OF PRESENTATION: OCTOBER 2023 TERM**

**DECEDENT: MICHAEL CAROTHERS/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 10/09/2021):** On October 9, 2021, Mr. Carothers died after sustaining a gunshot wound during an incident in which civilians and an Austin Police Department officer discharged firearms. The case is being jointly investigated by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit.

**COMPLAINANT: JUVENTINO NAVEJAR/SUBJECT OFFICER: JAVIER RODRIGUEZ (Date of Incident: 12/24/2021)** On December 24, 2021, Mr. Navejar was shot by an Austin Police Department Officer.

The case is being jointly investigated by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit.

### **GRAND JURY TERM OF PRESENTATION: OCTOBER 2023 TERM**

**COMPLAINANT: SIMONE GRIFFITH/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 10/30/2021):** On October 30, 2021, Ms. Griffith was arrested for criminal trespass. Ms. Griffith was struck by Austin Police Department officers while the officers were attempting to take her into custody.

The case is currently under investigation with the Travis County District Attorney's Office Civil Rights Unit.

**COMPLAINANT: TERRY GONZALES/SUBJECT OFFICER: JON RIORDAN (Date of Incident 01/29/2022)** On January 29, 2022, Mr. Gonzales sustained a gunshot wound during an incident in which a firearm was discharged by an Austin Police Department officer.

The case is being jointly investigated by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit.

**GRAND JURY TERM OF PRESENTATION: OCTOBER 2023 TERM**

**COMPLAINANT: BRANDON MUNOZ/SUBJECT OFFICERS: MICHAEL BRADBURN & TROOPER NAME WITHHELD (Date of Incident 08/08/2022)** On August 8, 2022, Mr. Munoz sustained a gunshot wound during an incident involving an Austin Police Department Officer and a Texas Department of Public Safety Trooper.

The case is being jointly investigated by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit.

**GRAND JURY TERM OF PRESENTATION: NOVEMBER 2023 TERM**

**COMPLAINANT: CLATEACHIA STEWART/SUBJECT OFFICER: ZACHARY MAINI (Date of Incident: 08/28/2022):** On August 28, 2022, a Texas Department of Public Safety Trooper conducted a traffic stop of Ms. Stewart for an alleged traffic violation. During the encounter, Ms. Stewart was struck by a Taser discharged by the DPS Trooper.

The case is currently under investigation with the Travis County District Attorney's Office Civil Rights Unit.

**GRAND JURY TERM OF PRESENTATION: NOVEMBER 2023 TERM**

**DECEDENT: RITO PAUL MORALES/SUBJECT OFFICERS: NAMES WITHHELD (Date of Incident: 9/17/2022):** On September 17, 2022, Mr. Morales died following an incident during which a Travis County Sheriff's Deputy and Elgin Police Department Officer discharged their firearms.

The case is being jointly investigated by the Texas Rangers and the Travis County District Attorney's Office Civil Rights Unit.

**GRAND JURY TERM OF PRESENTATION: NOVEMBER 2023 TERM**

**DECEDENT: ANTONIO GONZALES/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 09/23/2022):** On September 23, 2022, Mr. Gonzales died following an incident during which shots were fired by an Austin Police Department Officer.

The case is being jointly investigated by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit.

**GRAND JURY TERM OF PRESENTATION: NOVEMBER 2023 TERM**

**DECEDENT: RAJAN DAVID MOONESINGHE/SUBJECT OFFICER: DANIEL SANCHEZ (Date of Incident: 11/15/2022):** On November 15, 2022, Mr. Moonesinghe died following an incident during which a firearm was discharged by an Austin Police Department Officer.

The case is being jointly investigated by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit.

**GRAND JURY TERM OF PRESENTATION: NOVEMBER 2023 TERM**

**DECEDENT: ANTHONY FRANKLIN/SUBJECT OFFICER: NAME WITHHELD (Date of Incident: 1/15/2023):** On January 15, 2023, Mr. Franklin died following an incident during which shots were fired by an Austin Police Department Officer.

The case is being jointly investigated by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit.

**GRAND JURY TERM OF PRESENTATION: TBD**

**DECEDENT: DIMITRI ANGEL AMARILLAS/SUBJECT OFFICERS: NAMES**

**WITHHELD (Date of Incident: 4/20/2023):** On April 20, 2023, Mr. Amarillas died following an incident during which shots were fired by a Manor Police Department Officer and a Travis County Sheriff's Deputy.

The case is being jointly investigated by the Texas Rangers and the Travis County District Office's Civil Rights Unit.

**GRAND JURY TERM OF PRESENTATION: TBD**

**DECEDENT: JAMES WOODRONE/SUBJECT OFFICERS: ADAM REINHART; JOHN RICKER; ARLENE LOZANO (Date of Incident: 7/20/2023):** On July 20, 2023, Mr. Woodrone died following an incident during which Austin Police Department Officers discharged a firearm and Taser.

The case is being jointly investigating by the Austin Police Department's Special Investigations Unit and the Travis County District Office's Civil Rights Unit.

**GRAND JURY TERM OF PRESENTATION: TBD**

**COMPLAINANT: DWAYNE BRZOWSKI/SUBJECT OFFICERS: DANIEL**

**JACKSON; CHRISTOPHER VAN BUREN (Date of Incident: 8/6/2023):** On August 6, 2023, Mr. Brzozowski was injured during an incident in which shots were fired by Austin Police Department Officers.

The case is being jointly investigated by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney's Office's Civil Rights Unit.

**GRAND JURY TERM OF PRESENTATION: TBD**

**DECEDENT: REICE BROWN/SUBJECT OFFICERS: THOMAS BORES (Date of Incident: 10/03/2023):** On October 3, 2023, Mr. Woodrone died following an incident during which Austin Police Department Officer discharged a Taser.

The case is being jointly investigating by the Austin Police Department's Special Investigations Unit and the Travis County District Office's Civil Rights Unit.

# Exhibit 2

D.A. #D1DC20900080 MNI # 7973550 TRN:

DPS: 13150010 Court: 390th

The State of Texas v. ROLAN RAST

**INDICTMENT**

**COUNT I -AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) - F1  
(OFFENSE CODE: 13150010)**

**COUNT II - AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) -  
F1 (OFFENSE CODE: 13150010)**

Bond \$

---

In The 390th Judicial District Court (Special) of Travis County, Texas

---

---

**IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS:**

**THE GRAND JURY**, for the County of Travis, State of Texas, duly selected, empaneled, sworn, charged, and organized as such at the July Term, 2021, of the 390th Judicial District Court (Special) for said County, upon its oath presents in and to said Court at said term, that ROLAN RAST, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause serious bodily injury to SAMUEL KIRSCH, by shooting Stanley Kirsch with a firearm; to wit, a shotgun, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment,

Paragraph B

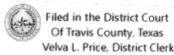
The Grand Jury further presents that ROLAN RAST, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause bodily injury to SAMUEL KIRSCH , by shooting Samuel Kirsch with a firearm; to wit, a shotgun, and the Defendant did use and exhibit a deadly weapon, a firearm; to wit, a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under the color of his office and employment,

COUNT II

The Grand Jury further presents that ROLAN RAST, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally and knowingly threaten SAMUEL KIRSCH, with imminent bodily injury by discharging a firearm; to wit, a shotgun, at and in the direction of Samuel Kirsch, and the Defendant did use and exhibit a deadly weapon, a firearm, to-wit; a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment, against the peace and dignity of the State,

2/17/2022 | 10:29 AM CST

DocuSigned by:



DS  
LE

DocuSigned by:

Jose Alvarado

7AB8BC812DCE4FD...

Foreperson of the Grand Jury

# Exhibit 3

D.A. #D1DC23900062 MNI # 7973550 TRN: DPS: 52130005 Court: 331st

The State of Texas v. ROLAN RAST

**INDICTMENT**

**DEADLY CONDUCT DISCHARGE FIREARM - PC 22.05(b)(1) - F3**

Bond \$

Grand Jury Witness:

\_\_\_\_\_  
In The 299th Judicial District Court (Special) of Travis County, Texas  
\_\_\_\_\_

**IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS:**

**THE GRAND JURY**, for the County of Travis, State of Texas, duly selected, empaneled, sworn, charged, and organized as such at the January Term, 2023, of the 299th Judicial District Court (Special) for said County, upon its oath presents in and to said Court at said term, that ROLAN RAST, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there knowingly discharge a firearm at or in the direction of one or more individuals, namely: SAMUEL KIRSCH,

against the peace and dignity of the State,

DocuSigned by:

DocuSigned by:  
*George Blanchard*  
AF78AE90DAB2479...  
Foreperson of the Grand Jury

DS  
*LE*  
Filed in the District Court  
Of Travis County, Texas  
Velva L. Price, District Clerk

# Exhibit 4

D.A. #D1DC23900063 MNI # 7966838 TRN: DPS: 52130005 Court: 331st

The State of Texas v. JOSEPH PECHE

**INDICTMENT**

**DEADLY CONDUCT DISCHARGE FIREARM - PC 22.05(b)(1) - F3**

Bond \$

Grand Jury Witness:

\_\_\_\_\_  
In The 299th Judicial District Court (Special) of Travis County, Texas  
\_\_\_\_\_

**IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS:**

**THE GRAND JURY**, for the County of Travis, State of Texas, duly selected, empaneled, sworn, charged, and organized as such at the January Term, 2023, of the 299th Judicial District Court (Special) for said County, upon its oath presents in and to said Court at said term, that JOSEPH PECHE, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there knowingly discharge a firearm at or in the direction of one or more individuals, namely: SAMUEL KIRSCH,

against the peace and dignity of the State,

DocuSigned by:

DocuSigned by:  
*George Blanchard*  
AF78AE90DAB2479...  
Foreperson of the Grand Jury

DS  
LE  
Filed in the District Court  
Of Travis County, Texas  
Velva L. Price, District Clerk

5/30/2023 | 2:18 PM CDT

# Exhibit 5

D.A. #D1DC22900063 MNI # 7974991 TRN: DPS: 52130005 Court: 331st

The State of Texas v. JOSEPH MURRAY

**INDICTMENT**

**DEADLY CONDUCT DISCHARGE FIREARM - PC 22.05(b)(1) - F3**

Bond \$

Grand Jury Witness:

\_\_\_\_\_  
In The 299th Judicial District Court (Special) of Travis County, Texas  
\_\_\_\_\_

**IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS:**

**THE GRAND JURY**, for the County of Travis, State of Texas, duly selected, empaneled, sworn, charged, and organized as such at the January Term, 2023, of the 299th Judicial District Court (Special) for said County, upon its oath presents in and to said Court at said term, that JOSEPH MURRAY, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there knowingly discharge a firearm at or in the direction of one or more individuals, namely: SAMUEL KIRSCH,

against the peace and dignity of the State,

DocuSigned by:

DocuSigned by:

*George Blanchard*

AF78AE90DAB2479...

Foreperson of the Grand Jury

DS

*LE*



Filed in the District Court  
Of Travis County, Texas  
Velva L. Price, District Clerk

# Exhibit 6

**CAUSE NO. D1DC23900062**

**THE STATE OF TEXAS**

§  
§  
§  
§  
§

**IN THE DISTRICT COURT**

**VS.**

**331st JUDICIAL DISTRICT**

**ROLAN RAST**

**TRAVIS COUNTY, TEXAS**

**MOTION TO DISMISS**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES the State of Texas, by and through the District Attorney for Travis County, and respectfully requests the Court to dismiss the above entitled and numbered criminal action in which the defendant is charged with the offense of DEADLY CONDUCT DISCHARGE FIREARM, for the reason: Conditional Dismissal

Filed in the District Court  
Of Travis County, Texas  
At 10/17/2023 1:15pm SP  
Velva L. Price, District Clerk

And for cause would show the Court the following:

WHEREFORE, it is prayed that the above entitled and numbered cause be dismissed.

Respectfully submitted,

*Josh Smalley*

Assistant District Attorney

**ORDER**

The foregoing motion having been presented to me and the same having been considered, it is, therefore, ORDERED, ADJUDGED, and DECREED that the above entitled and numbered cause be and the same is hereby dismissed.

DocuSigned by:

*Chantal Eldridge*

A6D776BF000441C...

Judge of the 331st Judicial District Court  
Travis County, Texas

10/16/2023 | 3:06 PM CDT

Date

# Exhibit 7

## 331st District Court

## Case Summary

Case No. D-1-DC-23-900062

State of Texas Vs. RAST, ROLAN

§  
§  
§Location: **331st District Court**  
Judicial Officer: **331ST, DISTRICT COURT**  
Filed on: **05/30/2023**

## Case Information

Offense	Degree	Offense Date	Filed Date	Case Type:	Case Status:
1. DEADLY CONDUCT DISCHARGE FIREARM	F3	05/31/2020	05/30/2023	DISTRICT ATTORNEY NO COMPLAINT	<b>10/16/2023 DISMISSED</b>
Arrest Date: 06/08/2023					

## Statistical Closures

10/16/2023 DISMISSALS (OCA)

## Bonds

**PERSONAL RECOGNIZANCE BOND** #00013979  
06/08/2023 Posted  
Counts: 1

**CRIMINAL SURETY BOND** #00015154  
02/18/2022 Posted  
Counts: 1

## Party Information

State State of Texas

Defendant RAST, ROLAN TOLAND, JOHN STEPHEN  
*Retained*

## Case Events

02/17/2022  IND/INF NOT MAPPED

02/18/2022  CAPIAS/WARRANT (NOT MAPPED)

02/18/2022  RETURN EXECUTED CAPIAS PRE-IND (NOT MAPPED)

02/18/2022  SIGNED ORDER  
*SIGNED ORDER FOR ISSUANCE OF CAPIAS*

02/22/2022  LETTER/EMAIL/CORR  
*LETTER OF REPRESENTATION*

03/01/2022  APPLICATION FOR SUBPOENA

### Case Summary

**Case No. D-1-DC-23-900062**

*ATTN: CUSTODIAN OF RECORDS FOR DELL SETON MEDICAL CENTER @ UT*

- 03/04/2022  EXECUTED SUBPOENA  
*ATTN: CUSTODIAN OF RECORDS FOR DELL SETON MEDICAL CENTER @ UT*
- 03/21/2022  APPLICATION FOR SUBPOENA  
*STATE: CUSTODIAN OF RECORDS AUSTIN POLICE DEPARTMENT*
- 03/22/2022  EXECUTED SUBPOENA  
*ATTN: RENEE MOORE - AUSTIN POLICE DEPARTMENT*
- 04/25/2022  MTN:TO REQUIRE DISCLOSURE  
*STATE'S NOTICE OF WITNESSES WHO APPEARED BEFORE THE GRAND JURY AND MOTION TO DISCLOSE*
- 06/13/2022  SIGNED ORDER
- 06/17/2022  AGREED PROTECTIVE ORDER
- 10/25/2022  RESPONSE  
*DECLARATION REGARDING WEAPON INVOLVED IN THIS MATTER, AND NOTICE PURSUANT TO BRADY V. MARYLAND AND TEXAS CODE OF CRIMINAL PROCEDURE, ART. 39.14*
- 10/27/2022  SIGNED ORDER  
*AGREED ORDER*
- 10/27/2022  SIGNED ORDER  
*AGREED ORDER*
- 10/31/2022  MOTION  
*TO FILE BRADY AND TEXAS CCP 39.14 DISCLOSURE UNDER SEAL*
- 10/31/2022 OTHER/NOTICE  
*SEALED*
- 10/31/2022  SIGNED ORDER  
*SIGNED ORDER ON STATE'S MOTION TO FILE BRADY AND TX CCP. ART. 39.14 DISCLOSURE UNDER SEAL*
- 11/01/2022 OTHER/NOTICE  
*SEALED*
- 03/06/2023  SIGNED ORDER  
*ORDER TO DISCLOSE ITEMES NOTED*
- 04/18/2023  WAIVER OF ARRAIGNMENT  
Party: Defendant RAST, ROLAN
- 05/30/2023  INDICTMENT 299TH GRAND JURY  
*BOND AMOUNT \$20,000.00*
- 06/01/2023  SIGNED ORDER  
*FOR ISSUANCE OF CAPIAS*
- 06/07/2023  SIGNED ORDER  
*FOR ISSUANCE OF CAPIAS-AMENDED*
- 06/07/2023  CAPIAS/WARRANT  
*BOND AMOUNT: \$20,000.00*

**Case Summary****Case No. D-1-DC-23-900062**

08/01/2023  ORDER TRANSFERRING CASE  
DOCUMENTS FROM ORIGINATING CAUSE

08/07/2023  SIGNED ORDER

08/30/2023  NTC:NOTICE  
WAIVER OF ARRAIGNMENT

10/16/2023 CASE REACTIVATED CONVERSION

10/16/2023  DISMISSED (OCA)  
COUNT I: CONDITION DISMISSAL

---

**Dispositions**


---

10/16/2023 **Plea** (Judicial Officer: 331ST, DISTRICT COURT)  
RAST, ROLAN  
1. DEADLY CONDUCT DISCHARGE FIREARM  
UNREPORTED OR UNKNOWN  
TRN: 9238610045 TRS: A001

10/16/2023 **Disposition** (Judicial Officer: 331ST, DISTRICT COURT)  
1. DEADLY CONDUCT DISCHARGE FIREARM  
DISMISSED  
TRN: 9238610045  
TRS: A001

---

**Hearings**


---

08/30/2023 **CANCELED Pre-Trial Hearing** (1:15 PM) (Judicial Officer: 331ST, DISTRICT COURT)  
*Reset*

11/02/2023 **CANCELED Pre-Trial Hearing** (9:15 AM) (Judicial Officer: 331ST, DISTRICT COURT)  
*Dismissed*

# Exhibit 8

## 331st District Court

## Case Summary

Case No. D-1-DC-22-900063

State of Texas Vs. MURRAY, JOSEPH

§  
§  
§Location: **331st District Court**  
Judicial Officer: **331ST, DISTRICT COURT**  
Filed on: **05/30/2023**

## Case Information

Offense	Degree	Offense Date	Filed Date	Case Type:	Case Status:
1. DEADLY CONDUCT DISCHARGE FIREARM	F3	05/30/2023	05/30/2023	DISTRICT ATTORNEY NO COMPLAINT	<b>06/06/2023 PRE INDICTMENT</b>

## Bonds

**PERSONAL RECOGNIZANCE BOND** #00013941  
06/07/2023 Posted  
Counts: 1

## Party Information

**State** State of Texas  
**Defendant** MURRAY, JOSEPH ENGLISH, JASON SPEER  
*Retained*

## Case Events

05/30/2023  INDICTMENT 299TH GRAND JURY  
BOND AMOUNT \$10,000.00

05/30/2023  SIGNED ORDER  
FOR ISSUANCE OF CAPIAS

05/31/2023  EMAIL CORRESPONDENCE  
TO DEFENSE

06/02/2023  CAPIAS/WARRANT

06/05/2023  FELONY BOND CARD  
BOND SET: \$20K

06/06/2023  WARRANT RETURNED EXECUTED

07/31/2023  SIGNED ORDER  
SIGNED ORDER

## Hearings

**Case Summary**

**Case No. D-1-DC-22-900063**

- 07/14/2023 **CANCELED Pre-Trial Hearing** (9:00 AM) (Judicial Officer: 331ST, DISTRICT COURT)  
*Reset*
- 08/18/2023 **CANCELED Pre-Trial Hearing** (9:00 AM) (Judicial Officer: 331ST, DISTRICT COURT)  
*Reset*
- 09/29/2023 **CANCELED Unindicted 3rd Designation** (9:00 AM) (Judicial Officer: 331ST, DISTRICT COURT)  
*Reset*
- 11/17/2023 **Unindicted 4th Designation** (9:00 AM) (Judicial Officer: 331ST, DISTRICT COURT)

# Exhibit 9

## 331st District Court

## Case Summary

Case No. D-1-DC-23-900063

State of Texas Vs. PECHE, JOSEPH

§  
§  
§Location: **331st District Court**  
Judicial Officer: **331ST, DISTRICT COURT**  
Filed on: **05/30/2023**

## Case Information

Offense	Degree	Offense Date	Filed Date	Case Type:	Case Status:
1. DEADLY CONDUCT DISCHARGE FIREARM	F3	05/31/2020	05/30/2023	DISTRICT ATTORNEY NO COMPLAINT	<b>06/27/2023 Indictment</b>

## Bonds

**PERSONAL RECOGNIZANCE BOND** #00014564  
06/26/2023 Posted  
Counts: 1

## Party Information

**State** State of Texas  
**Defendant** PECHE, JOSEPH Slaughter, Jaime D  
*Retained*

## Case Events

05/30/2023  INDICTMENT 299TH GRAND JURY  
BOND AMOUNT \$5,000.00

05/31/2023  SIGNED ORDER  
FOR ISSUANCE OF CAPIAS

05/31/2023  FELONY RECALL CARD  
SET 6/28/23 9AM

06/27/2023  CAPIAS/WARRANT

06/27/2023 CASE REACTIVATED CONVERSION

06/27/2023  RECALLED WARRANT CASE ACTIVE

06/27/2023  ORDER TO RECALL WARRANT  
RECALL THE WARRANT IN THIS CAUSE 06/27/2023

06/27/2023  CAPIAS/WARRANT

06/27/2023  RETURN EXECUTED CAPIAS PRE-IND (NOT MAPPED)

07/31/2023  SIGNED ORDER

### Case Summary

Case No. D-1-DC-23-900063

AGREED ORDER

08/21/2023



SIGNED ORDER

DISCLOSING RECORDS, EVIDENCE, EXHIBITS AND TRANSCRIPTS

08/30/2023



ORD:STANDING DISCOVERY ORDER

---

### Hearings

---

06/28/2023 **CANCELED Pre-Trial Hearing** (9:15 AM) (Judicial Officer: 331ST, DISTRICT COURT)  
*Reset*

08/29/2023 **CANCELED Pre-Trial Hearing** (9:15 AM) (Judicial Officer: 331ST, DISTRICT COURT)  
*Reset*

09/05/2023 **CANCELED Pre-Trial Hearing** (9:15 AM) (Judicial Officer: 331ST, DISTRICT COURT)  
*Reset*

10/03/2023 **CANCELED Pre-Trial Hearing** (9:15 AM) (Judicial Officer: 331ST, DISTRICT COURT)  
*Reset*

11/02/2023 **Pre-Trial Hearing** (9:15 AM) (Judicial Officer: 331ST, DISTRICT COURT)

# Exhibit 10

Kyu An - 10/11/2022

Confidential

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

JOSE HERRERA,	)	
Plaintiff,	)	
	)	CAUSE OF ACTION:
VS.	)	No. 1:20-cv-1134-RP
	)	
CITY OF AUSTIN et al,	)	
Defendants.	)	

JASON GALLAGHER,	)	
Plaintiff,	)	
	)	CAUSE OF ACTION:
VS.	)	No. 1:20-cv-901
	)	
CITY OF AUSTIN et al,	)	
Defendants.	)	

STEVEN ARAWN,	)	
Plaintiff,	)	
	)	CAUSE OF ACTION:
VS.	)	No. 1:20-cv-1118-RP
	)	
CITY OF AUSTIN et al,	)	
Defendants.	)	

TRACY CATES,	)	
Plaintiff,	)	
	)	CAUSE OF ACTION:
VS.	)	No. 1:20-cv-1258-RP
	)	
CITY OF AUSTIN et al,	)	
Defendants.	)	

ARIANNA CHAVEZ,	)	
Plaintiff,	)	
	)	CAUSE OF ACTION:
VS.	)	No. 1:20-cv-1174-RP
	)	
CITY OF AUSTIN et al,	)	
Defendants.	)	

**WRIGHT WATSON & ASSOCIATES**

Kyu An - 10/11/2022

Confidential

1	MAREITH DRAKE,	)
	Plaintiff,	)
2		) CAUSE OF ACTION:
	VS.	) No. 1:20-cv-956-RP
3		)
	CITY OF AUSTIN et al,	)
4	Defendants.	)
5	ANTHONY EVANS,	)
	Plaintiff,	)
6		) CAUSE OF ACTION:
	VS.	) No. 1:20-cv-1057-RP
7		)
	CITY OF AUSTIN and KYLE	)
8	FELTON,	)
	Defendants.	)
9		)
	JUSTIN HOWELL,	)
10	Plaintiff,	)
		) CAUSE OF ACTION:
11	VS.	) No. 1:20-cv-749-RP
		)
12	CITY OF AUSTIN,	)
	Defendant.	)
13		)
	CHRISTEN WARKOCZEWSKI,	)
14	Plaintiff,	)
		) CAUSE OF ACTION:
15	VS.	) No. 1:20-cv-739-RP
		)
16	CITY OF AUSTIN,	)
	Defendant.	)
17		)
	TAYLOR ELLIS,	)
18	Plaintiff,	)
		) CAUSE OF ACTION:
19	VS.	) No. 1:20-cv-315
		)
20	CITY OF AUSTIN,	)
	Defendant.	)
21		)
	CESAR FUENTEZ,	)
22	Plaintiff,	)
		) CAUSE OF ACTION:
23	VS.	) No. 1:20-cv-316
		)
24	CITY OF AUSTIN, and JOHN	)
	DOE,	)
25	Defendants.	)

**WRIGHT WATSON & ASSOCIATES**

Kyu An - 10/11/2022

Confidential

1 ALYSSA SANDERS, )  
 Plaintiff, )  
 2 VS. ) CAUSE OF ACTION:  
 ) No. 1:20-cv-314  
 3 )  
 CITY OF AUSTIN, )  
 4 Defendant. )  
 5 NICOLE UNDERWOOD, )  
 Plaintiff, )  
 6 VS. ) CAUSE OF ACTION:  
 ) No. 1:22-cv-00032  
 7 )  
 CITY OF AUSTIN et al, )  
 8 Defendants. )

9 \*\*\*\*\*

10 ORAL AND VIDEOTAPED DEPOSITION OF  
 KYU AN  
 11 VOLUME 1  
 OCTOBER 11, 2022  
 12 (Reported Remotely)

13 \*\*\*\*\*

14  
 15 ORAL AND VIDEOTAPED DEPOSITION OF KYU AN,  
 16 produced as a witness at the instance of the Plaintiffs,  
 17 and duly sworn, was taken in the above-styled and  
 18 numbered cause on October 11, 2022, from 10:10 a.m. to  
 19 1:59 p.m., located in Austin, Texas, all parties present  
 20 via Zoom videoconferencing, before KIMBERLY G. HALL,  
 21 Certified Shorthand Reporter in and for the State of  
 22 Texas, reported by machine shorthand from Wimberley,  
 23 Texas, pursuant to the Federal Rules of Civil Procedure  
 24 and the provisions stated on the record or attached  
 25 hereto.

**WRIGHT WATSON & ASSOCIATES**

Kyu An - 10/11/2022

Confidential

1 A. Yes, sir. On the advice of counsel, I invoke  
2 my Fifth Amendment privilege and respectfully decline to  
3 answer your question, sir.

4 Q. You've been indicted for aggravated assault by  
5 a public servant, right?

6 MR. LEAKE: Same instruction.

7 A. Sir, on the advice of counsel, I invoke my  
8 Fifth Amendment privilege and respectfully decline to  
9 answer your question, sir.

10 Q. Other than Bomani Barton, who you currently  
11 face indictment for a form of assault, did you assault  
12 anyone else during the George Floyd protests?

13 A. On the advice of counsel, sir, I invoke my  
14 Fifth Amendment privilege and respectfully decline to  
15 answer your question.

16 Q. In fact, you did assault numerous other people  
17 during the George Floyd protests; isn't that correct?

18 MR. LEAKE: Objection, form.

19 Go ahead.

20 A. Sir, on the advice of counsel, I invoke my  
21 Fifth Amendment privilege and respectfully decline to  
22 answer your question, sir.

23 Q. For example, you shot Saraneka Martin, when she  
24 posed no danger to anyone, with a kinetic projectile;  
25 didn't you?

**WRIGHT WATSON & ASSOCIATES**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

**SAM KIRSCH,**  
*Plaintiff,*

v.

**CITY OF AUSTIN AND ROLAN RAST,**  
*Defendants.*

§  
§  
§  
§  
§  
§  
§

**CIVIL ACTION NO. 1:20-cv-01113-RP**

**PLAINTIFF’S REPLY IN SUPPORT OF MOTION TO LIFT STAY**

COMES NOW, Plaintiff Sam Kirsch, by and through the undersigned counsel of record, and respectfully files his Reply in Support of Motion to Lift Stay (Dkt. 94).

**I. Introduction**

Defendants’ Joint Response to Motion to Lift Stay (Dkt. 95) calls out Plaintiff’s Motion for its brevity. Plaintiff’s simple Motion addresses a simple issue: Does Rast’s criminal dismissal justify lifting the stay in this case? Yes, it does. With the dismissal of the criminal proceedings against Rast, the balance of factors now weighs in favor of lifting the stay and proceeding with this case.

Defendants sweep distinctions between Rast and other indicted officers aside, encouraging the Court to see circumstances supporting the stay in this case as largely unchanged. But the circumstances today differ vastly from those at the time the Court granted the stay. The individual Defendant (Rast) may now participate fully without concern for revealing incriminating information that could be used against him in criminal proceedings. That a handful of the hundreds of Austin police officers who participated in the protest response remain under indictment does not support a continued stay of this case.

## II. Legal Standard

As the Court is well-aware, even in parallel civil and criminal proceedings (which are no longer present here), there is no general rule barring simultaneous prosecution. *Bean v. Alcorta*, 220 F. Supp. 3d 772, 775 (W.D. Tex. 2016) (citing *Buehler v. City of Gonzales*, No. 5:15–CV–198, 2015 WL 3651573, at \*1 (W.D. Tex. June 11, 2015) (quoting *Sec. Exch. Comm'n v. First Fin. Grp. of Tex., Inc.*, 659 F.2d 660, 666 (5th Cir. 1981))). Courts use their judicial discretion to grant such stays based on “special circumstances” and “the need to avoid substantial and irreparable prejudice.” *Id.* (quoting *Campbell v. Eastland*, 307 F.2d 478, 487 (5th Cir. 1962); *United States v. Little Al*, 712 F.2d 133, 136 (5th Cir. 1983)).

One such circumstance (no longer present in this case) “is to preserve a defendant’s Fifth Amendment right against self-incrimination and to resolve the conflict he would face between asserting this right and defending the civil action.” *Id.* (quoting *Alcala v. Tex. Webb Cty.*, 625 F.Supp.2d 391, 397 (S.D. Tex. 2009)) (emphasis added). However, “[a] mere relationship between civil and criminal proceedings ... does not necessarily warrant a stay.” *Id.* (quoting *United States ex rel. Gonzalez v. Fresenius Med. Care N. Am.*, 571 F.Supp.2d 758, 762 (W.D. Tex. 2008)).

## III. Argument and Authorities

### A. The Court Originally Stayed this Case Based on Rast’s Indictment.

Defendants repeatedly insinuate throughout their response that the Court based the current stay on the indictment, not only of Rast, but also of other officers for their actions during the 2020 protests. This does not appear to be the case. The stay of this case occurred in two parts.

First, the Court stayed the case against Officer Rast only based on the substantial overlap with the criminal indictment against Rast and the conflict Rast therefore faced between his Fifth Amendment Rights and civil legal obligations. Order Granting Stay (Dkt. 63) at 4-6. Those factors

also led the Court to find that both judicial economy and the public interest weighed in favor of staying the civil case. *Id.* at 6-7. In granting the stay, the Court expressly relied on authority specifically contemplating a defendant facing criminal charges. *Id.* at 3.

Second, the Court stayed the case against the City based on its own interest in the judicial economy of litigating all of Kirsch's claims together.<sup>1</sup> Order Granting Stay (Dkt. 91) at 4-5 (finding other factors neutral or in Kirsch's favor). In other words, the Court based the stay against the City on the stay of proceedings against Rast.

The dismissal of criminal proceedings against Rast eliminated the basis for a stay of the civil proceedings against him. With no basis for a stay of Kirsch's claims against Rast, it follows that there is also no basis for a stay of Kirsch's claims against the City.

**B. Indictments Against Non-Party Officers do not Justify a Continued Stay.**

Even if the Court did consider the indictments against other officers when initially granting the stay, in the absence of criminal proceedings against Rast, those other indictments alone are insufficient to support a further stay. Many of the indictments identified by Defendants relate to conduct that occurred on a different day and/or at a different location from the shooting of Kirsch, and Defendants have made no showing as to why they would support a stay of these proceedings.<sup>2</sup>

Defendants may elect to depose any number of other officers present at the scene of Kirsch's shooting who are not under indictment. The City already identified two of them in its initial disclosures—Dustin Turner and Bryan Andrew Pietrowski. Ex. 1, City of Austin Initial Disclosures, at 2. And even if Defendants somehow believed the indicted officers to be essential

---

<sup>1</sup> The Court declined to evaluate whether Kirsch's constitutional claims against the City warranted a stay on their own because Plaintiff conceded that those claims would appropriately follow the stay of his claims against Rast. Dkt. 91 at 5.

<sup>2</sup> *E.g.*, Edward Boudreau and Derrick Lehman, indicted for conduct occurring on May 30, 2020 heading downtown from Riverside Drive.

to their case, the Court has previously determined that they can participate in this case without significant implication of their Fifth Amendment rights.

The Court considered and rejected Defendants' argument that "the City, in preparing its defense, might need to depose its officers and that certain lines of questioning might stray into material that would lead an officer to invoke his Fifth Amendment rights, depriving the City of facts it might need to defend itself." Dkt. 91 at 4. In response to that argument, the Court held, "The City's concern, however, is short on specifics, and the undersigned cannot conceive of how the City's defense of this discrete claim could implicate the indicted officers' Fifth Amendment rights in any significant manner." *Id.* at 4-5.

**C. Defendants Attempt to Entangle Murray and Peche into this Lawsuit is a Red Herring.**

Despite Defendants' arguments, Officers Murray and Peche are positioned no differently with respect to this lawsuit than any of the other non-party indicted officers. Plaintiff has brought no claims against them, and they are not parties to this case. Therefore, their indictments do not justify a stay. Even more, neither of them is criminally accused of injuring Plaintiff, only of shooting in his direction. Defs.' Joint Response (Dkt. 95) Exs. 4, 5. This is distinct from most of the other indictments Defendants reference, wherein the officer is accused of causing serious bodily injury to a particular named individual. Ex. 2, Collected Indictments. Further, as mentioned above, the City used the exact same language it used to identify Murray and Peche to identify two other officers—Dustin Turner and Bryan Andrew Pietrowski—who have not been indicted. With regard to each of the four officers' knowledge of the facts underlying the case, the City states that the officer "was in the vicinity of I-35 on the date of this incident and may have knowledge of the crowd's actions in the vicinity and APD officers' efforts at crowd control." Ex. 1 at 2 (emphasis

added). As non-parties, Murray and Peche do not hold any special status as witnesses in this case that would support a stay based on their indictments.

#### **IV. Conclusion**

For the reasons stated herein, Plaintiff respectfully requests the Court lift the stay of this case and allow litigation related to the life-altering injury Officer Rast and the Austin Police Department inflicted upon him more than three years ago to proceed fully.

**Dated: December 1, 2023**

**Respectfully submitted,  
HENDLER FLORES LAW, PLLC**

*/s/ Leigh A. Joseph* \_\_\_\_\_  
Scott M. Hendler - Texas Bar No. 0944550  
[shendler@hendlerlaw.com](mailto:shendler@hendlerlaw.com)  
Leigh A. Joseph - Texas Bar No. 24060051  
[ljoseph@hendlerlaw.com](mailto:ljoseph@hendlerlaw.com)  
901 S. MoPac Expressway  
Bldg. 1, Suite #300  
Austin, Texas 78746  
Telephone: (512) 439-3200  
Facsimile: (512) 439-3201

*-And-*

Rebecca Ruth Webber  
Texas Bar No. 24060805  
[rwebber@rebweblaw.com](mailto:rwebber@rebweblaw.com)  
4228 Threadgill Street  
Austin, Texas 78723  
Tel: (512) 669-9506

**ATTORNEYS FOR PLAINTIFF**

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing served on all counsel of record via the electronic mail on December 1, 2023.

*/s/ Leigh Joseph* \_\_\_\_\_  
Leigh A. Joseph

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

SAM KIRSCH,  
*Plaintiff,*

§  
§  
§  
§  
§  
§  
§

v.

CIVIL ACTION NO. 1:20-cv-01113-RP

CITY OF AUSTIN AND OFFICER  
ROLAN ROMAN RAST,  
*Defendants.*

**DEFENDANT CITY OF AUSTIN’S INITIAL DISCLOSURES**

TO: Plaintiff, Sam Kirsch, by and through his attorneys of record, Rebecca Webber, 1301 West 25<sup>th</sup> Street, Austin, Texas 76550.

Defendant City of Austin serves these initial disclosures in compliance with FRCP 26(a)(1) and 26(a)(2).

**I. FRCP 26(a) (1) A - Persons with Discoverable Information**

**Parties:**

Sam Kirsch  
Plaintiff  
c/o Rebecca Webber  
Hendler Flores Law, PLLC  
1301 West 25<sup>th</sup> Street, Suite 400  
Austin Texas 76550

Corporate Representative & Custodian of Records  
City of Austin  
Defendant

Officer Rolan Rast  
Austin Police Department

**Other Individuals who have knowledge:**

**All current and former City of Austin employees, agents, and representatives may be contacted through the City of Austin’s Legal Department at:**

H. Gray Laird III  
Assistant City Attorney



[gray.laird@austintexas.gov](mailto:gray.laird@austintexas.gov)

City of Austin Law Department  
P.O. Box 1546  
Austin, Texas 78767-1546  
Telephone: (512) 974-1342  
Facsimile: (512) 974-1311

Brian Manley, Chief of Police  
Austin Police Department

Has knowledge of Austin Police Department policies and procedures and was briefed on the facts of this incident.

Officer Bryan Andrew Pietrowski, APD

Officer Pietrowski was in the vicinity of I-35 on the date of this incident and may have knowledge of the crowd's actions in the vicinity and APD officers' efforts at crowd control.

Officer Dustin Turner, APD

Officer Turner was in the vicinity of I-35 on the date of this incident and may have knowledge of the crowd's actions in the vicinity and APD officers' efforts at crowd control.

Officer Joseph H. Murray, APD

Officer Murray was in the vicinity of I-35 on the date of this incident and may have knowledge of the crowd's actions in the vicinity and APD officers' efforts at crowd control.

Officer Joseph Peche, APD

Officer Peche was in the vicinity of I-35 on the date of this incident and may have knowledge of the crowd's actions in the vicinity and APD officers' efforts at crowd control.

Detective Steven Boline, APD, Special Investigations Unit

Detective Boline is the SIU detective assigned to this investigation and has knowledge of the SIU investigation of this incident.

Defendant will supplement these disclosures with the identities of other APD personnel and additional persons with knowledge of this incident following defense counsel's receipt and review of the complete APD file for this incident.

Defendant further identifies and incorporates by reference all persons identified in Plaintiffs' and Co-Defendants' disclosures and any amendments thereto. Defendant will rely on the disclosures of the Plaintiffs and Co-Defendants and may call witnesses so disclosed.

## **II. FRCP 26(a) (1) B – Categories of Documents That May be Used to Support Defendant's Claims or Defenses.**

Copies of relevant documents are understood to be in the custody of the City.

1. With the exception of privileged material or materials protected from disclosure by other law, all incident reports, investigative records, memoranda, records, logs, documents, transcripts, exhibits, recordings or other tangible things associated with the incident, which form the basis of this litigation.
2. With the exception of materials protected from disclosure by other law, APD personnel file, training records, and other records concerning the Austin Police officer involved in the subject incident.
3. City of Austin Police Department policies and procedures.
4. City of Austin Police Department training materials.
5. Records maintained by the City of Austin, specifically including the Austin Police Department, regarding the incident which is the subject of this lawsuit.
6. Photographs and videos of the incident, which form the basis of this litigation.
7. All records produced during the course of this litigation, whether produced by a party or a non-party.
8. Expert reports, if any.

With the exception of records produced by the other parties in this case or a non-party, and expert reports, if any, Defendant anticipates that all of the above referenced documents are in the possession, custody, or control of the City.

**III. FRCP 26(a) (1) C – Computations of Damages**

Defendant does not have damages other than those that may be awarded as prevailing party, including costs and attorneys' fees.

**IV. FRCP 26(a) (1) D – Insurance Agreements**

None.

**V. FRCP 26(a) (2) – Disclosure of Experts**

At the present time, Defendant has not determined what, if any, expert witnesses will be used in this case.

With regard to further designations, Defendant will comply with the requirements of the applicable scheduling order.

RESPECTFULLY SUBMITTED,  
ANNE L. MORGAN, CITY ATTORNEY  
MEGHAN RILEY, CHIEF, LITIGATION

/s/ H. Gray Laird  
H. GRAY LAIRD III  
State Bar No. 24087054  
[gray.laird@austintexas.gov](mailto:gray.laird@austintexas.gov)  
City of Austin  
P. O. Box 1546  
Austin, Texas 78767-1546  
Telephone (512) 974-1342  
Facsimile (512) 974-1311

**ATTORNEYS FOR DEFENDANT CITY OF  
AUSTIN**

**CERTIFICATE OF SERVICE**

This is to certify that I have served a copy of the foregoing on all parties or their attorneys of record, in compliance with the Federal Rules of Civil Procedure, this 8th day of March, 2021.

**Via ECF/e-filing:**

Rebecca Ruth Webber  
State Bar No. 24060805  
[rwebber@hendlerlaw.com](mailto:rwebber@hendlerlaw.com)  
Scott M. Hendler  
State Bar No. 09445500  
[shendler@hendlerlaw.com](mailto:shendler@hendlerlaw.com)  
HENDLER FLORES LAW, PLLC  
1301 West 25<sup>th</sup> Street, Suite 400  
Austin, Texas 76550  
Telephone: (512) 439-3202  
Facsimile: (512) 439-3201

/s/ H. Gray Laird III  
H. GRAY LAIRD III

D.A. #D1DC20900057 MNI # 7973548 TRN: DPS: 13150010 Court: 299th

The State of Texas v. KYU AN

**INDICTMENT**

**COUNT I -AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) - F1  
(OFFENSE CODE: 13150010)**

**COUNT II - AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) -  
F1 (OFFENSE CODE: 13150010)**

Bond \$

---

In The 390th Judicial District Court (Special) of Travis County, Texas

---

---

**IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS:**

**THE GRAND JURY**, for the County of Travis, State of Texas, duly selected, empaneled, sworn, charged, and organized as such at the July Term, 2021, of the 390th Judicial District Court (Special) for said County, upon its oath presents in and to said Court at said term, that KYU AN, on or about the 30th day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause serious bodily injury to BOMANI BARTON, by shooting Bomani Barton with a firearm; to wit, a shotgun, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment,



Paragraph B

The Grand Jury further presents that KYU AN, on or about 30th day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause bodily injury to BOMANI BARTON , by shooting Bomani Barton with a firearm; to wit, a shotgun, and the Defendant did use and exhibit a deadly weapon, a firearm; to wit, a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under the color of his office and employment,

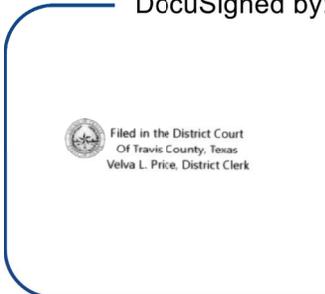
COUNT II

The Grand Jury further presents that KYU AN, on or about the 30TH DAY OF MAY, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally and knowingly threaten BOMANI BARTON, with imminent bodily injury by discharging a firearm; to wit, a shotgun, at and in the direction of Bomani Barton, and the Defendant did use and exhibit a deadly weapon, a firearm, to-wit; a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment,

against the peace and dignity of the State,

2/17/2022 | 10:44 AM CST

DocuSigned by:



Filed in the District Court  
Of Travis County, Texas  
Velva L. Price, District Clerk

DS  
LE

DocuSigned by:

*Jose Alvarado*

7AB8BC812DCE4FD...

Foreperson of the Grand Jury

D.A. #D1DC20900055 MNI # 8919484 TRN: DPS: 13150010 Court: 390th

The State of Texas v. JUSTIN BERRY

**INDICTMENT**

**COUNT I -AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) - F1  
(OFFENSE CODE: 13150010)**

**COUNT II - AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) -  
F1 (OFFENSE CODE: 13150010)**

Bond \$

---

In The 390th Judicial District Court (Special) of Travis County, Texas

---

---

**IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS:**

**THE GRAND JURY**, for the County of Travis, State of Texas, duly selected, empaneled, sworn, charged, and organized as such at the July Term, 2021, of the 390th Judicial District Court (Special) for said County, upon its oath presents in and to said Court at said term, that JUSTIN BERRY, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause serious bodily injury to CHRISTEN WARKOCZEWSKI , by shooting Christen Warkoczewski with a firearm; to wit, a shotgun, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment,

Paragraph B

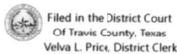
The Grand Jury further presents that JUSTIN BERRY, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause bodily injury to CHRISTEN WARKOCZEWSKI, by shooting Christen Warkoczewski with a firearm; to wit, a shotgun, and the Defendant did use and exhibit a deadly weapon, a firearm; to wit, a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under the color of his office and employment,

COUNT II

The Grand Jury further presents that JUSTIN BERRY, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally and knowingly threaten CHRISTEN WARKOCZEWSKI , with imminent bodily injury, and the Defendant did use and exhibit a deadly weapon to-wit: a shotgun, at and in the direction of Christen Warkoczewski, and the Defendant did use and exhibit a deadly weapon, a firearm, to wit; a shotgun,, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment,  
against the peace and dignity of the State,

2/17/2022 | 10:50 AM CST

DocuSigned by:



DS  
LE

DocuSigned by:

*Jose Alvarado*

7AB8BC812DCE4FD...

Foreperson of the Grand Jury

D.A. #D1DC22900019 MNI # 7973788 TRN: DPS: 13150010 Court: 390th

The State of Texas v. JOSHUA BLAKE

**INDICTMENT**

**COUNT I - AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) - F1  
(OFFENSE CODE: 13150010)**

**COUNT II - AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) -  
F1 (OFFENSE CODE: 13150010)**

Bond \$

---

In The 390th Judicial District Court (Special) of Travis County, Texas

---

---

**IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS:**

**THE GRAND JURY**, for the County of Travis, State of Texas, duly selected, empaneled, sworn, charged, and organized as such at the July Term, 2021, of the 390th Judicial District Court (Special) for said County, upon its oath presents in and to said Court at said term, that JOSHUA BLAKE, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause serious bodily injury to CHRISTEN WARKOCZEWSKI, by shooting Christen Warkoczewski with a firearm; to wit, a shotgun, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment,

Paragraph B

The Grand Jury further presents that JOSHUA BLAKE, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause bodily injury to CHRISTEN WARKOCZEWSKI , by shooting Christen Warkoczewski with a firearm; to wit, a shotgun, and the Defendant did use and exhibit a deadly weapon, a firearm; to wit, a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under the color of his office and employment,

COUNT II

The Grand Jury further presents that JOSHUA BLAKE, on or about the 31ST DAY OF MAY, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally and knowingly threaten CHRISTEN WARKOCZEWSKI, with imminent bodily injury by discharging a firearm; to wit, a shotgun, at and in the direction of Christen Warkoczewski, and the Defendant did use and exhibit a deadly weapon, a firearm, to-wit; a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment,

against the peace and dignity of the State,

2/17/2022 | 10:50 AM CST

DocuSigned by:

Filed in the District Court  
Of Travis County, Texas  
Velva L. Price, District Clerk

DS  
LE

DocuSigned by:

Jose Alvarado

7AB8BC812DCE4FD...

Foreperson of the Grand Jury

D.A. #D1DC22900020 MNI # 7973789 TRN: DPS: 13150010 Court: 403rd

The State of Texas v. EDWARD BOUDREAU

**INDICTMENT**

**COUNT I - AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) - F1  
(OFFENSE CODE: 13150010)**

**COUNT II - AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) -  
F1 (OFFENSE CODE: 13150010)**

Bond \$

---

In The 390th Judicial District Court (Special) of Travis County, Texas

---

---

**IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS:**

**THE GRAND JURY**, for the County of Travis, State of Texas, duly selected, empaneled, sworn, charged, and organized as such at the July Term, 2021, of the 390th Judicial District Court (Special) for said County, upon its oath presents in and to said Court at said term, that EDWARD BOUDREAU, on or about the 30th day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause serious bodily injury to GE MICAH VOLTER-JONES, by shooting Ge Micah Volter-Jones with a firearm; to wit, a shotgun, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment

Paragraph B

The Grand Jury further presents that Edward Boudreau, on or about 30th day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause bodily injury to GE MICAH VOLTER-JONES , by shooting Ge Micah Volter-Jones with a firearm; to wit, a shotgun, and the Defendant did use and exhibit a deadly weapon, a firearm; to wit, a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under the color of his office and employment,

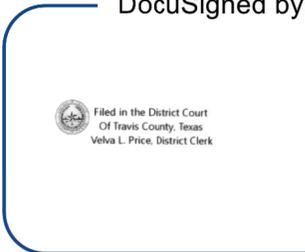
Count II

The Grand Jury further presents that EDWARD BOUDREAU, on or about the 30TH DAY OF MAY, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally and knowingly threaten GE MICAH VOLTER-JONES, with imminent bodily injury by discharging a firearm; to wit, a shotgun, at and in the direction of Ge Micah Volter-Jones, and the Defendant did use and exhibit a deadly weapon, a firearm, to-wit; a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment,

against the peace and dignity of the State,

2/17/2022 | 10:31 AM CST

DocuSigned by:



DS  
LE

DocuSigned by:

Jose Alvarado

7AB8BC812DCE4FD...

Foreperson of the Grand Jury

D.A. #D1DC20900056 MNI # 7971925 TRN: DPS: 13150010 Court: 299th

The State of Texas v. CHANCE BRETCHES

**INDICTMENT**

**COUNT I -AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) - F1**

**OFFENSE CODE: 13150010**

**COUNT II - -AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) - F1**

**OFFENSE CODE: 13150010**

Bond \$

---

In The 460th Judicial District Court (Special) of Travis County, Texas

---

---

**IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS:**

**THE GRAND JURY**, for the County of Travis, State of Texas, duly selected, empaneled, sworn, charged, and organized as such at the January Term, 2022, of the 460th Judicial District Court (Special) for said County, upon its oath presents in and to said Court at said term, that CHANCE BRETCHES, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause serious bodily injury to Meredith Drake, by shooting Meredith Drake, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under the color of his office and employment,

Paragraph B

The Grand Jury further presents that Chance Bretches, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause bodily injury to Meredith Drake, by shooting Meredith Drake with a firearm; to wit, a shotgun, and the Defendant did use and exhibit a deadly weapon, a firearm; to wit, a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under the color of his office and employment,

COUNT II

The Grand Jury further presents that Chance Bretches, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally and knowingly threaten Meredith Drake, with imminent bodily injury by discharging a firearm; to wit, a shotgun, at and in the direction of Meredith Drake, and the Defendant did use and exhibit a deadly weapon, a firearm, to-wit; a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment,

against the peace and dignity of the State,

DocuSigned by:  
 Filed in the District Court  
Of Travis County, Texas  
Velva L. Price, District Clerk

DocuSigned by:  
  
AF78AE90DAB2479...  
Foreperson of the Grand Jury

DS  


5/26/2022 | 1:35 PM CDT

Witnesses  
Detective Steve Boline, APD

D.A. #D1DC20900061 MNI # 7969042 TRN: DPS: 13150010 Court: 403rd

The State of Texas v. JOSEPH CAST

**INDICTMENT**

**COUNT I - AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) - F1  
(OFFENSE CODE: 13150010)**

**COUNT II - AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) -  
F1 (OFFENSE CODE: 13150010)**

Bond \$

---

In The 390th Judicial District Court (Special) of Travis County, Texas

---

---

**IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS:**

**THE GRAND JURY**, for the County of Travis, State of Texas, duly selected, empaneled, sworn, charged, and organized as such at the July Term, 2021, of the 390th Judicial District Court (Special) for said County, upon its oath presents in and to said Court at said term, that JOSEPH CAST, on or about the 30th day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause serious bodily injury to MEREDITH WILLIAMS, by shooting Meredith Williams with a firearm; to wit, a shotgun, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment,

Paragraph B

The Grand Jury further presents that JOSEPH CAST, on or about 30th day of May 30, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause bodily injury to MEREDITH WILLIAMS , by shooting Meredith Williams with a firearm; to wit, a shotgun, and the Defendant did use and exhibit a deadly weapon, a firearm; to wit, a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under the color of his office and employment,

Count II

The Grand Jury further presents that JOSEPH CAST, on or about the 30th day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally and knowingly threaten MEREDITH WILLIAMS, with imminent bodily injury by discharging a firearm; to wit, a shotgun, at and in the direction of Meredith Williams, and the Defendant did use and exhibit a deadly weapon, a firearm, to-wit; a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment,

against the peace and dignity of the State,

2/17/2022 | 10:33 AM CST

DocuSigned by:

 Filed in the District Court  
Of Travis County, Texas  
Velva L. Price, District Clerk

DS  
LE

DocuSigned by:

*Jose Alvarado*

7AB8BC812DCE4FD...

Foreperson of the Grand Jury

D.A. #D1DC20900054 MNI # 7973547 TRN: DPS: 13150010 Court: 450th

The State of Texas v. KYLE FELTON

**INDICTMENT**

**COUNT I - AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) - F1  
(OFFENSE DATE: 13150010)**

**COUNT II - AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) -  
F1 (OFFENSE DATE: 13150010)**

Bond \$

---

In The 390th Judicial District Court (Special) of Travis County, Texas

---

---

**IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS:**

**THE GRAND JURY**, for the County of Travis, State of Texas, duly selected, empaneled, sworn, charged, and organized as such at the July Term, 2021, of the 390th Judicial District Court (Special) for said County, upon its oath presents in and to said Court at said term, that KYLE FELTON, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause serious bodily injury to ANTHONY EVANS, by shooting Anthony Evans with a firearm; to wit, a shotgun, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment,

Paragraph B

The Grand Jury further presents that KYLE FELTON, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause bodily injury to Anthony Evans by shooting Anthony Evans with a firearm; to wit, a shotgun, and the Defendant did use and exhibit a deadly weapon, a firearm; to wit, a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under the color of his office and employment,

COUNT II

The Grand Jury further presents that KYLE FELTON, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally and knowingly threaten ANTHONY EVANS, with imminent bodily injury by discharging a firearm; to wit, a shotgun, at and in the direction of Anthony Evans, and the Defendant did use and exhibit a deadly weapon, a firearm, to-wit; a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment,

against the peace and dignity of the State,

2/17/2022 | 10:25 AM CST

DocuSigned by:

 Filed in the District Court  
Of Travis County, Texas  
Veha L. Price, District Clerk

DS  
LE

DocuSigned by:

*Jose Alvarado*

7AB8BC812DCE4FD...

Foreperson of the Grand Jury

D.A. #D1DC20900059 MNI # 7973547 TRN:

DPS: 13150010 Court: 450th

The State of Texas v. KYLE FELTON

**INDICTMENT**

**COUNT I- AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) - F1  
(OFFENSE CODE: 13150010)**

**COUNT II - AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) -  
F1 (OFFENSE CODE: 13150010)**

Bond \$

---

In The 390th Judicial District Court (Special) of Travis County, Texas

---

---

**IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS:**

**THE GRAND JURY**, for the County of Travis, State of Texas, duly selected, empaneled, sworn, charged, and organized as such at the July Term, 2021, of the 390th Judicial District Court (Special) for said County, upon its oath presents in and to said Court at said term, that KYLE FELTON, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause serious bodily injury to JUSTIN HOWELL, by shooting Justin Howell with a firearm; to wit, a shotgun, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment,

Paragraph B

The Grand Jury further presents that KYLE FELTON, on or about 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause bodily injury to JUSTIN HOWELL , by shooting Justin Howell with a firearm; to wit, a shotgun, and the Defendant did use and exhibit a deadly weapon, a firearm; to wit, a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under the color of his office and employment,

COUNT II

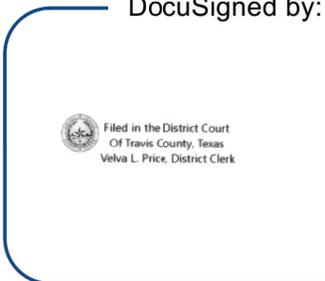
The Grand Jury further presents that KYLE FELTON, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally and knowingly threaten JUSTIN HOWELL, with imminent bodily injury by discharging a firearm; to wit, a shotgun, at and in the direction of Justin Howell, and the Defendant did use and exhibit a deadly weapon, a firearm, to-wit; a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment, against the peace and dignity of the State,

2/17/2022 | 10:37 AM CST

DocuSigned by:  
*Jose Alvarado*  
7AB8BC812DCE4FD...

Foreperson of the Grand Jury

DocuSigned by:



 Filed in the District Court  
Of Travis County, Texas  
Velva L. Price, District Clerk

DS  
*LE*

D.A. #D1DC20900059 MNI # 7973547 TRN:

DPS: 13150010 Court: 450th

The State of Texas v. KYLE FELTON

**INDICTMENT**

**COUNT I- AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) - F1  
(OFFENSE CODE: 13150010)**

**COUNT II - AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) -  
F1 (OFFENSE CODE: 13150010)**

Bond \$

---

In The 390th Judicial District Court (Special) of Travis County, Texas

---

---

**IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS:**

**THE GRAND JURY**, for the County of Travis, State of Texas, duly selected, empaneled, sworn, charged, and organized as such at the July Term, 2021, of the 390th Judicial District Court (Special) for said County, upon its oath presents in and to said Court at said term, that KYLE FELTON, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause serious bodily injury to JUSTIN HOWELL, by shooting Justin Howell with a firearm; to wit, a shotgun, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment,

Paragraph B

The Grand Jury further presents that KYLE FELTON, on or about 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause bodily injury to JUSTIN HOWELL , by shooting Justin Howell with a firearm; to wit, a shotgun, and the Defendant did use and exhibit a deadly weapon, a firearm; to wit, a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under the color of his office and employment,

COUNT II

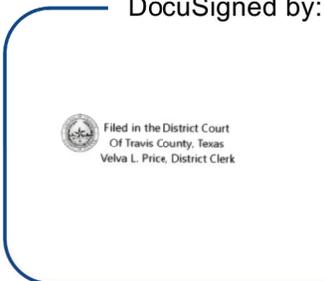
The Grand Jury further presents that KYLE FELTON, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally and knowingly threaten JUSTIN HOWELL, with imminent bodily injury by discharging a firearm; to wit, a shotgun, at and in the direction of Justin Howell, and the Defendant did use and exhibit a deadly weapon, a firearm, to-wit; a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment, against the peace and dignity of the State,

2/17/2022 | 10:37 AM CST

DocuSigned by:  
*Jose Alvarado*  
7AB8BC812DCE4FD...

Foreperson of the Grand Jury

DocuSigned by:



 Filed in the District Court  
Of Travis County, Texas  
Velva L. Price, District Clerk

DS  
*LE*

D.A. #D1DC22900011 MNI # 7973743 TRN:

DPS: 13150010 Court: 390th

The State of Texas v. JEREMY FISHER

**INDICTMENT**

**COUNT I- AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) - F1  
(OFFENSE CODE: 13150010)**

**COUNT II- AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) -  
F1 (OFFENSE CODE: 13150010)**

Bond \$

---

In The 390th Judicial District Court (Special) of Travis County, Texas

---

---

**IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS:**

**THE GRAND JURY**, for the County of Travis, State of Texas, duly selected, empaneled, sworn, charged, and organized as such at the July Term, 2021, of the 390th Judicial District Court (Special) for said County, upon its oath presents in and to said Court at said term, that JEREMY FISHER, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause serious bodily injury to CHRISTEN WARKOCZEWSKI, by shooting Christen Warkoczewski with a firearm; to wit, a shotgun, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment,

Paragraph B

The Grand Jury further presents that Jeremy Fisher on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause bodily injury to CHRISTEN WARKOCZEWSKI , by shooting Christen Warkoczewski with a firearm; to wit, a shotgun, and the Defendant did use and exhibit a deadly weapon, a firearm; to wit, a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under the color of his office and employment,

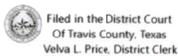
COUNT II

The Grand Jury further presents that JEREMY FISHER, on or about the 31ST DAY OF MAY, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally and knowingly threaten CHRISTEN WARKOCZEWSKI, with imminent bodily injury by discharging a firearm; to wit, a shotgun, at and in the direction of Christen Warkoczewski, and the Defendant did use and exhibit a deadly weapon, a firearm, to-wit; a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment,

against the peace and dignity of the State,

2/17/2022 | 10:50 AM CST

DocuSigned by:



DS  
LE

DocuSigned by:

Jose Alvarado

7AB8BC812DCE4FD...

Foreperson of the Grand Jury

D.A. #D1DC21900125 MNI # 7972223 TRN: DPS: 13150010 Court: 390th

The State of Texas v. TODD GILBERTSON

**INDICTMENT**

**COUNT I - AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) - F1  
(OFFENSE CODE: 13150010)**

**COUNT II - AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) -  
F1 (OFFENSE CODE: 13150010)**

Bond \$

---

In The 390th Judicial District Court (Special) of Travis County, Texas

---

---

**IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS:**

**THE GRAND JURY**, for the County of Travis, State of Texas, duly selected, empaneled, sworn, charged, and organized as such at the July Term, 2021, of the 390th Judicial District Court (Special) for said County, upon its oath presents in and to said Court at said term, that TODD GILBERTSON, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause serious bodily injury to CHRISTEN WARKOCZEWSKI, by shooting Christen Warkoczewski, with a firearm; to wit, a shotgun and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under the color of his office and employment,

Paragraph B

The Grand Jury presents that TODD GILBERTSON, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause bodily injury to CHRISTEN WARKOCZEWSKI, by shooting Christen Warkoczewski with a firearm; to wit, a shotgun, and the Defendant did use and exhibit a deadly weapon, a firearm; to wit, a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under the color of his office and employment,

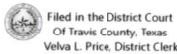
COUNT II

The Grand Jury further presents that TODD GILBERTSON, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally and knowingly threaten CHRISTEN WARKOCZEWSKI , with imminent bodily injury, by discharging a firearm; to wit, a shotgun, at and in the direction of Christen Warkoczewski, and the Defendant did use and exhibit a deadly weapon, a firearm, to-wit; a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment,

against the peace and dignity of the State,

2/17/2022 10:50 AM CST

DocuSigned by:



DS  
LE

DocuSigned by:

Jose Alvarado

7AB8BC812DCE4FD...

Foreperson of the Grand Jury

D.A. #D1DC20900076 MNI # 7973551 TRN: DPS: 13150010 Court: 167th

The State of Texas v. ERIC HEIM

**INDICTMENT**

**COUNT I - AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) - F1  
(OFFENSE CODE: 13150010)**

**COUNT II - AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) -  
F1 (OFFENSE CODE: 13150010)**

Bond \$

---

In The 390th Judicial District Court (Special) of Travis County, Texas

---

---

**IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS:**

**THE GRAND JURY**, for the County of Travis, State of Texas, duly selected, empaneled, sworn, charged, and organized as such at the July Term, 2021, of the 390th Judicial District Court (Special) for said County, upon its oath presents in and to said Court at said term, that ERIC HEIM, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause serious bodily injury to ALYSSA SANDERS, by shooting Alyssa Sanders with a firearm; to wit, a 40 mm Launcher, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment,

Paragraph B

The Grand Jury further presents that ERIC HEIM, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause bodily injury to ALYSSA SANDERS , by shooting Alyssa Sanders with a firearm; to wit, a 40 mm Launcher, and the Defendant did use and exhibit a deadly weapon, a firearm; to wit, a 40 mm Launcher, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under the color of his office and employment,

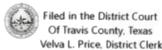
COUNT II

The Grand Jury further presents that ERIC HEIM, on or about the 31ST DAY OF MAY, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally and knowingly threaten ALYSSA SANDERS, with imminent bodily injury by discharging a firearm; to wit, a 40 mm Launcher, at and in the direction of Alyssa Sanders, and the Defendant did use and exhibit a deadly weapon, a firearm, to-wit; a 40 mm Launcher, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment,

against the peace and dignity of the State,

2/17/2022 | 10:35 AM CST

DocuSigned by:



DS  
LE

DocuSigned by:

Jose Alvarado

7AB8BC812DCE4FD...

Foreperson of the Grand Jury

D.A. #D1DC22900012 MNI # 7973744 TRN:

DPS: 13150010 Court: 390th

The State of Texas v. CHRISTOPHER IRWIN

**INDICTMENT**

**COUNT I -AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) - F1  
(OFFENSE CODE: 13150010)**

**COUNT II - -AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) -  
F1 (OFFENSE CODE: 13150010)**

Bond \$

---

In The 390th Judicial District Court (Special) of Travis County, Texas

---

---

**IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS:**

**THE GRAND JURY**, for the County of Travis, State of Texas, duly selected, empaneled, sworn, charged, and organized as such at the July Term, 2021, of the 390th Judicial District Court (Special) for said County, upon its oath presents in and to said Court at said term, that CHRISTOPHER IRWIN, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause serious bodily injury to CHRISTEN WARKOCZEWSKI, by shooting Christen Warkoczewski with a firearm; to wit, a shotgun, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment,

Paragraph B

The Grand Jury further presents that Christopher Irwin, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause bodily injury to CHRISTEN WARKOCZEWSKI , by shooting Christen Warkoczewski with a firearm; to wit, a shotgun, and the Defendant did use and exhibit a deadly weapon, a firearm; to wit, a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under the color of his office and employment,

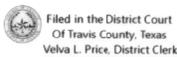
Count II

The Grand Jury further presents that CHRISTOPHER IRWIN, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally and knowingly threaten CHRISTEN WARKOCZEWSKI, with imminent bodily injury by discharging a firearm; to wit, a shotgun, at and in the direction of Christen Warkoczewski, and the Defendant did use and exhibit a deadly weapon, a firearm, to-wit; a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment,

against the peace and dignity of the State,

2/17/2022 | 10:50 AM CST

DocuSigned by:



DS  
LE

DocuSigned by:

*Jose Alvarado*

7AB8BC812DCE4FD...

Foreperson of the Grand Jury

D.A. #D1DC22900010 MNI # 7973742 TRN:

DPS: 13150010 Court: 390th

The State of Texas v. JOSHUA JACKSON

**INDICTMENT**

**COUNT I -AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) - F1  
(OFFENSE CODE:13150010)**

**COUNT II - AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) -  
F1 (OFFENSE CODE:13150010)**

Bond \$

---

In The 390th Judicial District Court (Special) of Travis County, Texas

---

**IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS:**

**THE GRAND JURY**, for the County of Travis, State of Texas, duly selected, empaneled, sworn, charged, and organized as such at the July Term, 2021, of the 390th Judicial District Court (Special) for said County, upon its oath presents in and to said Court at said term, that JOSHUA JACKSON, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause serious bodily injury to CHRISTEN WARKOCZEWSKI, by shooting Christen Warkoczewski with a firearm; to wit, a shotgun, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment,

Paragraph B

The Grand Jury further presents that JOSHUA JACKSON, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause bodily injury to CHRISTEN WARKOCZEWSKI , by shooting Christen Warkoczewski with a firearm; to wit, a shotgun, and the Defendant did use and exhibit a deadly weapon, a firearm; to wit, a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under the color of his office and employment,

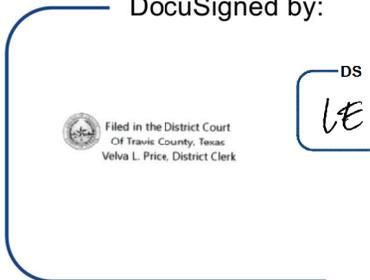
COUNT II

The Grand Jury further presents that JOSHUA JACKSON, on or about the 31ST DAY OF MAY, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally and knowingly threaten CHRISTEN WARKOCZEWSKI, with imminent bodily injury by discharging a firearm; to wit, a shotgun, at and in the direction of Christen Warkoczewski, and the Defendant did use and exhibit a deadly weapon, a firearm, to-wit; a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment,

against the peace and dignity of the State,

2/17/2022 | 10:50 AM CST

DocuSigned by:



Filed in the District Court  
Of Travis County, Texas  
Velva L. Price, District Clerk

DocuSigned by:  
*Jose Alvarado*  
7AB8BC812DCE4FD...

Foreperson of the Grand Jury

D.A. #D1DC20900071 MNI # 1749058 TRN: DPS: 13150010 Court: 403rd

The State of Texas v. DERRICK LEHMAN

**INDICTMENT**

**COUNT I - AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) - F1  
(OFFENSE CODE: 13150010)**

**COUNT II - AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) -  
F1 (OFFENSE CODE: 13150010)**

Bond \$

---

In The 390th Judicial District Court (Special) of Travis County, Texas

---

---

**IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS:**

**THE GRAND JURY**, for the County of Travis, State of Texas, duly selected, empaneled, sworn, charged, and organized as such at the July Term, 2021, of the 390th Judicial District Court (Special) for said County, upon its oath presents in and to said Court at said term, that DERRICK LEHMAN, on or about the 30th day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause serious bodily injury to GE MICAH VOLTER-JONES, by shooting Ge Micah Volter-Jones with a firearm; to wit, a shotgun, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment,

Paragraph B

The Grand Jury further presents that Derrick Lehman, on or about 30th day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause bodily injury to GE MICAH VOLTER-JONES , by shooting Ge Micah Volter-Jones with a firearm; to wit, a shotgun, and the Defendant did use and exhibit a deadly weapon, a firearm; to wit, a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under the color of his office and employment,

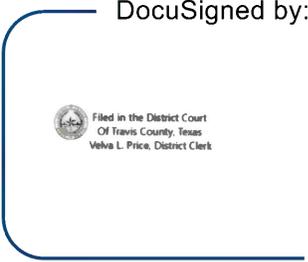
COUNT II

The Grand Jury further presents that DERRICK LEHMAN, on or about the 30th day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally and knowingly threaten GE MICAH VOLTER-JONES, with imminent bodily injury by discharging a firearm; to wit, a shotgun, at and in the direction of Ge Micah Volter-Jones, and the Defendant did use and exhibit a deadly weapon, a firearm, to-wit; a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment,

against the peace and dignity of the State,

2/17/2022 | 10:31 AM CST

DocuSigned by:



 Filed in the District Court  
Of Travis County, Texas  
Velia L. Price, District Clerk

DS  
LE

DocuSigned by:  
*Jose Alvarado*  
7AB8BC812DCE4FD...

Foreperson of the Grand Jury

D.A. #D1DC21900126 MNI # 7973552 TRN: DPS: 13150010 Court: 390th

The State of Texas v. ALEXANDER LOMOVSTEV

**INDICTMENT**

**COUNT I - AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) - F1  
(OFFENSE CODE: 13150010)**

**COUNT II -AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) -  
F1 (OFFENSE CODE: 13150010)**

Bond \$

---

In The 390th Judicial District Court (Special) of Travis County, Texas

---

---

**IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS:**

**THE GRAND JURY**, for the County of Travis, State of Texas, duly selected, empaneled, sworn, charged, and organized as such at the July Term, 2021, of the 390th Judicial District Court (Special) for said County, upon its oath presents in and to said Court at said term, that **ALEXANDER LOMOVSTEV**, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause serious bodily injury to **CHRISTEN WARKOCZEWSKI**, by shooting Christen Warkoczewski with a firearm; to wit, a shotgun, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment,

Paragraph B

The Grand Jury further presents that Alexander Lomovstev, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause bodily injury to CHRISTEN WARKOCZEWSKI , by shooting Christen Warkoczewski with a firearm; to wit, a shotgun, and the Defendant did use and exhibit a deadly weapon, a firearm; to wit, a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under the color of his office and employment,

COUNT II

The Grand Jury further presents that ALEXANDER LOMOVSTEV, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally and knowingly threaten CHRISTEN WARKOCZEWSKI, with imminent bodily injury by discharging a firearm; to wit, a shotgun, at and in the direction of Christen Warkoczewski, and the Defendant did use and exhibit a deadly weapon, a firearm, to-wit; a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment,

against the peace and dignity of the State,

2/17/2022 | 10:50 AM CST

DocuSigned by:  
*Jose Alvarado*  
7AB8BC812DCE4FD...

Foreperson of the Grand Jury

DocuSigned by:  
  
Filed in the District Court  
Of Travis County, Texas  
Velva L. Price, District Clerk

DS  
LE

D.A. #D1DC22900053 MN1 # 7975021 TRN: DPS: 13150010 Court:

The State of Texas v. JAMES MORGAN

**INDICTMENT**

**COUNT I - AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) - F1**

**OFFENSE CODE: 13150010**

**COUNT II - - AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) - F1**

**OFFENSE CODE: 13150010**

Bond \$

---

In The 460th Judicial District Court (Special) of Travis County, Texas

---

**IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS:**

**THE GRAND JURY**, for the County of Travis, State of Texas, duly selected, empaneled, sworn, charged, and organized as such at the January Term, 2022, of the 460th Judicial District Court (Special) for said County, upon its oath presents in and to said Court at said term, that JAMES MORGAN, on or about the 30th day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause serious bodily injury to Jose Herrera, by shooting Jose Herrera with a firearm, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under the color of his office and employment,

Paragraph B

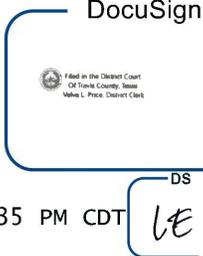
The Grand Jury further presents that James Morgan, on or about 30th day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, JAMES MORGAN did then and there intentionally, knowingly, and recklessly cause bodily injury to Jose Herrera, by shooting Jose Herrera with a firearm; to wit, a shotgun, and the Defendant did use and exhibit a deadly weapon, a firearm; to wit, a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under the color of his office and employment.

COUNT II

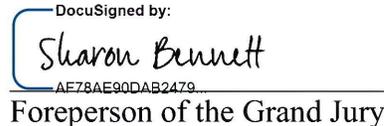
The Grand Jury further presents that James Morgan, on or about the 30th day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally and knowingly threaten Jose Herrera, with imminent bodily injury by discharging a firearm; to wit, a shotgun, at and in the direction of Jose Herrera , and the Defendant did use and exhibit a deadly weapon, a firearm, to-wit; a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment,

against the peace and dignity of the State,

DocuSigned by:

 Filed in the District Court  
Of Travis County, Texas  
Walter L. Pheasant, District Clerk  
DS  
LE

DocuSigned by:

 Sharon Bennett  
AE78AE90DAB2479  
Foreperson of the Grand Jury

5/26/2022 | 1:35 PM CDT

D.A. #D1DC20900072 MNI # 7973549 TRN: DPS: 13150010 Court: 147th

The State of Texas v. JOHN SIEGEL

**INDICTMENT**

**COUNT I - AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) - F1  
(OFFENSE CODE: 13150010)**

**COUNT II - AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) -  
F1 (OFFENSE CODE: 13150010)**

Bond \$

---

In The 390th Judicial District Court (Special) of Travis County, Texas

---

**IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS:**

**THE GRAND JURY**, for the County of Travis, State of Texas, duly selected, empaneled, sworn, charged, and organized as such at the July Term, 2021, of the 390th Judicial District Court (Special) for said County, upon its oath presents in and to said Court at said term, that JOHN SIEGEL, on or about the 30th day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause serious bodily injury to NICOLE UNDERWOOD, by shooting Nicole Underwood with a firearm; to wit, a shotgun, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment,

Paragraph B

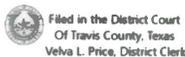
The Grand Jury further presents that JOHN SIEGEL on or about the 30th day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause bodily injury to NICOLE UNDERWOOD , by shooting Nicole Underwood with a firearm; to wit, a shotgun, and the Defendant did use and exhibit a deadly weapon, a firearm; to wit, a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under the color of his office and employment,

COUNT II

The Grand Jury further presents that JOHN SIEGEL, on or about the 30TH DAY OF MAY, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally and knowingly threaten NICOLE UNDERWOOD, with imminent bodily injury by discharging a firearm; to wit, a shotgun, at and in the direction of Nicole Underwood, and the Defendant did use and exhibit a deadly weapon, a firearm, to-wit; a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment, against the peace and dignity of the State,

2/17/2022 | 10:27 AM CST

DocuSigned by:



DS  
LE

DocuSigned by:

Jose Alvarado

7AB8BC812DCE4FD...

Foreperson of the Grand Jury

D.A. #D1DC22900018 MNI # 448868 TRN: DPS: 13150010 Court: 390th

The State of Texas v. BRETT TABLERIOU

**INDICTMENT**

**COUNT I - AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) - F1  
(OFFENSE CODE: 13150010)**

**COUNT II - AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) -  
F1 (OFFENSE CODE: 13150010)**

Bond \$

---

In The 390th Judicial District Court (Special) of Travis County, Texas

---

---

**IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS:**

**THE GRAND JURY**, for the County of Travis, State of Texas, duly selected, empaneled, sworn, charged, and organized as such at the July Term, 2021, of the 390th Judicial District Court (Special) for said County, upon its oath presents in and to said Court at said term, that BRETT TABLERIOU, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause serious bodily injury to CHRISTEN WARKOCZEWSKI, by shooting Christen Warkoczewski with a firearm; to wit, a shotgun, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment,

Paragraph B

The Grand Jury further presents that BRETT TABLERIOU, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause bodily injury to CHRISTEN WARKOCZEWSKI , by shooting Christen Warkoczewski with a firearm; to wit, a shotgun, and the Defendant did use and exhibit a deadly weapon, a firearm; to wit, a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under the color of his office and employment,

COUNT II

The Grand Jury further presents that BRETT TABLERIOU, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally and knowingly threaten CHRISTEN WARKOCZEWSKI, with imminent bodily injury by discharging a firearm; to wit, a shotgun, at and in the direction of Christen Warkoczewski, and the Defendant did use and exhibit a deadly weapon, a firearm, to-wit; a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment,

against the peace and dignity of the State,

2/17/2022 | 10:50 AM CST

DocuSigned by:  
*Jose Alvarado*  
7AB8BC812DCE4FD...  
\_\_\_\_\_  
Foreperson of the Grand Jury

DocuSigned by:  
 Filed in the District Court  
Of Travis County, Texas  
Velda L. Price, District Clerk  


D.A. #D1DC23900065 MNI # 7973642 TRN: DPS: 52130005 Court: 299th

The State of Texas v. JEFFREY TENG

**INDICTMENT**

**DEADLY CONDUCT DISCHARGE FIREARM - PC 22.05(b)(1) - F3**

Bond \$

Grand Jury Witness:

\_\_\_\_\_  
In The 299th Judicial District Court (Special) of Travis County, Texas  
\_\_\_\_\_

**IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS:**

**THE GRAND JURY**, for the County of Travis, State of Texas, duly selected, empaneled, sworn, charged, and organized as such at the January Term, 2023, of the 299th Judicial District Court (Special) for said County, upon its oath presents in and to said Court at said term, that JEFFREY TENG, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there knowingly discharge a firearm at or in the direction of one or more individuals, namely: JUSTIN HOWELL,

against the peace and dignity of the State,

DocuSigned by:

DocuSigned by:

*George Blanchard*

AF78AE90DAB2479...

\_\_\_\_\_  
Foreperson of the Grand Jury

DS

LE



Filed in the District Court  
Of Travis County, Texas  
Velva L. Price, District Clerk

5/30/2023 | 2:18 PM CDT

D.A. #D1DC22900009 MNI # 1854142 TRN: DPS: 13150010 Court: 390th

The State of Texas v. STANLEY VICK

**INDICTMENT**

**COUNT I - AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) - F1  
(OFFENSE CODE: 13150010)**

**COUNT II - AGG ASSAULT BY PUBLIC SERVANT - PC 22.02(b)(2)(A) -  
F1 (OFFENSE CODE: 13150010)**

Bond \$

---

In The 390th Judicial District Court (Special) of Travis County, Texas

---

---

**IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS:**

**THE GRAND JURY**, for the County of Travis, State of Texas, duly selected, empaneled, sworn, charged, and organized as such at the July Term, 2021, of the 390th Judicial District Court (Special) for said County, upon its oath presents in and to said Court at said term, that STANLEY VICK, on or about the 31st day of May, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause serious bodily injury to CHRISTEN WARKOCZEWSKI, by shooting Christen Warkoczewski with a firearm; to wit, a shotgun, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment,

Paragraph B

The Grand Jury further presents that STANLEY VICK, on or about the 31ST DAY OF MAY, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally, knowingly, and recklessly cause bodily injury to CHRISTEN WARKOCZEWSKI , by shooting Christen Warkoczewski with a firearm; to wit, a shotgun, and the Defendant did use and exhibit a deadly weapon, a firearm; to wit, a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under the color of his office and employment,

COUNT II

The Grand Jury further presents that STANLEY VICK, on or about the 31ST DAY OF MAY, 2020, and before the presentment of this Indictment, in the County of Travis, and State of Texas, did then and there intentionally and knowingly threaten CHRISTEN WARKOCZEWSKI, with imminent bodily injury by discharging a firearm; to wit, a shotgun, at and in the direction of Christen Warkoczewski, and the Defendant did use and exhibit a deadly weapon, a firearm, to-wit; a shotgun, during the commission of the assault, and the Defendant was then and there a public servant, to wit: an Austin Police Department peace officer, acting under color of his office and employment,

against the peace and dignity of the State,

2/17/2022 | 10:50 AM CST

DocuSigned by:

 Filed in the District Court  
Of Travis County, Texas  
Velva L. Price, District Clerk

DS  
LE

DocuSigned by:

*Jose Alvarado*

7AB8BC812DCE4FD...

Foreperson of the Grand Jury