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August 4, 2020

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Tucson, AZ 85701

City of Tucson Risk Management
255 W. Alameda
Tucson, AZ 85701

Officer Jonathan Jackson
Tucson Police Department
Main Station
270 S. Stone Avenue
Tucson, Arizona 85701

Officer Ryan Starbuck
Tucson Police Department
Main Station
270 S. Stone Avenue
Tucson, Arizona 85701

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Tucson City Attorney's Office
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Officer Samuel Routledge
Tucson Police Department
Main Station
270 S. Stone Avenue
Tucson, Arizona 85701

Type of Claim: Wrongful Death/§ 1983
Date of Loss: April 21, 2020
Notice of Claim

To Whom It May Concern:

Three Tucson Police Department officers killed 27-year-old Carlos Adrián Ingram López (Adrián) on April 21, 2020 in his grandmother's garage. They grossly violated the Department's General Orders, procedures and policies and their extensive training – as well as fundamental tenets of human decency.¹



As soon as they arrived at Adrián's grandmother's house, it was obvious Adrián was in profound crisis, clearly suffering from a form of psychosis. He was naked, screaming, and sweating profusely when he briefly ran into a locked single car garage. Three officers ordered him to the ground, handcuffed him, then placed their full weight on his back while he lay prone on the driveway floor, over the course of more than twelve horrific minutes. During those twelve-plus minutes, they ignored his loud and persistent cries that he could not breathe, instead continuing to kneel on him while taunting him. They refused to sit him upright in the recovery position and allow him to breathe and recover, instead covering him with blankets, putting a spit mask over his head and mashing his nose into the pavement. They

¹ Undersigned have not yet received all of the documents generated by TPD and other relevant actors regarding this claim. Consequently, this notice of claim will likely be supplemented. Specifically, documentation has not been received that relates to the initial administrative inquiry of the TPD officers involved in Adrián's death, the Pima County Attorney's criminal investigation of those officers, the Federal Bureau of Investigation's investigation, or the statements of the TPD officers involved.

refused to respond to any of his pleas for help and his obvious extreme medical distress, instead slowly crushing him until he died.

Before TPD finally told the Mayor and City Council of the killing, they allowed two months to pass. Not coincidentally, during those two months, the whole country was convulsed in massive protests of police brutality as a consequence of the police killings of George Floyd and Breonna Taylor, among many others. After killing Adrián, rather than acknowledging what they had done, TPD did everything possible to avoid any responsibility for the extraordinary violence of the officers and their casual disregard for Adrián's life. Although TPD finally acknowledged its officers broke every conceivable policy, procedure and general department order in the course of interacting with Adrián, TPD allowed the three officers to resign instead of terminating them, then quickly undertook a concerted campaign to smear Adrián and devalue his life.

I. TPD Killed Adrián

Adrián's paternal grandmother, Magdalena Ingram (Nana), called 911 on April 21, 2020, seeking assistance for Adrián. She was very concerned because he was naked, acting psychotic and seemed in distress. Three officers arrived at her home on the southeast side of Tucson at approximately 1:20am. Although Officer Jonathan Jackson was the Lead Patrol Officer (LPO), he took no steps whatsoever before or after arriving to assume incident command or to create any plan. Instead, he allowed and personally participated in what amounted to a free-for-all in which he and Officer Samuel Routledge and Officer Ryan Starbuck recklessly endangered, then methodically drained the life from Adrián.

Officers Jackson, Routledge and Starbuck entered Nana's home and found Adrián naked, sweating profusely despite the cold, and hysterical. Adrián was clearly in a state of high excitement and distress and he briefly ran from them screaming into the closed garage. All this behavior is wholly consistent with and unmistakable as what TPD calls in its training "excited delirium" and is recognized as an extremely dangerous condition that must be treated in a medical manner quickly and appropriately. But instead of acting consistently with department protocols and their training, they ordered him to the ground, then turned him face down on the garage door and handcuffed him behind his back. Adrián complied immediately with the officers' demands, then cried, screamed and repeatedly apologized.

For at least the next twelve minutes, Officer Routledge held Adrián's legs while LPO Jackson and Officer Starbuck knelt on his back and shoulders. Despite Adrián sweating profusely, panting, gagging and groaning, LPO Jackson placed several emergency blankets on top of Adrián, making him even hotter. Then, in an act of incomparable cruelty and in gross violation of their excited delirium training, Officer Starbuck tied a spit sock over Adrián's head while forcing him to remain face down on the pavement.

Instead of medically attending the human being in obvious distress whom they were crushing and suffocating, the officers made wise cracks and laughed among themselves. Adrián cried out several times for his Nana, "Nana, ayúdame!" This led Officer Routledge to threaten to use his Taser on Adrián: "Calm the fuck down or you're gonna get zapped!" The three officers' primary concern was not how to help a dying man, but how to transport Adrián to jail on a misdemeanor warrant without getting the interiors of their vehicles dirty.

Adrián cried out for water so loudly and persistently while the officers held him face down that his Nana dared to disobey the police and came into the garage with a bottle of water. Notably, the three officers initially told investigators that they never heard Adrián ask for any water, yet bodycam footage demonstrates Adrián pleading for water at least twenty times. Officer Starbuck took the water bottle from Nana but said he would only give it to Adrián after Adrián composed himself to Officer Starbuck's satisfaction. Significantly, Officer Starbuck was employed an Emergency Medical Technician for twelve years before joining TPD.

Adrián remained face down, with two very large police officers kneeling on his back, with a spit sock full of pus and vomit keeping him from adequately breathing for twelve full minutes before he died. LPO Jackson, Officer Routledge and Officer Starbuck continued holding him face down on the ground well after he completely stopped moving. No one checked on him until several minutes later when other officers realized Adrián was completely unresponsive. Only then did anyone realize the significance that the body they had covered in blankets, hooded with a spit mask and been kneeling on top of had not moved for several minutes. Officers Jackson, Routledge and Starbuck continued to kneel on his back and hold Adrián's face to the ground until they were finally commanded to turn him over.

No one ever called Tucson Fire Department until they killed Adrián.

TFD pronounced Adrián dead at 2:06am.

II. Subsequent Police Investigations

The Tucson Police Officers Association, the union, immediately put their representatives in contact with Officers Jackson, Routledge and Starbuck, while the officers were still at the killing site. As of the writing of this Notice of Claim, it is unknown to what degree the TPOA influenced the initial investigation which is said to have cleared those three officers of misconduct.

It is also unknown what results occurred as a result of a subsequent criminal investigation of those officers after they were confronted with bodycam video that unequivocally demonstrated they had been lying to investigators in the initial investigation of Adrián's death. It is known that each officer invoked his right to not to further incriminate himself.

TPD's final investigation and administrative review of Officer Jackson's, Routledge's and Starbuck's actions sustained multiple and repeated violations of the Department's general orders. The final administrative review ultimately concluded the acts committed by the officers, "Seriously undermine community trust, public safety, and the professional image of the department."²

² *Members shall not treat any person or animal cruelly, use excessive physical force, fail to observe the Constitutional rights of any person, or neglect to take any necessary humane actions when circumstances require;*

Provocation includes conduct that may create or contribute to the need to use force that might not otherwise be necessary. This can include unprofessional exchanges or other acts, intentional or reckless, that provoke the subject or contribute to the need for force.

All suspects and prisoners shall be treated courteously, humanely, and with regard for their legal rights.

Importantly, the three officers did not just violate standing orders, they all also repeatedly violated training they had received on multiple training dates that covered precisely the situation presented on their April 21 call to Adrián's grandmother's house. All three officers had previously received multiple training sessions in Mental Health First Aid, dealing specifically with "excited delirium;" Managing In-Custody Death, dealing specifically with delirium, psychosis, stripping, and detainees saying, "I can't breathe;" In-Custody Drug Ingestion; Respiratory/Cardiac Emergencies; Taser Certification; and Spit Sock Training.

TPD's final Administrative Review concluded: "The combination of these allegations and the violated General Orders are a Type Red/Severe Misconduct," and recommended all three officers be terminated.

TPD's actions left Adrián's beloved two-year old daughter Sophie Ingram fatherless, his mother Iris Lizarraga without her beloved son, his fiancé and mother of Sophie, Elizabeth Cocoba, without her 12-year boyfriend and future husband, and countless other family members and friends deeply bereaved. While Arizona's wrongful death statute only allows his daughter and mother to legally bring claims against TPD, the record needs to be clear: TPD's actions profoundly harmed and will continue to profoundly harm many, many people besides just Sophie and Iris.

III. Notice of Claim

This is our statutorily required Notice of Claim Letter. This letter is intended to give you notice of the claims alleged against you, the factual basis for those claims and present you with a sum certain for which these claims can be settled within the next 60 days. This letter has been prepared in compliance with A.R.S. § 12-281.01 and the Arizona courts' interpretations of the Notice of Claim statute.

To clarify, we represent Sophie Ingram, Adrián's 2-year-old daughter, through Elizabeth Cocoba, Sophie's natural mother and legal guardian. Southern Arizona Fiduciary Services has been appointed Special Administrator to the Estate of Carlos Adrian Ingram-Lopez and has an application pending to be designated Personal Representative and Conservator. As the Special Administrator, Southern Arizona Fiduciary Services has given us legal permission to preserve legal claims for and file this Notice of Claim on behalf of Adrián's estate as well.

A Member who observes another member using inappropriate, unnecessary, or unreasonable force shall intervene to stop the use of force when there is a reasonable opportunity to do so. A Member who witnesses inappropriate, unnecessary, or unreasonable use of force by another member shall report it as soon as practicable to a superior.

Department members are responsible for the welfare, safety, and security of the person they arrest until the arrestee is transferred to another officer, detained at the jail or prison, or released. If an arrestee is injured, ill, or has another medical condition requiring immediate care, the arresting/transporting officer shall ensure that the arrestee receives appropriate medical attention.

Under the Arizona Wrongful Death Act, both Adrián's parents are also statutory beneficiaries of this claim.³ Under state and federal claims, Adrián's estate also has valid claims. Though we do not represent these parties, it is our obligation to preserve these claims by putting you on notice that they exist. Therefore, let this Notice of Claim also serve as official notice of these claims as well.

This letter represents only initial investigation, research and legal arguments regarding Adrián's death and Sophie's loss. The investigation is not yet complete. We reserve the right to supplement this letter through disclosure statements and discovery and to add additional facts and legal theories as time goes on.

This letter is being sent now in an effort to assist Sophie in obtaining all of the rights and protections provided her by law as quickly, efficiently and economically as possible. It also allows you to fully and fairly evaluate her claim and determine whether pre-suit settlement is appropriate. Any errors or omissions in this letter are attributed to us, as the author, not Sophie. This letter does not represent the final efforts of investigation or analysis. Fairness requires that any attempt to use the contents of this letter in any litigation related to the allegations in this letter include the contents of this section.

If you believe there are deficiencies in this letter, please advise at once so that the letter may be amended and supplemented. If we do not hear from you within 30 days of receipt in this regard, we will rely on your actions as your agreement that the letter complies with all requirements and will not be challenged later.

Because of the statutory requirement that a Notice of Claim letter be delivered as a prerequisite to a claim being brought, and because our court system typically schedules trials no sooner than one year from a scheduling conference, it is imperative that we move this case forward quickly and efficiently, as directed by Ariz. R. Civ. Pro. 1. As you read this letter, if you need additional information to evaluate our position and develop your analysis, please do not hesitate to get in touch with us.

Under the Arizona Wrongful Death Act, A.R.S. §§ 12-611 to 613, when the death of a person is caused by negligence, the wrongdoer is liable for damages to the decedent's children, parents, and spouse. The measure of damages in a wrongful death claim is whatever a jury "deems fair and just with reference to the injury resulting from the death to the surviving parties...having regard to the mitigating or aggravating circumstances attending the wrongful act, neglect or default." A.R.S. § 12-613. In other words, the daughter of a negligently killed dad is entitled to monetary loss (e.g. lost income the dad would have provided for her) and the "loss of affection, companionship, care protection and guidance" and "pain, grief, sorrow, anguish, stress, shock and mental suffering" the daughter has experienced and will experience as a result of her dad's death. Revised Arizona Jury Instructions—Personal Injury Damages 3.

When evaluating damages in a wrongful death case, it is important to weigh the value of the relationship between the decedent and surviving beneficiary. As you will see here, the value of the

³ Adrián's father, Carlos Ingram Daahir, who lived in Mexico, has been missing since 2018. His whereabouts—or whether he is even alive—are unknown.

natural bond between a daughter and her dad is extraordinary. In a case like this one, it is also important to not only evaluate the emotional grief Sophie suffers as a result of Adrián's death, but the grief she will forever suffer from the cold-blooded, graphic way in which he died. When you combine the damages in a case like this one, it is not uncommon at all for a jury to award fair and just damages that fall in the multi-million-dollar range.

Under Arizona state law, the City of Tucson is vicariously liable for the negligent actions of its police officers. There is no question the officers were not only negligent, but grossly negligent and reckless—the city has admitted as much.

Under Federal law, a § 1983 claim exists against officers Jackson, Routledge, and Starbuck for the wrongful death of Adrián and violation of Adrián's basic constitutional rights, including primarily the use of excessive force and unreasonable seizure under the United States Constitution. Under the factors laid out in *Graham v. Connor*, 490 U.S. 386 (1989), these officers' conduct was objectively unreasonable and excessive based on the totality of the circumstances from the perspective of a reasonable officer: the severity of the crime (minimal and nonviolent), the immediacy of any legitimate threat (none), the resistance of any arrest (none) and the risk of evasion or flight (none). Officers Jackson, Routledge and Starbuck intended to cause injury to a defenseless, naked man, in conscious disregard to Adrián's rights and safety. This exposes the officers to claims for punitive damages.

Additional facts currently unknown to us—but likely in your possession—could uncover additional claims. If the City of Tucson developed and maintained policies, practices or procedures exhibiting deliberate indifference to the constitutional rights of citizens like Adrián, a § 1983 claim exists against the City of Tucson under *Monell v. Department of Social Serv.*, 436 U.S. 658 (1978). For instance, we do know that another death recently occurred on March 22 when a 29-year-old man by the name of Damien Alvarado was restrained in strikingly similar fashion by the Tucson Police Department. We also know that the officers in this case not only lied about what occurred, but also that the initial administrative investigators helped them cover it up. Chief Magnus had to appoint a new investigation crew when he learned that the initial crew was clearing the officers without even reviewing the bodycam footage.

These officers will not overcome this with qualified immunity. Their conduct violated clearly established law, including their own General Orders and training, that any reasonable officer would have known.

Our demand to all claims against The City of Tucson is \$10,000,000.

In addition to our \$10,000,000 demand against the City of Tucson, our demand against the individual Tucson Police Department officers for the § 1983 claims, including punitive damages, are as follows:

Officer Jackson: \$3,000,000

Officer Routledge: \$3,000,000

Officer Starbuck: \$3,000,000

Pursuant to the statute, this demand will expire and be withdrawn 60 days after service. If you do not settle this case within that time, we will file suit.

IV. Sophie's Loss

"Daddy."
"Daddy."
"Papa."
"Papa."
"Papi."
"Papi."
"Adrián."
"Adrián."
"I love you."
"I love you"

When Sophie's first word was "mama," Adrián made sure he would get the last laugh by teaching Sophie how to repeat five different ways she could call out to her dad. He would say it, and she would repeat it. It was their thing that they shared together. At only 2-years-old, Sophie shared a lot of things with her dad, because When Adrián was with Sophie, Sophie was his everything. In fact, she was his everything before she was even born.



Adrián fell in love with Elizabeth Cocoba, Sophie's mom, when he was in eighth grade. Adrián saw Elizabeth a lot because he was best friends with her brother. At the time, Elizabeth was a sophomore in high school and denied Adrián's advances because he was too young. But for years he persisted and the two continued to talk. After spending an entire summer with his dad in Mexico, Adrián returned for his junior year in high school acting older and dressing nicer. The two began to date, and like any relationship had their ups and downs, but were together for over a decade before his death.

Adrián was a hard worker and a passionate cook. He had cooked for a retirement community and for a private chef in banquets before graduating with a 4.0 at Le Cordon Blue College of Culinary Arts in Scottsdale. Following his degree, he cooked at both Top Golf locations in Arizona, Chelsea's Kitchen, and Westin La Paloma.

When Adrián found out Elizabeth was pregnant, he was ecstatic. He immediately put his cooking skills to work by buying fresh foods and cooking nutritious meals for Elizabeth to eat, ensuring that his baby would be in the healthiest shape. When Sophie was born, the nurse was surprised at the amount of questions Adrián asked about breast-feeding, that kind of curiosity and investment usually being reserved for the mother. In fact, Adrián took more time with Sophie doing skin to skin than Elizabeth did. Most of Sophie's meals, including baby food, were cooked fresh and homemade.

Sophie was Adrián's number one priority. If she had to be watched by anyone other than Adrián or Elizabeth, it had to be a family member. His employment decisions were based on ensuring that Sophie spent most if not all of the day with her mom or dad. He went to all of her doctor's appointments and followed doctor's orders to a tee. If Elizabeth had to unload groceries, Adrián came to the car to ensure Sophie was carried in safely.

Adrián and Sophie were attached at the hip; they took every opportunity they had to be together, even when asleep. When Elizabeth had trouble getting Sophie to sleep, Adrián would take Sophie and sleep with her on his chest; he was the only one Sophie would do that with. Again, that was their thing.



Prior to Adrián's death, Adrián and Elizabeth had planned to get married, but Adrián had to get right first. In approximately 2018, Adrián struggled with news that his dad had been kidnapped and went missing in Mexico. Like most who deal with demons when recovering from a trauma, Adrián's demon in coping with the pain was occasional drug use. He had tried to get better, and wanted to get better. Adrián and Elizabeth had gone to a rehabilitation center for a consultation, but their insurance would not cover the cost and they could not afford it on their own. Just before being killed, Adrián and Elizabeth were specifically looking for jobs Adrián was qualified for that would provide the kind of coverage he needed to get help.

Like most people who struggle with any kind of substance abuse, Adrián was still a really good person. He was a tremendous father.

Sophie still does the things that she and her dad shared together. She still calls out to him. She listens to old voice messages on her mom's phone and talks back to daddy as if they are having a real conversation. Elizabeth catches her daughter saying things to Adrián while Sophie is alone in Sophie's bedroom—things like, "I love you." When the two have to run an errand, Sophie says goodbye to her papi as they leave the house. This time, no one calls back.

Sophie is not old enough to understand that her dad is never coming back.

But one day she will come to that realization. And as she gets older, she will learn how he died. She will watch the video. She will read the nasty comments on social media. She will see the humiliating way her dad was treated and how he was taken from her so early, so brutally, and so recklessly. She will need therapy to cope with this confusing loss. She will wonder how different things could have been if he was still with her.

She will say his name, but he won't be there to repeat it.

*"Daddy."
"Papa."
"Papi."
"Adrián."
"I love you."*



V. Settlement

Liability is clear. The Department's own chief, Chief Chris Magnus, has admitted that his employees "completely disregarded" and failed to live up to the standards and guidelines they were trained for. In fact, he offered to resign as a result of the TPD's handling of the entire case. He stated that if his officers had not resigned, they would have been terminated. Tucson Mayor Regina Romero also condemned their actions, saying that as the Mayor and a mother, she was troubled and outraged that Adrián lost his life.

Other politicians have publicly spoken out. Councilwoman Santa Cruz recognized that Adrián was calling for his Nana while restrained. “In our culture, nanas are the matriarchs,” she said. “He was calling out for his lifeline.”

This comes at a deeply troubling time when American citizens are asking serious questions about police culture and tactics. They are demanding accountability and change. This is the City’s opportunity not only to show Sophie how truly sorry, troubled, and outraged they are for her dad’s death, but that they are listening to the public’s concerns. Otherwise, they leave it up to a local jury to determine not only the value of the loving relationship between father and daughter, but the value of accountability and change. Those values will only grow substantially as this case moves forward.

Our demand comes well within the range of a reasonable settlement. In *KNEPPER v. CITY OF TUCSON*, a jury awarded \$1,500,000 to a 21-year-old man who lost his left eye after being hit by a projectile fired from a police officer (reduced to \$765,000 due to comparative fault). In *MALLET, ESTATE OF v. CITY OF PHOENIX*, the City of Phoenix paid \$5,300,000 for killing a 25-year-old man when the officers pushed the man to the ground, pepper sprayed him, and used a choke hold until he became unconscious. In *NAVARRO v. CITY OF PEORIA*, a jury awarded the decedent \$1,600,000. In *AGSTER v. MARICOPA COUNTY SHERIFF’S DEPT., ET. AL.*, a jury awarded \$10,000,009 to a 33-year-old man who passed died while in custody. In that case, the man was on his way to the hospital for drug intoxication when the police arrested him at a store. The police placed the decedent in a restraint chair, bound his limbs, and hooded him. The police left the decedent in the chair for an unreasonable length of time which resulted in brain damage from asphyxiation. The man died three days later.

These cases represent only a small fraction of settlements and verdicts occurring nationwide, sending the message that law enforcement accountability and change is long overdue. Our demand is supported by the facts set out in this Notice of Claim and by jury verdicts involving similar claims and injuries all across the country.

This demand remains open for 60 days. If it is not accepted, in writing, by the close of this time period, we will commence litigation. If you have questions or need additional information as you evaluate our demand and prepare your settlement analysis, please let me know immediately.

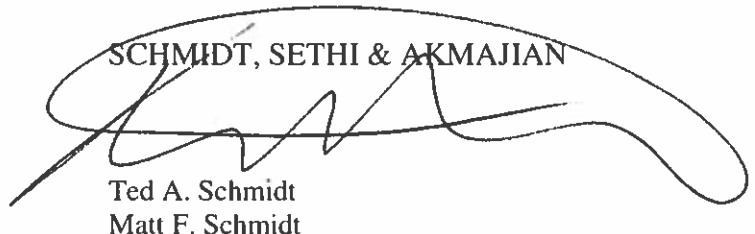
We look forward to hearing from you soon.

KUYKENDALL & ASSOCIATES



Greg Kuykendall

SCHMIDT, SETHI & AKMAJIAN



Ted A. Schmidt
Matt F. Schmidt