

CASE NO. _____

BARBARA THOMPSON,	§	IN THE DISTRICT COURT
INDIVIDUALLY AND AS NEXT	§	
FRIEND FOR NEVEAH.T, AND	§	
NYA.T, LISA MCCONNELL AS	§	
REPRESENTATIVE OF THE	§	_____ JUDICIAL DISTRICT
ESTATE OF MICHAEL THOMPSON,	§	
PLAINTIFFS,	§	
VS.	§	
CITY OF EL PASO, CITY OF EL	§	
PASO POLICE DEPARTMENT, FIRE	§	EL PASO COUNTY, TEXAS
DEPARTMENT, AXON	§	
ENTERPRISE, JESUS COBOS,	§	
DOMINIC GUERRERO, THOMAS	§	
SNEED, JOHN SPENCER,	§	
MICHAEL ARIAS, JACQUELINE	§	
AGUILERA, ALONZO MARTINEZ,	§	
AARON JOHNSTON, KYLE K.	§	
BONATH, AXON, AND WALMART,	§	
EL PASO COUNTY, AND JANICE	§	
DIAZ-CAVALLIERY, M.D.,		
DEFENDANTS,		

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiffs, Barbara Thompson, Estate of Michael Charles Thompson, and Next Friend for Yajaira Cullum(minors) and (“Plaintiffs”) files this Original Petition against Defendants, El Paso Fire and Police Department, Officer Dominic Guerrero, Thomas Sneed, John Spencer, Michael Arias, Alonzo Martinez, Aaron Johnston, Sgt. Jacqueline Aguilera, Texas Tech El Paso Police Department, Chief Kyle K. Bonath, Jesus Cobos (collectively “Law Enforcement Defendants” “Defendants”), and Medical personnel

assigned to City of El Paso Fire Department Pumper 12¹, Walmart, Axon Enterprise, El Paso County, and Janice Diaz-Cavallieri, M.D., and in support thereof show as follows:

I. DISCOVERY CONTROL PLAN

1. Pursuant to Rule 190.3 of the Texas Rules of Civil Procedure, Plaintiff intends to conduct discovery under a Level 2 discovery plan.

II. PARTIES

2. Plaintiff, Barbara Thompson, individually and as Next Friend for Neveah.T, and Nya.T, Lisa McConnell as Representative of the Estate of Michael Thompson, is an individual residing in El Paso, Texas.

3. Defendant, El Paso Police Department, is a municipal corporation located in the State of Texas, is incorporated under the laws of the State of Texas, and is located within the boundaries of El Paso County. It may be served with citation through the Mayor Oscar Leeser, 911 N Raynor St, El Paso, TX 79903 or wherever he may be found.

4. Defendant, Officer Guerrero, is an individual who may be served with a citation at his place of employment, El Paso Police Department, 911 N Raynor St, El Paso, TX 79903, or wherever he may be found. Officer Guerrero is being sued in his individual capacity and at all times relevant to this case acted under the color of law.

5. Defendant, Officer Thomas Sneed is an individual who may be served with a citation at his place of employment, El Paso Police Department, 911 N Raynor St, El Paso, TX

¹ REDACTED AND COPY FILED UNDER SEAL



79903 , or wherever he may be found. Officer Thomas Sneed is being sued in his individual capacity and at all times relevant to this case acted under the color of law.

6. Defendant, Officer John Spencer, is an individual who may be served with a citation at his place of employment, El Paso Police Department, 911 N Raynor St, El Paso, TX 79903, or wherever he may be found. Officer John Spencer is being sued in his individual capacity and at all times relevant to this case acted under the color of state law.

7. Defendant, Officer Michael Arias an individual who may be served with a citation at his place of employment, El Paso Police Department, 911 N Raynor St, El Paso, TX 79903, or wherever he may be found. Officer Michael Arias is being sued in his individual capacity and at all times relevant to this case acted under the color of state law.

8. Defendant, Alonzo Martinez is an individual who may be served with a citation at his place of employment, El Paso Police Department, 911 N Raynor St, El Paso, TX 79903, or wherever he may be found. Officer Alonzo Martinez is being sued in his individual capacity and at all times relevant to this case acted under the color of state law.

9. Defendant, Officer Aaron Johnston is an individual who may be served with a citation at his place of employment, El Paso Police Department, 911 N Raynor St, El Paso, TX 79903, or wherever he may be found. Officer Aaron Johnston is being sued in his individual capacity and at all times relevant to this case acted under the color of state law.

10. Defendant, Sgt. Jacqueline Aguilera is an individual who may be served with a citation at his place of employment, El Paso Police Department, 911 N Raynor St, El Paso, TX 79903 , or wherever he may be found. Officer Jacqueline Aguilera is being sued in his individual capacity and at all times relevant to this case acted under the color of state law.

11. Defendant, Officer Jesus Cobos is an individual who may be served with a citation at his place of employment 701 West 5th Odessa, TX or wherever he may be found. Officer Jesus Cobos is being sued in his individual capacity and at all times relevant to this case acted under the color of state law.

12. Defendant, Kyle K. Bonath is an individual who may be served with a citation at his place of employment, 701 West 5th Odessa, TX, or wherever he may be found. Officer Kyle K. Bonath is being sued in his individual capacity and at all times relevant to this case acted under the color of law.

13. Axon Enterprise who may be served with a citation at 17800 N 85th St, Scottsdale, AZ. It may be served with citation through its CEO or wherever he may be found.

14. Walmart who may be served with a citation at 17800 N 85th St, Scottsdale, AZ. It may be served with citation through its CEO or wherever he may be found.

INTRODUCTION

15. "You look like a thug, and you're going to kill me."..."You're going to kill me." Is what Mr. Thompson the United States Army Veteran told his killer, Officer Dominic Guerrero.

16. He was the father of two young daughters, NT and NT, and son of Barbara Thompson, and Lisa McConnell. After being discharged from the military he suffered from mental distress like many of his counterparts, specifically post-traumatic stress disorder (PTSD).

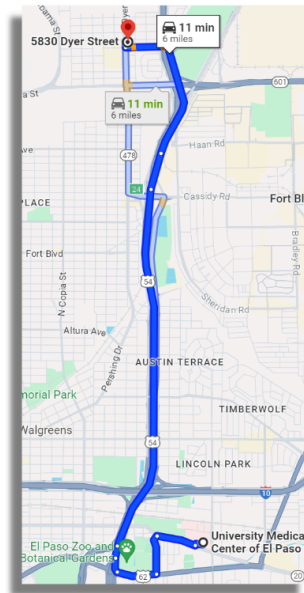
17. He experienced bouts with homelessness sleeping at different friends and families homes, until he found a stable place to live and was able to rent his own apartment.
18. He suffered from mental illness.
19. Experiencing an episode he recognized the need to call first responders to help him with the medical mental distress he was suffering.
20. On the date of his death he was walking on a public street headed in the direction of 7-Eleven.
21. In route he passed the Texas Tech off-duty officer, Cobbs, who was working for Walmart on an off-duty job.
22. Cobos chose to stalk Mr. Thompson making him feel paranoid following him in his car.
23. Since the officer was off duty he did not wear a body worn camera.
24. He went into the 7-Eleven located at 5830 Dyer Street, just north of Fred Wilson, around 12:50 a.m..
25. Mr. Thompson requested the 7-Eleven clerk call for assistance from 911.



26. The clerk also recognized Mr. Thompson was in mental distress and appeared to be experiencing visual and auditory hallucinations.
27. When patrol officer Guerrero arrived, he remained in the same mental state.
28. Instead of addressing Mr. Thompson's serious medical needs, officers Guerrero restrained him and held Mr. Thompson in the prone position on his stomach with his full body weight on him.
29. Officer John Spencer arrived on the scene with Guerrero holding Mr. Thompson facedown on the ground.
30. Officer Sneed joined in and began to tase him, placed in the rear of the patrol unit, continued to taser Mr. Thompson at least four additional times by drive stunning by pushing the front of the Axon taser weapon firmly against his body and sending direct electric shocks, choking and beating him.
31. Axon Taser is marketed as a "less than lethal" force weapon, yet after its use against individuals it results in death or serious injury on a regular basis. Axon misrepresents the safety of the device and does not provide instructions or training on how to avoid converting the "less than lethal weapon into a lethal weapon by misuse.
32. Texas Tech Officer Cobbs also joined the other officers instead of intervening to stop the unlawful use of force, based on his lack of training by Chief Kyle K. Bonath. He held Mr. Thompson down as he and the other officers continued the unlawful tasing, choking and striking of Mr. Thompson.
33. While in the back of the squad car he suddenly stopped breathing.
34. The officers involved received no injuries. Michael Thompson's death was ruled a

homicide by two medical examiners.

35. He died as a result of the EPPD officers' unreasonable use of force, and EPD's failure to train its officers on the appropriate use of force leaving behind two minor daughters and his parents.



36. The El Paso Fire Department (“EPFD”) delayed medical care for Michael Thompson 25 minutes elapsed between the time EMS arrived at 1:11am until 1:36am before getting him to the hospital, 6 mile, an 11 minute drive away in normal traffic during the day.

III. JURISDICTION AND VENUE

37. Jurisdiction is proper in this Court because the damages sought by Plaintiff exceed this Court’s minimal jurisdictional limits, and the parties to this lawsuit are all subject to jurisdiction in the State of Texas. See Tex. R. Civ. P. 47(b).

38. This Court has jurisdiction over Defendants because they are citizens of the State of Texas and they engaged in a concerted wrongful activity which is the subject of this lawsuit.

39. Further, The City of El Paso does business in the State of Texas and is therefore subject to the jurisdiction of the State of Texas.

40. Plaintiffs seek monetary relief over \$50,000,000.00 including damages of any kind, penalties, costs, expenses, pre-judgment interest, attorneys' fees, and all other relief to which the Plaintiffs deems themselves entitled from each defendant jointly and severally pursuant to Tex. R. Civ. P. 47(c), (d), 42 USC 1983, 42 USC 1988.

41. The venue is proper in El Paso County, Texas, because all or a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in El Paso County. See Tex. Civ. Prac. & Rem. Code § 15.002(a)(1).

IV. FACTUAL AND BACKGROUND

42. This suit arises from the excessive use of force, wrongful arrest, detention and denial of medical care by El Paso Fire Department paramedics ██████████ assigned to Pumper 12 at 12:00 on June 27, 2022, and Officers Guerros, Dominic Guerrero, Thomas Sneed, John Spencer, Michael Arias, Alonzo Martinez, Aaron Johnston, and Jesus Cobos against 36 year old Army Veteran Michael Thompson.



43. On June 27, 2022 the El Paso Police Department Patrol Officers responded to 5830 Dyer at a 7-Eleven convenience store in El Paso, Texas in reference to a welfare check, at Mr. Thompson's request.

44. Mr. Thompson requested the 7-Eleven clerk assist him by calling for an ambulance. The City of El Paso Officer Guerrero arrived instead of medical personnel.

45. The officers immediately determined that Mr. Thompson should be detained instead of seeking medical attention. Mr. Thompson had not committed any crime, he was not armed or a fleeing suspect.

46. He objected to the unlawful detainment and consented only to medical assistance. Officers and EPFD EMS paramedic personnel ignored Mr. Thompson's serious medical needs and continued to attempt to restrain him.

47. The officers escalated the contact and tased Mr. Thompson next, restrained him with handcuffs and placed him in the backseat of a Patrol Unit. Police officers Guerro, Dominic Guerrero, Thomas Sneed, John Spencer, Michael Arias, Alonzo Martinez, Aaron Johnston, and Jesus Cobos each chose not to attempt to utilize deescalation methods in the situation.

48. Instead, they detained Michael Thompson without a warrant and while in custody they tasered, choked, and struck him until he became unresponsive although they had the opportunity to consider or take other more appropriate measures short and prior to the use of force.

49. While in the back of the patrol vehicle Mr. Thompson stopped breathing. Mr. Thompson never received the medical assistance that he requested or after he was beaten and tased by the El Paso officers, Dominic Guerrero, Thomas Sneed, John Spencer, Michael Arias, Alonzo Martinez, Aaron Johnston, and Jesus Cobos other than the wrongful administration of Narcan after Mr. Thompson went into cardiac arrest from the tasing, despite Mr. Thompson not being intoxicated or overdosed on opioids.

50. El Paso Fire Department emergency medical services arrived on the scene at 1:11am and witnessed the arrest but did nothing to intervene or attempt to provide adequate medical care for his serious medical needs.

51. El Paso Fire Department emergency medical services transported Mr. Thomspson to University Medical Center by El Paso Fire Department emergency medical services. Hospital notes he arrived at 1:36 am.

52. It further noted “the patient is a 36-year-old male who presented to the emergency department in cardiac arrest.

53. Apparently he had an altercation with the police and was tased 1 time as well as hit in the leg four-times with some other type of instrument to help to subdue him.

54. He apparently was handcuffed. The records further note “36 yo man...presents via EMS after witnessing arrest.

55. According to an EMS report, the patient reportedly had been in an altercation with Police in which he was tased *repeatedly*.

56. Shortly thereafter, the patient then became unresponsive. Narcan was administered by EPPD.” He was pronounced dead at 1:47 am by Dr. Patek.

57. Michael Charles Thompson’s cause of death was determined restraint asphyxia, use of taser deployment(s), and multiple force blunt force trauma with complications.

58. The manner of death was determined to be homicide, by two different medical examiners, including Dr. Janice Diaz-Cavallieri, M.D., policymaker for El Paso County Medical Examiner’s office. Cavalier Conspired with the other defendant and as a matter of practice and chose to distort the cause of death by implicating that Mr. Thompson died due to intoxication and homicide which is impossible.

59. The mechanism of death is positional-mechanical asphyxiation, electro-muscular excitation, and lack of provision of any basic medical aid and multiple blunt force trauma according to pathologist, Dr. Matthias I. Okoye, M.D.. The Travis County Medical Examiner determined Mr. Thompson’s immediate cause of death as “sudden death during law enforcement subdual and restrain[].”

60. Travis County Medical Examiner determined further found a 2 by 1.5 inch irregular, red abrasion

61. The left temple, The left eyebrow has a linear abraded cut. The left frontal scalp has a couple of irregular red abrasions that measured about 1 inch.
62. The right eyebrow has an irregular, red abrasion that measures 2 1/2 by 1 inch.
63. There is subscalpular hemorrhage corresponding in location to the abrasions described above.
64. The right-back has a couple of 1/16 inch lesions located 2 % inch right of the midline and separated by 1/4 inch of c.
65. Blunt Force Trauma of the head was determined in an independent autopsy to include extensive recent red-purple contusion with subcapsular hemorrhage involving the left side of the face (12.0 x 8.0 cm).
66. Recent red-purple contusion of the left ear lobe (4.0 x 6.0 cm).
67. Extensive and generalized acute subdural and subarachnoid hemorrhages involving the convexity and the base of the brain with focal hematoma formation.
68. Blunt Force Trauma of the Trunk including recent contusion with acute hemorrhage involving the right posterior upper chest wall involving the right rib #1 through the rib #3 (8.0 x 6.0 cm).
69. Extensive recent involving the left posterior upper chest wall involving the left #1 rib through the left #4 rib (4.0 x 8.0 cm).
70. Extensive recent contusion with hemorrhage involving the right posterior lower chest and abdominal walls involving the right #9 through #12 ribs (12.0 x 8.0 cm).
71. Extensive recent contusion of the left lower posterior chest and abdominal walls involving the left #9 through #12 ribs (10.0 x 6.0 cm).

72. Extensive contusion with acute parenchymal hemorrhage of the liver. Recent contusions with acute subcutaneous tissue hemorrhages involving the left upper back (6.0 x 4.0 cm) and the left mid to lower back (6.0 x 4.0 cm).

73. Blunt force trauma of the upper and lower extremities was determined in an independent autopsy, including extensive abraded and lacerated contusion with acute hemorrhage involving the back of the left hand (6.0 x 6.0 cm).

74. Extensive abraded contusion with hemorrhage involving the back of the right hand (6.0 x 7.0 cm) Small abraded contusion with hemorrhage of the anterior aspect of the left knee (3.0 x 4.0 cm).

75. Michael F. Arias started his tenure as a full time peace officer El Paso Police Department March 9, 2020

76. John T. Spencer peace officer El Paso Police Department peace officer license April 13, 2007 May 20, 2024 17 years, 1 months

77. Thomas J. Sneed peace officer (full time) El Paso Police department peace officer license date November 28, 2016 7 years, 7 months

78. Dominic Guerrero peace officer (full time) El Paso Police department peace officer licensed January 22, 2019 5 years, 5 months

79. Jesus Cobos peace officer (full time) texas tech police dept. peace officer license June 1, 2014.

V. CAUSES OF ACTION

Fourteenth Amendment Due Process and Fourth Amendment Unreasonable Seizure

80. Plaintiff incorporates by reference all preceding paragraphs contained herein. Defendants Guerros, Dominic Guerrero, Thomas Sneed, John Spencer, Michael Arias, Alonzo Martinez, Aaron Johnston, and Jesus Cobos are liable for Mr. Thompson for violating his Fourth Amendment Constitutional right to be free from unreasonable seizure, pursuant to 42 U.S.C. § 1983, based on the unlawful detention, use of unreasonable and excessive force, and delay and denial of medical care under the Fourth and Fourteenth Amendments..

81. Defendants Guerros, Dominic Guerrero, Thomas Sneed, John Spencer, Michael Arias, Alonzo Martinez, Aaron Johnston, and Jesus Cobos violated Mr. Thompson's clearly established constitutional rights, and their conduct was objectively unreasonable in light of clearly established law at the time of the relevant incident, as state actors, while acting under the color of law.

82. Additionally, Officers Guerros, Dominic Guerrero, Thomas Sneed, John Spencer, Michael Arias, Alonzo Martinez, Aaron Johnston, and Jesus Cobos each participated and watched while the unconstitutional use of force occurred by the other Officer. He did nothing to intervene, although he had the opportunity when Guerrero first grabbed Mr. Thompson, and upon arrival officers Dominic Guerrero, Thomas Sneed, John Spencer, Michael Arias, Alonzo Martinez, Aaron Johnston, and Jesus Cobos joined in either holding Mr. Thompson down, or failing to intervene the unreasonable striking, choking and slamming Mr. Thompson to the ground, and taser causing the death of Michael Thompson.

Monell Claims and Individual Claims against The City of El Paso, its Chief and City Council as policymakers

83. Plaintiff incorporates by reference all paragraphs contained herein. The Chief is a state actor and the relevant policymaker for The City of El Paso, as the chief of police.

84. Chief Allen is being sued in his individual capacity.

85. Chief Allen, in his capacity as head of the EPPD, has an integral role in developing and implementing EPPD procedures for responding to situations involving the mentally ill; investigating EPPD officer misconduct and determining appropriate discipline; and developing the scope and content of EPPD officer training.

86. Mr. Thompson's rights to be free from unreasonable seizure were violated because The City of El Paso, and City Council as policymakers delegated the policy making authority to its Chief promoted, adopted, and promulgated a policy or custom of allowing his arresting Officer to wrongfully arrest citizens such as Mr. Thompson without a proper investigation or probable cause EEPD has a practice of warrantless mental health arrests without authority or probable cause.

a. Failure to institute proper procedures to ensure officers employ appropriate tactics when dealing with persons suspected of suffering from mental illness and chose not to implement proper procedures when faced with an individual suffering from a mental illness episode. This was the case with Mr. Salas-Sanchez resulting in his death at the hands of the untrained, undisciplined officers.

b. The EPPD did not adequately ensure that officers utilized suitable tactics when engaging with individuals believed to be experiencing mental health crises. The City of El Paso's had an unconstitutional emergency detention policy due to its failure to train on the

constitutional limits of the requirements for officers to establish probable cause that an individual poses a significant risk of serious harm, in violation of the Fourth Amendment.

c. Mr. Thompson was in need of serious medical care. He was aware and asked for help for himself. EPPD defendant officers responded and detained him instead of providing medical care. His mental illness did not cause a substantial risk of serious harm to others; there was no need to immediately restrain Mr. Thompson to prevent harm to himself either. There was sufficient time to get the medical care he requested or obtain a warrant if it was necessary before taking Mr. Thompson into custody. The El Paso police department's written policy in place at the time of Michael Thompson's death sanctioned the warrantless emergency detention of a mentally ill individual without probable cause. It further allows detention without a threat of imminent risk of harm. The El Paso Police Department's emergency detention policy failed to limit authorization of warrantless emergency detention of a mentally ill individual who presents a substantial risk of imminent serious harm as required by the well established law and the Texas Health and Safety Code. There is a written policy that promotes unconstitutional conduct and the moving force behind the violation of Michael Thompson's constitutional rights based on the written policy for warrantless emergency detentions of a mentally ill individual. The City of El Paso police department and its Chief, Allen, were aware of the need for crisis intervention units, they exist but chose not to implement them in the situations when they are necessary. The City of El Paso police department does have crisis intervention training, but it does not have an adequate critical intervention team or program for responding to persons in mental health crises where uniformed officers with a licensed mental health professionals respond to field officers' calls

for assistance. El Paso officers are not required to employ appropriate de-escalation and communication tactics.

87. The City of El Paso, its Chief, Greg Allen, and City Council as policymakers violated Mr. Thompson's right to be free from unreasonable seizure because he promoted, adopted, and promulgated a policy or custom of allowing his arresting Officer to wrongfully arrest citizens based on his Officer' inadequate training and supervision. officers using excessive force in the same manner it did against Michael Thompson as it did against another mentally ill person, Michael Sosa.

88. El Paso Officers Dominic Guerrero, Thomas Sneed, John Spencer, Michael Arias, Alonzo Martinez, Aaron Johnston, and Jesus Cobos and Guerreo deliberately or recklessly violated Mr. Thompson's civil rights under the color of law through an unreasonable seizure against him.

89. No probable cause existed to arrest Mr. Thompson, nor did the Officer conduct a proper investigation or gather any evidence to effectuate an arrest.

90. Defendants were sufficiently aware that The City of El Paso and its Chief and City Council as policymakers's supervision and training policies were defective, incomplete, or routinely ignored by its Officer (at least to the extent that they facilitated, permitted, and encouraged the unreasonable seizure against Mr. Thompson and other individuals and provide adequate and obvious medical care)

91. The City of El Paso and its Chief and City Council as policymakers are liable for enacting and enforcing policies, procedures, or customs of ignoring apparent constitutional

violations, namely unreasonable seizures during illegal detention and arrests of innocent individuals not accused or suspected of any crimes.

92. Mr. Thompson had a right to due process of the law.

93. Dominic Guerrero, Thomas Sneed, John Spencer, Michael Arias, Alonzo Martinez, Aaron Johnston, and Jesus Cobos violated Mr. Thompson's right to due process when he was arrested and detained for no reason or probable cause.

94. There was never a report or conduct showing he was a harm to himself or others..

95. Mr. Thompson had not committed a crime, had no weapons, nor had he been a threat of harm to the Officer or anyone else when Dominic Guerrero, Thomas Sneed, John Spencer, Michael Arias, Alonzo Martinez, Aaron Johnston, and Jesus Cobos detained him.

96. This unlawful arrest was a gross violation of Mr. Thompson's right not to have his liberty deprived without due process.

97. The policy and practices, custom, and procedure, the failures to properly and adequately hire, train, instruct, monitor, supervise, evaluate, investigate and discipline and the unconstitutional orders, approvals, and tolerance of wrongful conduct of the City of El Paso were adopted with deliberate indifference to the constitutional rights of citizens and a moving force of the deprivations of Mr. Thompson's clearly established and well settled constitutional rights under the Fourth amendment in violation of 42 U.S.C. § 1983.

98. The illegal use of force against Michael Thompson was a foreseeable consequence of Dominic Guerrero, Thomas Sneed, John Spencer, Michael Arias, Alonzo Martinez, Aaron Johnston, and Jesus Cobos's conduct.

99. (A) EPPD maintains a policy or custom of excessive force by officers so common and widespread as to constitute a custom that fairly represents municipal policy; (B) EPPD maintains a policy or custom of officers' failure to avoid the use of deadly force against individuals when the officer is not at risk of imminent serious bodily injury or death; (C) EPPD maintains a policy or custom of the use of excessive force by officers when the officer is on notice of a victim's mental health problems that is so common and widespread as to constitute a custom that fairly represents municipal policy; (D) EPPD failed to properly train or supervise members of the El Paso Police Department, including Dominic Guerrero, Thomas Sneed, John Spencer, Michael Arias, Alonzo Martinez, Aaron Johnston, and Jesus Cobos, not to use intermediate or deadly force against an individual who does not place the officer or another at risk of imminent serious bodily injury or death; (E) EPPD failed to properly train or supervise members of the El Paso Police Department, including Dominic Guerrero, Thomas Sneed, John Spencer, Michael Arias, Alonzo Martinez, Aaron Johnston, and Jesus Cobos, on mental health issues and how to implement de-escalation and communication tactics during incidents where their officers have notice and knowledge that the person for whom they are called has a mental health issues; (F) EPPD failed to institute proper procedures to ensure that EPPD officers use appropriate de-escalation and communication tactics in situations in which it is known that an unarmed resident has a mental illness; (G) EPPD failed to pursue criminal or disciplinary charges or support criminal or disciplinary action against officers, including Guerrero, Dominic Guerrero, Thomas Sneed, John Spencer, Michael Arias, Alonzo Martinez, Aaron Johnston, and Jesus Cobos, who have deprived citizens and residents of El Paso of their constitutional rights,

EPPD's policy of excessive force applied to mentally ill individuals' EPPD's failure to institute proper procedures to ensure officers employ appropriate tactics when confronted with mental health issues; EPPD's policy of refusing to discipline EPPD officers involved in instances of excessive force; and EPPD's failure to train officers on responding to mental health crises.

100. Chief Allen is a policymaker who can be charged with actual or constructive knowledge of the official policies or customs within the EPPD. City of El Paso delegated policy-making authority and who would have actual or constructive knowledge of each alleged policy or custom that forms the basis of municipal liability for Mr. Thompson's death.

101. Chief Kyle K. Bonath is a policymaker who can be charged with actual or constructive knowledge of the official policies or customs within the TTEPPD. Texas Tech El Paso Police Department delegated policy-making authority and who would have actual or constructive knowledge of each alleged policy or custom that forms the basis of municipal liability for Mr. Thompson's death.

102. Medical records stated a 36 yo man with pumper 12 personnel [REDACTED] who presents via EMS after witnessing arrest.

103. According to an EMS report, the patient reportedly had been in an altercation with Police in which he was tased repeatedly. Shortly thereafter, the patient then became unresponsive. Narcan was administered by EPPD.

104. EPFD started resuscitation in the field and he had 20 minutes of maximal efforts at resuscitation prior to arrival. Upon arrival, the patient remains unresponsive and cannot provide any history. The EPFD waited 25 minutes to intervene.

Failure to Train, Supervise, and Discipline The City of El Paso and its Police and Fire Chiefs, Texas Tech El Paso Police Department and City Council as policymakers

105. The defendants were deliberately indifferent to the need to supervise, train, investigate, discipline its officers on the need to refrain from unreasonable use of force, unlawful detention, recognize an individual experiencing excited delirium, and the requirement to provide adequate medical care for a person's serious and obvious medical needs.

106. There was a failure to supervise and correct the wrongful and illegal behavior of its agents, staff, Officer, and employees; there was a culture of silence, concealment, and tolerance of such conduct, and there was a failure to train, resulting in unreasonable force, an unlawful detainment, and denial of medical care.

a. The claims against Chief Allen and The City of El Paso do not respondeat superior claims but rather based on their involvement in implementing and promoting the unconstitutional practices within The City of El Paso police department.

b. As stated above, the Chief and Council wrongful conduct of failing to train their officers on the constitutional limits involved in the use of excessive force in effectuating arrest, the lawfulness of a detention, and the need to provide medical care for a serious medical need and avoid the homicides based on increased lactic acid resulted in the highly

predictable consequence suffered by Michael Thompson and shows a sufficient causal connection exists between it and the constitutional violation suffered by Michael Thompson.

Denial and Delay in medical care by EPPD Police, EPFD Paramedics, TTEPPD personnel

107. Fire medical services, The Pumper 12 medical personnel [REDACTED] (FMS) were on the scene, knew Mt. Thompson had been tased and stood by as they idly watched officers place Mr. Thompson and in the back seat of Officer Guerrero's squad car restrained face down and in the prone position.

108. They watched with the officers on the scene as Mr. Thompson became limp and was not responding to the officer's commands.

109. FMS did not intervene to start Cardio Pulmonary Resuscitation (CPR) or other lifesaving measures.

110. Every officer and medical provider on the scene dismissed Mr. Thompson's medical distress and attributed it to passive resistance to prevent himself from being arrested for no crime at all.

111. Officer Arias grabbed Mr. Thompson's legs and asked for help to help place Mr. Thompson in the back seat. Officer Spencer asked FMS to check to see if he's breathing, instead of simply watching Mr. Thompson as he was dying.

112. It was at that point claimed he had a pulse, but officer Thomas Sneed did not notice Mr. Thompson's back rose as he breathed.

113. Officer Sneed told FMS he did not believe Mr. Thompson was breathing. FMS did not start to perform CPR or take any other lifesaving measures.

114. FMS failed to provide any emergency medical care from the time Mr. Thompson became unresponsive until officers had to ask them to then conduct a second pulse check on Mr. Thompson after asking officers to turn Mr. Thompson over.

115. After the second pulse check, the FMS paramedic stated he did not feel a pulse this time, but FMS personnel did nothing, no CPR or other lifesaving measures were taken.

116. They left Mr. Thompson in the back of the squad car. Officers Sneed and Arias took over and pulled Mr. Thompson out of the vehicle and sat him in an upright seated position against officer Sneed's right leg. Mr. Thompson was not breathing, his eyes were open and had bluing around his lips.

117. Next, with further delay, the FMS paramedic used a small flashlight to check the response of Mr. Thompson's eyes to light as he sat limp on the concrete against the outside of the squad car, but still no CPR or other lifesaving measures were taken. FMS paramedics allowed officer Thomas Sneed to reach down to hold open Mr. Thompson eyelids, the FMS paramedic scanned his light over the pupils of Mr. Thompson and observed his pupils to be static and not responding to light.

118. Yet, no CPR or other lifesaving measures were taken by FMS. Officer Guerrero stepped in and removed his handcuffs from Mr. Thompson.

119. Arias also claimed to assist in taking Mr. Thompson's handcuffs off and placing his hands to his side and standing over Mr. Thompson's feet.

120. Instead of helping with lifesaving measures Arias performed a pat down search of Mr. Thompson.

121. Arias searched Mr. Thompson's pant pockets, waistline, pant legs and socks just in case Mr. Thompson was responsive to CPR efforts and resuscitated he would not try to harm the officers or medical personnel.

122. It was at that point that FMS emergency medical providers began to conduct CPR on him and call for a rescue unit to arrive at the scene and began further assessment and triage of Mr. Thompson.

123. Officer Thomas Sneed and Officer Spencer administered Narcan since they did not fathom that Mr. Thompson was in any mental health or medical distress but may be under the influence of narcotics. In contradiction to the basis for detaining him based on his mental health concerns.

124. The FMS paramedics The rescue unit then transported Mr. Thompson to the University Medical Center (UMC) for assessment and possible treatment.

125. Sgt. Jacqueline Aguilera was on the scene in response to the use of force reported. She did not investigate on any probable cause to detain Mr. Thompson, whether there was a need for emergency medical care once the use of force occurred or required her officers on the scene to.

126. Sgt. Jacqueline Aguilera watched as the officers she supervised then attempted to place a limp Mr. Thompson in the backseat of a squad car.

127. She falsely stated in her report that Mr. Thompson was uncooperative and refused to walk on his own or obey commands from the officers, but she failed to include that he was not breathing, with a faint pulse and limp as the other officers on the scene reported.

128. She was aware he had been tasered and allowed officers to place Mr. Thompson in the prone position, laying face down in the backseat of the unit taking any last ditch chances he had at breathing to its lowest levels.

129. She claimed that and while he was laying face down the officers issued verbal commands to the subject to sit up right.

130. The subject still refused to obey the verbal commands from the officers.

Failure to Train

131. Chief Allen, Chief Bonath and the City of El Paso failed to train on deferring to medical or to allow medical check for medical distress when available.

132. Axon failed to train officers to avoid foreseeable misuse of its product.

Negligence

Axon and Walmart were both negligent.

Texas Tech Police Department officer Cobo was working a city-approved extra job for Walmart. There was no training by EPPD for work as an off duty officer working in any capacity. There were no oversight provisions in place to supervise or monitor Cobos by Walmart or ELPD while working at Walmart. There were no oversight provisions in place of Harris and Mawhood while working at Walmart by Walmart. There were no training, rules, handbooks, guidelines provided by Walmart to Harris and Mawhood except they were required by Walmart to wear a HPD uniform while working off duty, which the officers followed. There were no training, rules, handbooks, guidelines provided by The City of El Paso HPD to Harris and Mawhood in working the extra job off-duty except they are to obtain a work permit. Neither Walmart nor the City of El Paso supervised Cobos to prevent

him from stalking Mr. Thompson looked to arrest him for any reason although he was on duty with Walmart and off-duty as an officer. Walmart's negligent training, hiring and supervision were the proximate cause of the injuries and death suffered by Mr. Thompson. Axon failed to provide appropriate training, instruction or guideline in the use of its product on individuals that might be susceptible to increased risk of danger if exposed to tasing. It negligently misrepresented the safety level of its use or set forth training to demonstrate the proper use. Sgt. Jacqueline Aguilera claimed to be an instructor on its use but did not train on the proper use and relied on her Axon training.

DAMAGES

133. Plaintiff seeks all damages allowed by law as a result of the aforementioned forming the basis for each of his causes of action.

134. Plaintiff requests damages within the jurisdictional limits of the Court including:

- a. Physical pain and mental anguish;
- b. Loss of earning capacity and lost wages;
- c. Disfigurement;
- d. Physical impairment;
- e. Medical care expenses;
- f. Out-of-pocket economic losses.
- g. other expenses related to the detention of Michael Thompson; and
- h. exemplary/punitive damages.
- i. Plaintiff's reasonable and necessary attorneys' fees;

j. Costs of court;

k. Pre-judgment and post-judgment interest at the highest rates allowable by law;

j. Injunctive relief against Defendants barring the use of excited delirium description, a non-medical term, and taser guns in non-threatening situations; and

l. For such other and further relief, both general and special, at law and in equity, to which Plaintiff may show himself entitled.

135. The damages sustained by Plaintiff were approximately caused by the Defendants as set forth herein.

136. Plaintiff respectfully requests the Court and jury to determine the amount of the loss Plaintiff has incurred in the past and will incur in the future.

137. There are certain elements of damages provided by law that Plaintiff is entitled to have the jury in this case separately consider determining the sum of money for each element that will fairly and reasonably compensate Plaintiff.

VII. ATTORNEYS FEES

138. After prevailing herein, Plaintiff is entitled to recover reasonable and necessary attorneys fees and costs to enforce his constitutional rights under 42 U.S.C. § 1983 and 1988 from Defendants.

VIII. REQUEST FOR DISCLOSURE

139. Under Texas Rule of Civil Procedure 194.2, Plaintiff requests that Defendants disclose, within 50 days of the service of this request, the information or material described in all of Texas Rule of Civil Procedure 194.2 (a)-(1).

IX. JURY DEMAND

140. Pursuant to Texas Rule of Civil Procedure 216, Plaintiff respectfully requests and demands a trial by jury.

X. TOLLING

141. The minors' claims are tolled until they reach the age of majority, and fraudulent concealment of the identity and facts of the events..

XI. PRAYER

142. Plaintiff prays that he has a judgment against Defendants for actual damages shown and proven at trial, for prejudgment, post-judgment interest, for costs of court, and for all other relief, legal and equitable, to which he is entitled.

Respectfully submitted,

By: /s/U.A. Lewis

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