DISTRICT COURT, ARAPAHOE COUNTY, COLORADO 7325 S. Potomac Street Centennial, CO 80112	
Plaintiffs:	
BRITTNEY GILLIAM, individually; L.T., a minor, by and through their legal guardian Brittney Gilliam; E.G., a minor, by and through their legal guardian Brittany Gilliam; N.J., a minor, by and through their legal guardian Ronald Gilliam; and T.T., a minor, by and through their legal guardian Danesha Rogers	
V.	
Defendants:	
CITY OF AURORA, COLORADO, a municipality; OFFICER J. KWON; OFFICER K. MASON; OFFICER D. DASKO; OFFICER M. MOEN; OFFICER D. DREXEL; and CHIEF VANESSA WILSON.	▲COURT USE ONLY▲ Case NoCV Courtroom
Plaintiffs' Counsel David A. Lane # 16422 Darold W. Killmer # 16056 Liana Gerstle Orshan # 46553 Tyrone Glover # 41529 KILLMER, LANE AND NEWMAN, LLP 1543 Champa St., Ste. 400 Denver, CO 80202 Phone: (303) 571-1000 Facsimile: (303) 571-1001 dlane@kln-law.com dkillmer@kln-law.com lorshan@kln-law.com tglover@kln-law.com	

Complaint and Jury Demand

Plaintiffs, through their attorneys David A. Lane, Darold W. Killmer, Liana Gerstle Orshan, and Tyrone Glover of KILLMER, LANE & NEWMAN, LLP, respectfully allege for their Complaint and Jury Demand as follows:

INTRODUCTION



"I'm frightened and scared. I want my mommy. I want my father. Can I help my sister? Can I have my sister next to me?" – Minor Plaintiffs

"I can't get the screams from my cousins out of my mind. What these police officers did to us changed our life." – Plaintiff T.T.

1. Without any justification, Aurora Police Department Officers Kwon, Mason, Dasko, Moen, and Drexel ("Officer Defendants") seized Plaintiff Brittany Gilliam and the four minor Plaintiffs accompanying her. The Officer Defendants did so in the most horrifying and terrifying way: by pointing loaded guns at Plaintiffs and forcing them out of their car at gunpoint. Officer Defendants then forced the minor Plaintiffs to lie face-down on the ground. In utter terror, six-year-old L.T. (pictured, above, far left in a pink tiara) clung desperately to her

14-year-old cousin's (T.T.'s) hand, sobbing and calling for her mother. The other minor Plaintiffs, E.G. (17 years old) and N.J. (12 years old), had their hands handcuffed behind their backs while they were lying on their stomachs.

- 2. Ms. Gilliam, who is L.T.'s mother, E.G.'s sister, and N.J. and T.T.'s aunt, was handcuffed, searched, and placed in the back of a squad car, unable to console and comfort her traumatized young family members.
- 3. All Plaintiffs were seized and searched—at gunpoint—without probable cause or reasonable suspicion to believe they, or indeed, that *any one of them,* had committed any crime. All were the victims of excessive force by Officer Defendants and all were targeted because they are Black.
- 4. Despite their obvious innocence and the lack of probable cause or even reasonable suspicion to believe that they had committed any crime, it would be hours before Officer Defendants finally released the family.
- 5. Plaintiffs bring this action to seek accountability from the Officer Defendants and their commanders who work within a police department that is out of control in its racism and brutality, as well as in an attempt to restore the humanity taken from these young girls and Ms. Gilliam.
- 6. This action is against Aurora and several Aurora police officers for unlawful seizure, excessive force, and the denial of equal protection of the law, in violation of the Colorado Constitution, article II, sections 7 and 25, and is brought under Colorado Revised Statutes section 13-1-124(b).

JURISDICTION AND VENUE

7. This Court has jurisdiction under Colo. Rev. Stat. § 13-1-124(b).

8. Venue is proper under C.R.C.P. 98(c)(5).

PARTIES

- 9. At all times relevant to this Complaint, Plaintiff Brittney Gilliam was a citizen and resident of the State of Colorado.
- 10. At all times relevant to this Complaint, Plaintiff L.T. was a citizen and resident of Colorado. Plaintiff L.T. is a minor and brings this action by and through her legal guardian and mother, Brittney Gilliam.
- 11. At all times relevant to this Complaint, Plaintiff E.G. was a citizen and resident of Colorado. Plaintiff E.G. is a minor and brings this action by and through her legal guardian Brittney Gilliam.
- 12. At all times relevant to this Complaint, Plaintiff N.J. was a citizen and resident of Colorado. Plaintiff N.J. is a minor and brings this action by and through her legal guardian and father, Ronald Gilliam.
- 13. At all times relevant to this Complaint, Plaintiff T.T. was a citizen and resident of Colorado. Plaintiff T.T. is a minor and brings this action by and through her legal guardian and mother, Danesha Rogers.
- 14. Defendant City of Aurora, Colorado ("Aurora"), is a municipality organized under the laws of the State of Colorado. Defendant City of Aurora enforces local and state law through its law enforcement agency, the Aurora Police Department ("APD").
- 15. At all times relevant to this Complaint, Defendant City of Aurora employed and was responsible for the oversight, supervision, discipline, and training of APD personnel, including Officer Defendants.
 - 16. Officer Defendants were agents of the City of Aurora and at all times relevant

herein were acting within the course and scope of their agency.

- 17. At all times relevant to this Complaint, Defendant Officer J. Kwon was acting within the scope of their official duties and employment and under color of state law in their capacity as an APD police officer. At all relevant times, Defendant Kwon was a citizen of the United States and resident of the State of Colorado.
- 18. At all times relevant to this Complaint, Defendant Officer K. Mason was acting within the scope of their official duties and employment and under color of state law in their capacity as an APD police officer. At all relevant times, Defendant Kwon was a citizen of the United States and resident of the State of Colorado.
- 19. At all times relevant to this Complaint, Defendant Officer D. Dasko was acting within the scope of their official duties and employment and under color of state law in their capacity as an APD police officer. At all relevant times, Defendant Kwon was a citizen of the United States and resident of the State of Colorado.
- 20. At all times relevant to this Complaint, Defendant Officer M. Moen was acting within the scope of their official duties and employment and under color of state law in their capacity as an APD police officer. At all relevant times, Defendant Kwon was a citizen of the United States and resident of the State of Colorado.
- 21. At all times relevant to this Complaint, Defendant Officer D. Drexel was acting within the scope of their official duties and employment and under color of state law in their capacity as an APD police officer. At all relevant times, Defendant Kwon was a citizen of the United States and resident of the State of Colorado.
- 22. At all times relevant to this Complaint, Defendant APD Chief Vanessa Wilson was acting within the scope of her official duties and employment and under color of state law in

her capacity as Chief of Police for APD. At all relevant times, Defendant Wilson was a citizen of the United States and resident of the State of Colorado.

- 23. At all relevant times, Defendant Wilson had the authority and obligation to make and enforce policy for, train, supervise, oversee, and discipline all APD officers, including Officer Defendants.
- 24. Defendant Officers Kwon, Mason, Dasko, Moen, and Drexel are collectively known herein as "Officer Defendants."
- 25. Officer Defendants and Defendant Chief Wilson are collectively known herein as "Individual Defendants."

FACTUAL ALLEGATIONS

A. Officer Defendants unlawfully seized Plaintiffs through the use of excessive force.

- 26. On August 2, 2020, four young Black girls' lives were changed forever. What was supposed to be a fun family outing turned into a horror show that has and will permanently shape the lives of these young girls.
- 27. The day was supposed to be one of family bonding. After months of being cooped up due to COVID-19, businesses were reopening, and people were venturing out to find some sense of normalcy in a safe and responsible way. This was Brittney Gilliam's intention when she planned a "Sunday funday" girls' outing with her daughter, L.T., who was 6 years old; her sister, E.G., 17; and her two nieces: T.T., 14, and N.J., 12.
- 28. Ms. Gilliam, a food service worker at the Denver County Jail, had planned for the group to get their nails done at a salon and then go out for ice cream. She drove the four girls to Seasons Nails at Iliff Crossing in Aurora, Colorado. Unfortunately, the nail salon was closed.

- 29. Ms. Gilliam parked her car in the salon parking lot while she used her phone's web browser to look for other nail salons that would be open.
- 30. Ms. Gilliam was legally parked with four minors in the car and no other adults. She was therefore shocked when an APD patrol vehicle pulled up behind her car, and Defendant APD Officer Dasko, the driver of the vehicle, and Defendant Officer Moen, the passenger, immediately exited their patrol car in full APD uniform with their guns drawn and pointed at Ms. Gilliam's vehicle.
- 31. Defendant Officers Dasko and Moen, while standing on either side of their police cruiser with their guns drawn and pointed at Ms. Gilliam's car, yelled at Ms. Gilliam and the minor Plaintiffs to put their hands out their windows. Plaintiffs complied with the request. Ms. Gilliam, with her hands out the window, asked the officers, "What is going on?" Defendant Officer Dasko responded, "I will tell you once you get out."
- 32. With her gun still drawn and pointed at Plaintiffs, Defendant Officer Moen ordered E.G., who was sitting in the front passenger-side of the car, to get out of the car, which E.G. did. Defendant Officer Moen then ordered E.G. to lay on her stomach on the parking lot pavement with her hands outstretched and flat in front of her.
- 33. Defendant Officer Dasko, gun drawn, then ordered the Plaintiff who was sitting in the rear *driver*-side of the car to exit the car. N.J., who was seated in the rear *passenger*-side, was scared and confused and began to get out. Defendant Officer Moen pointed her gun at N.J.—a twelve-year-old—and both officers yelled orders to her to get back in the vehicle. Terrified, N.J. complied.
- 34. Defendant Officer Dasko again ordered the rear driver-side passenger, who was fourteen-year-old T.T., out of the vehicle. T.T. did so. Defendant Officer Dasko ordered T.T., at

gunpoint, to join E.G. on the passenger side of the vehicle. T.T. was instructed to lie on her stomach on the pavement with her hands outstretched and flat in front of her.

- 35. Next, Defendant Officer Moen, gun drawn, ordered N.J. and six-year-old L.T. out of the rear of the vehicle. They both complied. Defendant Officer Moen ordered them to join E.G. and T.T. on the ground. Defendant Officer Moen instructed both girls to also lie on their stomachs, with their hands outstretched and flat in front of them.
- 36. Lastly, Defendant Officer Dasko, gun drawn, ordered Ms. Gilliam out of the car. He yelled at her to get on the ground and to show her hands. Even after Ms. Gilliam complied, Defendant Officer Dasko continued yelling for her to show her hands. He ordered Ms. Gilliam, like the girls, to lie on her stomach with her hands outstretched and flat in front of her.
- 37. Two more APD police cruisers, in which at least Defendant Officers Kwon, Mason, and Drexel were riding, arrived at the scene.
- 38. Defendant Officer 3¹ walked up behind Ms. Gilliam and handcuffed her while Defendant Officer Dasko continued to hold her a gunpoint. Defendant Officers 4 and 5 then handcuffed N.J. and E.G. while Defendant Officer Moen held them at gunpoint.
- 39. Defendant Officer 4 tried to handcuff six-year-old L.T., but the handcuffs were too big to fit around her wrists. T.T. tried to console L.T. by holding her hand as she screamed and cried for her mother, Ms. Gilliam.

¹ Defendant Aurora has refused Plaintiffs' counsel's requests to provide information or records so that Plaintiffs could identify each Defendant Officer's full name and specific conduct. Accordingly, while Plaintiffs have been able to identify Officer Moen's and Officer Dasko's actions, Plaintiffs otherwise use the terms "Defendant Officer 3," "Defendant Officer 4," and "Defendant Officer 5" to distinguish between the other three Defendant Officers' actions. As used herein, these terms are explicitly intended to refer to one of the following individuals: Defendant Officer Kwon, Defendant Officer Mason, *or* Defendant Officer Drexel.

- 40. Because the officers could not handcuff L.T., the Officer Defendants forced L.T. and T.T. to continue lying face-down on the pavement with their arms over their heads and their hands flat on the ground. N.J.'s and E.G.'s hands remained handcuffed behind their backs.
- 41. Once Ms. Gilliam and the girls were in handcuffs and lying face-down on the ground, Defendant Officers Dasko and Moen put away their guns. Defendant Officer 4, a male officer, patted each of the young girls down while Defendants Officer Moen and Officer 5, both female officers, stood and watched. Defendant Officer Moen and Officers 4 and 5 eventually allowed the girls to sit up, but kept N.J. and E.G. in handcuffs for another 5-10 minutes.
- 42. Ms. Gilliam was frisked, and then the Officer Defendants took her away from her daughter and other young relatives and detained her in the back of a police cruiser. She remained detained in the police car, handcuffed behind her back, for longer than ten minutes.
- 43. Numerous APD officers continued to arrive at the scene. Eventually, as many as fourteen APD officers were present.
- 44. A crowd of roughly fifteen onlookers also amassed while the incident was occurring. Some of the observers recorded the Officer Defendants' actions.
- 45. Defendant Officer Moen and Officers 4 and 5, who were walking back and forth in front of the girls, ignored the minor Plaintiffs' repeated calls for their mothers, fathers, and aunts. The bystanders looked on in horror as the girls screamed and cried; they stood powerless to stop what was happening.
- 46. A couple of the bystanders pleaded for the officers to put away their weapons and asked to speak to the children. Officers responded by telling the eyewitnesses to back up because they were interfering in the "investigation." One bystander who was recording the incident remarked in disbelief, "they have guns drawn on kids!"

- 47. The deplorable fact that multiple Aurora police officers held innocent Black children handcuffed and at gunpoint, and multiple other officers did not intervene, is evidence of the profound and systematic problem of racism and brutality within APD.
- 48. Despite never having reasonable suspicion or probable cause to believe any Plaintiffs had committed any offense, Officer Defendants kept N.J. and E.G. in handcuffs for over fifteen minutes. All four children were forced to stay lying down on the pavement or sitting up for approximately the same amount of time.
- 49. Ms. Gilliam was eventually uncuffed but was not allowed to leave the scene of the incident for over two hours. In fact, the APD officers did not allow any of the Plaintiffs to leave, including the minor Plaintiffs, until an APD sergeant arrived.
- 50. After two hours, several APD sergeants arrived at the scene. They informed Ms. Gilliam and the minor Plaintiffs that everything had been done according to APD procedures.

 Defendant APD Chief Wilson would later release a statement where she indicated the same—that this was all done according to APD protocols and procedures.
- 51. The video footage of Officer Defendants' horrific actions went viral internationally. In response, the APD claimed that the information that had triggered police involvement was from a license plate scanner that indicated Ms. Gilliam's license plate matched that of a stolen vehicle. However, the alleged stolen vehicle was a motorcycle with Montana license plates, not an SUV with Colorado plates, which was what Ms. Gilliam was driving.
- 52. Ms. Gilliam repeatedly asked to show Officer Defendants her registration which would have immediately revealed that her vehicle was not stolen, yet none of the officers permitted her to undertake this simple action.
 - 53. Regardless, at the very least, after contacting Ms. Gilliam and the girls, it should

have been readily apparent to Officer Defendants that they had the wrong vehicle and persons.

Nevertheless, Officer Defendants continued using unlawful force against Plaintiffs and prolonging their unlawful seizure long after Officer Defendants knew or should have known that they had no probable cause or even reasonable suspicion to detain Plaintiffs, much less the authority to use force and restraint to do so.

- 54. There was no indication whatsoever that Ms. Gilliam and the minor Plaintiffs posed any danger to Officer Defendants or anyone else. On the contrary, it was Officer Defendants who placed an innocent woman and four children at risk of harm by holding them at gunpoint, cuffing and frisking them, and leaving them permanently traumatized.
- 55. Officer Defendants caused Ms. Gilliam and the four girls to be in fear for their lives. All five Plaintiffs have suffered severe distress due to Officer Defendants' conduct.
- 56. T.T. cannot get the terrified screams of her cousins out of her mind. The girls struggle to sleep and eat. All are in therapy to attempt to help them deal with what happened that day. Ms. Gilliam, E.G., and L.T. attend therapy twice a week. N.J. and T.T. go once a week.
- 57. All of the Plaintiffs now fear police officers, and the minor Plaintiffs would be afraid to contact the police in the future, even if they were in danger and in need of assistance.
- 58. Video of the incident shows the extreme trauma to which Officer Defendants unlawfully subjected Plaintiffs, as seen here:

https://www.dropbox.com/sh/ijjmoigk8xlbajf/AAC0pvhM18IrM9YlMpNix4KFa?dl=0

- 59. None of the Officer Defendants were disciplined or placed on leave, and all continue to work as APD police officers.
 - B. <u>Defendant Wilson's failure to adequately train, supervise, and discipline</u>
 APD officers caused Officer Defendants to unlawfully seize and use force

against Plaintiffs.

- 60. Defendant Wilson's consistent failure to adequately train, supervise, and discipline APD officers in issues relating to the use of racially biased policing, unreasonable searches and seizures, and excessive force was the moving force behind Officer Defendants' unlawful seizure of Plaintiffs.
- APD has a custom, policy, and/or practice of unlawful conduct, with which Defendant Wilson is or should be quite familiar. This includes, but is not limited to, racially-biased policing; aggression and violence when policing Black people; using excessive force, particularly against Black people; unlawfully detaining, searching, arresting, or charging people, particularly Black people; and failing to discipline officers, or even find the officers engaged in wrongdoing, in the face of these obvious violations of the law.
- 62. APD's conscious decision to continue its training regimen unchanged, and to maintain its policies, practices and procedures knowing that doing so leads to blatantly unconstitutional encounters including those described herein, demonstrates deliberate indifference to the fundamental constitutional rights of people including all Plaintiffs in this action.
- 63. As a result of Defendant Wilson's failure to adequately discipline APD officers who commit violations of the law, she has communicated to APD officers that such violations are authorized and, indeed, expected, and when used will be defended or covered up by the supervisory and municipal apparatus of the City. It has therefore become customary among APD officers to unlawfully seize individuals and use unjustified and excessive force them, particularly if they are Black.
 - 64. Defendant Wilson's tolerance of APD officers using race and race-based animus

as motivating factors in police decisions and actions, and her failure to adequately supervise and train APD officers in the rights of individuals to be free from such race-based decision-making in law enforcement, has likewise led to Aurora police officers, on a regular basis, engaging in racially biased policing.

65. Aurora's unlawful customs, policies, and practices are demonstrated by its history of misconduct, brutality and race-based discrimination, as reflected in both a statistical analysis of its policing and by the many prior incidents involving APD officers engaging in such conduct. Accordingly, Defendant Wilson knew or should have known of the obvious risk of harm faced by individuals, especially Black individuals, contacted by APD yet she took no or inadequate action to address such risk.

1. Aurora police officers are more likely to use force against Black people.

- 66. Aurora's unlawful customs, policies, and/or practices are demonstrated in a variety of ways, including through statistics showing that APD officers are more likely to use force against Black people, even though Black people comprise a minority of the Aurora population.
- 67. For example, from January 2013 through December 2019, APD ranked 8th out of the 100 largest cities in the United States for most police killings per capita. During that same period, APD killed Black people at 4 times the rate it killed white people.²
- 68. Statistical analysis of APD's recent history with Black people also demonstrates the widespread, systemic nature of APD's unlawful pattern of using force against Black people. Statistical analyses show that a statistically significant racial disparity exists in APD's use of

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² Police Accountability Tool, https://mappingpoliceviolence.org/cities (last visited July 9, 2020).

force against Black people compared to its rate of using force against Caucasians and its rate of using force against all other races besides Black people.³

- 69. Statistics show that APD's use of force per arrest is 1.26 times greater against Black arrestees than against arrestees of other races. APD's deadly and injurious use of force per arrest is 1.43 times greater against Black arrestees than against arrestees of other races. APD's use of Taser weapons per arrest is 1.40 times greater against Black arrestees than against arrestees of other races. APD's use of force per arrest was also higher against Black arrestees than against only Caucasian arrestees. Black people arrested by APD thus had a disproportionately high risk of experiencing use of force compared to arrestees of all other races, as well as specifically compared to Caucasians.⁴
- 70. Indeed, in 2017, for example, APD's rate of use of force per person was 5.5 times greater against Black people than people of other races.⁵
- 71. Departmental data similarly showed that in 2019, almost half of the people against whom APD officers used force were Black, even though Black people only make up 16% of Aurora's population.
- 72. Statistics show that Black people presented no higher risk of officer injury during arrest than Caucasian arrestees, meaning that risk to officer Officers not explain APD's higher use of force against Black people relative to Caucasians.⁶
- 73. The disparities in the use of force by APD against black people compared to white people are statistically significant, meaning that they are not explained by chance alone. The

³ July 14, 2020, Report by Dr. Lance Kaufman of Bardwell Consulting Ltd.

⁴ Id

⁵ *Id*.

⁶ *Id*.

level of statistical significance permits an inference that race is a motivating factor in the frequency of the use of force withing the APD.

- 74. Despite the consistently disproportionate use of force against Black people—the percentage of Black people whom APD officers have used force against has stayed between 38% and 53% of all APD uses of force since 2014—Aurora's annual use of force reports do not attempt to explain or understand the persistent disparately negative treatment of Black people over the course of many years.
 - 2. APD officers have a history of committing police brutality, especially against Black victims, and racially profiling Black individuals.
- 75. Aurora's unlawful customs, policies, and/or practices are also demonstrated by many incidents of brutality by APD, especially against Black victims, and racially-biased policing by APD.
- 76. For example, on March 1, 2020, an APD officer confronted Dr. P.J. Parmar, a person of color, when Dr. Parmar arrived at his business. As Dr. Parmar drove up to his garage, he found an APD officer parked on his property. Dr. Parmar stopped immediately and honked. At that point, the officer jumped out of his car and swore at Parmar. The officer then pulled out his gun while running toward Dr. Parmar's car. The officer pointed his gun at Dr. Parmar's head without having any reason to believe that Dr. Parmar was committing or had committed a crime, or posed any threat to the officer or anyone else. Dr. Parmar calmly and repeatedly asked the officer to leave his property, to which the officer repeatedly demanded—without any legal justification—that Dr. Parmar prove that it was his property. Instead of leaving, the officer called in two other APD officers. APD had no reasonable suspicion much less probable cause for its officer's seizure of Dr. Parmar, which was clearly motivated by racial profiling. Dr. Parmar has

filed a lawsuit against Aurora and the officer based on the incident, which is pending.

- 77. On August 27, 2019, APD Officer Levi Huffine arrested Shataeah Kelly for a suspected municipal code violation. Officer Huffine handcuffed and shackled Ms. Kelly and left her lying down, hobbled, in the back of his patrol car while he drove her to the police station. At some point, Ms. Kelly slipped off the seat such that her head and chest were inverted and she was half upside down on the floor of the patrol car, in a dangerous and exceedingly uncomfortable position. She repeatedly begged Officer Huffine for help, telling him that she could not breathe, that her neck was breaking, and that she didn't want to die this way. Officer Huffine ignored her pleas, leaving her in the dangerous, painful position for approximately 21 minutes.
- 78. On August 24, 2019, Elijah McClain was listening to music, enjoying the short walk home from the corner store where he had bought some iced tea, when Aurora police officers grabbed, tackled, and assaulted him. Officers brutalized Mr. McClain for nearly eighteen minutes—approximately fifteen minutes of which he was handcuffed and lying on the ground, completely under the officers' control. The force that Aurora officers used against Elijah included compressing his neck and the blood flow to his brain with two consecutive carotid holds, cranking his left shoulder with an armbar hammerlock that caused it to repeatedly pop, and, even after he was handcuffed with his hands behind his back, continuing to crush him under the weight of their bodies and slamming him to ground when he arched up slightly to vomit or in response to the pain. One officer also jammed his knee into Elijah's arm for minutes on end, with the sole purpose of inflicting pain by forcefully separating Elijah's bicep and triceps muscles. All the while, the officers terrorized Elijah with additional threats that they would tase him and sic a police dog on him. As Elijah McClain lay handcuffed, in his own vomit, on the ground, under

the hundreds of pounds of combined weight of APD officers, Aurora Fire Rescue paramedics involuntarily injected him with a massive dose of ketamine. Minutes after the injection, paramedics noticed that he was not breathing and had no pulse. Elijah McClain never regained consciousness, and was declared dead a few days later. APD investigated its officers' conduct but, as is customary, found no wrongdoing. A lawsuit brought by his estate and surviving family member against Aurora and the involved officers and paramedics is pending.

79. On June 30, 2020—shortly after news of Aurora's murder of Elijah McClain gained international prominence—Defendant Wilson announced that multiple APD officers, including several who had participated in the use of force against Mr. McClain were the subjects of a completed internal affairs investigation that had revealed that many months earlier, those officers had returned to the scene of Mr. McClain's killing to take photographs of themselves, in uniform, re-enacting elements of that use of force. The photos included mimicry of the carotid chokeholds employed by APD officers against Mr. McClain, and emulated the American racist tradition of white people taking photos of themselves at the scenes of lynchings. The actions of these officers in creating and distributing smiling photos of themselves reenacting that chokehold at the site of Mr. McClain's killing by APD officers demonstrate that rank-and-file APD officers operate under the assumption that racist behavior will be tolerated or approved of by their colleagues and superiors. Indeed, the officers were so unafraid of professional consequence for their racist mockery of Mr. McClain's killing that they freely distributed their photos to other APD officers—again, emulating the tradition of white people turning the photographs of themselves at lynchings into so-called "lynching postcards" to be mailed to friends and family. Although APD fired the involved officers, the fact that some of those same officers were never disciplined for their actions (and inactions) that caused Elijah McClain's death shows Aurora's

preoccupation with harm to the reputation of its police force rather than the harm that its officers, including Officer Defendants, cause to the Aurora community.

- 80. Also subsequent to Mr. McClain's death gaining international attention, on June 27, 2020, thousands of protesters gathered at the Aurora Municipal Center—which houses APD headquarters—to protest his killing and to celebrate Elijah's life with a peaceful violin vigil. In a bizarre and unwarranted display of force, dozens of APD officers clad in riot armor and openly displaying weapons appeared at the peaceful protest. Though the protesters posed no threat to the APD officers, the officers began using force against protesters, including the use of batons, pepper spray, and smoke grenades. Video shows terrified protesters fleeing from the onslaught of heavily-armored APD officers, even as a group of violinists peacefully played an improvised melody in Mr. McClain's honor. No officers were disciplined for their conduct during the protest. A class action lawsuit against Aurora and the involved officers is pending.
- 81. On April 3, 2019, Aurora Police officers stopped Teddy Tanoris Pittman, in his vehicle for assertedly failing to use his turn signal. After the officers determined that they were not going to issue Mr. Pittman a citation for his alleged failure to signal, rather than letting him leave, they asked him if he was a gang member and demanded that he step out of the vehicle so he could be searched for weapons. He refused, and one of the officers removed him from the vehicle. A search of his person and vehicle revealed no weapons or illegal contraband. No citation was issued or arrest made. Notably, in January 2019, Aurora officers also stopped Mr. Pittman when he was driving, allegedly for a defective side headlamp. The same sequence of events occurred in which APD officers physically pulled him from his car and then searched his person and vehicle, finding nothing. He was cited for the defective headlamp and for failing to obey a lawful order; both criminal charges were later dismissed. As to both of these incidents,

Aurora determined that the officers acted lawfully and within policy, and no discipline was imposed. Mr. Pittman brought a lawsuit based on both incidents, alleging, among other things, racially selective law enforcement under the Fourteenth Amendment; the equal protection claims (among other claims) recently survived a motion to dismiss. The officers' lack of any other legitimate reason for their initial and continued seizure of Mr. Pittman, as well as the search of his person and vehicle, raises the strong inference that unlawful racial profiling was the real motivation for the stop and search of Mr. Pittman, who is Black.

- 82. On November 21, 2018, Jamie Alberto Torres was fixing a car in his garage with friends when a neighbor complained about noises coming from the garage. APD officers came to Mr. Torres' home solely to investigate this noise complaint, and one of the officers illegally ordered Mr. Torres to exit his garage, threatening to take him to jail. Because Mr. Torres paused momentarily before complying with the illegal order, the officer grabbed Mr. Torres, wrenched his arm behind his back, picked him up, and slammed him to the ground. Even after handcuffing Mr. Torres, the officer continued to attack Mr. Torres by slamming him to the ground again and wrenching his arm behind his back multiple times. During this encounter, Mr. Torres repeatedly screamed in pain. To justify their illegal conduct, the APD officers charged Mr. Torres with resisting arrest and failure to obey a lawful order. A jury found that Mr. Torres was not guilty of these charges at trial. APD investigated its officers' use of force against Mr. Torres but found no wrongdoing. Aurora settled a lawsuit based on this incident, claiming unlawful seizure, excessive force, and racial bias, for \$285,000 in 2020.
- 83. In November 2018, APD contacted Tevon Thomas and his companion, a Black woman, because a woman had called 911 to report that she was frightened by them sitting in their car in her apartment building's parking lot around 4:00 a.m. According to the 911 caller,

Mr. Thomas and his companion "did not belong there." APD officers contacted Mr. Thomas and his friend, who provided the officers with a reasonable explanation for their presence in the parking lot and did not give any indication that they posed a danger or threat to the officers or anyone else. Nevertheless, APD officers forced Mr. Thomas and his friend to exit the car, with the intention of searching the vehicle. Ultimately, a federal judge ruled that APD "unlawfully extended and turned [the contact] into an unjustified or extended stop that had, as its motivation and intention, the search of the car and/or Mr. Thomas." The officers' lack of any other legitimate reason for their prolonged seizure of Mr. Thomas raises the strong inference that Mr. Thomas' race was the prime motivation.

- 84. On September 6, 2018, APD officers used excessive force when, after responding to a car accident involving Andre Williams, a Black man, the officers beat and tased Mr. Williams for not responding immediately to their orders. Even though Mr. Williams showed no signs of aggression or attempting to flee, and, in fact, was having a seizure, the officers took him to the ground. Then, after Mr. Williams had complied with an order to get on his stomach and was surrounded by at least three APD officers, the officers punched him in the head, struck his legs with their knees, and tased him twice. A lawsuit based on this incident, claiming excessive force and racial bias, among other things, is ongoing.
- 85. On July 13, 2017, one APD officer choke-slammed—put his hand around her neck and threw her to the ground—Vanessa Peoples, a Black woman, while police were performing a welfare check in her home. Several other APD officers then piled on Ms. Peoples. What "provoked" the officers' attack was Ms. Peoples' protestations of the officers' misconduct and her failure to be 100% compliant with every single police directive (legal or illegal). Eventually, the officers hog-tied Ms. Peoples so tightly that they dislocated her shoulder. Despite

Ms. Peoples' continued cries of pain, APD officers kept her hog-tied for 30 minutes with her shoulder dislocated. APD officers had no reason to believe Ms. Peoples had committed a crime, yet they charged her with obstruction. Those charges were later dismissed. Ms. Peoples settled her potential claims against Aurora for \$100,000 pre-litigation. Aurora did not discipline any of the involved officers for their unconstitutional actions.

- 86. On April 22, 2017, multiple APD officers responded to a car accident that involved Brandon Washington, a Black man. When Mr. Washington, who had hit his head on his vehicle's steering wheel during the crash, dazedly attempted to stand up out of his vehicle, the officers used excessive force by tasing him repeatedly and subjecting him to a variety of other unwarranted physical force. Aurora did not discipline any of the involved officers for their unconstitutional actions. A lawsuit based on this incident, claiming excessive force and racial bias, among other things, is ongoing.
- On September 14, 2016, an APD officer used unwarranted excessive force against Dennis Seabaugh while Mr. Seabaugh was detained in an Aurora jail cell. After getting frustrated with Mr. Seabaugh's repeated but ineffectual attempts to hang himself by tying a t-shirt around his neck, the officer stormed into the cell, and without providing Mr. Seabaugh reasonable warning, command, or an opportunity to comply, the officer got on top of Mr. Seabaugh and smashed his head down while simultaneously applying his body weight to pin Mr. Seabaugh down. The officer then smashed Mr. Seabaugh's face into a bench in the cell multiple times, while yanking on his arms; ultimately, the officer used so much force pulling on one of Mr. Seabaugh's arms that he broke Mr. Seabaugh's humerus bone. Aurora settled Mr. Seabaugh's excessive force lawsuit based on the incident.
 - 88. On August 12, 2016, two APD officers responding to a report of a Black man

with a gun ordered several occupants out of a residence, including then-minor Julian Campbell, a Black man. Mr. Campbell came outside as commanded, and subsequently obeyed all orders the APD officers gave. Nonetheless, the officers grabbed him, slammed him to the ground, handcuffed him, and cited him for disobeying a lawful order. During the subsequent criminal trial of Mr. Campbell, the court granted a motion for judgment of acquittal at the end of the prosecution's case. A lawsuit based on this incident asserting, among other things, unlawful seizure, excessive force, and racial bias against Aurora and the individual APD officers is ongoing.

- 89. On March 16, 2016, multiple APD officers racially profiled Omar Hassan, a Black man, and ejected him from a coffee shop simply because he is a Black man who was wearing a hoodie. The Aurora officers acted solely on the basis of Mr. Hassan's appearance; they had no reasonable grounds for suspecting that he was engaged in any criminal conduct. Aurora officers told Mr. Hassan that he had to leave the coffee shop, because Mr. Hassan's "kind of business [was] not welcome [t]here." When he questioned the directive, one officer placed her hand on her gun, non-verbally threatening Mr. Hassan with use of deadly force. Upon information and belief, Aurora did not discipline any of the involved officers for their unlawful actions. Aurora paid Mr. Hassan to settle his legal claims.
- 90. On February 19, 2016, Aurora officers stopped and detained Darsean Kelley simply because he was a Black man who happened to be in the vicinity of a reported crime. He questioned the officers' orders and demanded to know whether or not he was being detained. Mr. Kelley complied with officers' orders but also asserted "I know my rights," just as one officer tased him in the back. The Aurora officers conducting the stop had no reason to believe that Mr. Kelley had committed any crime or was armed or dangerous. To cover up the illegal stop and the

unjustified tasing, Aurora charged Mr. Kelley with failure to follow a lawful order. That charge was eventually dismissed, but Aurora found no misconduct and did not discipline any of the officers involved in this unlawful detention and use of excessive force. Aurora paid Mr. Kelley \$110,000 to settle his legal claims prelitigation.

- 91. On December 22, 2015, several APD officers assaulted OyZhana Williams, a Black woman, who was simply visiting her boyfriend in the hospital. When Ms. Williams refused the officer's illegal order that she give him the keys to her car, the officer tackled Ms. Williams, choked her, slammed her head against the ground, and then stomped on her head. Aurora officers had no probable cause or reasonable suspicion to believe Ms. Williams had committed any crime. Yet, to cover up their excessive use of force, the officers charged Ms. Williams with a crime and arrested her. The charges were dismissed. Upon information and belief, Aurora did not discipline any of the involved officers for their unlawful actions. Aurora paid over \$350,000 to settle Ms. Williams' claims.
- 92. On November 14, 2015, two Aurora officers ordered Dwight Crews, a 60-year-old, disabled Black man, out of his home under threat of force, despite the fact that the officers had no warrant and no legal justification to effect a warrantless arrest in the home. After Mr. Crews complied, the officers forcefully threw him to the ground because he had momentarily delayed complying with their illegal commands in order to prevent his cat from getting out of his house. To cover up their unconstitutional conduct, the Aurora officers charged Mr. Crews with resisting arrest. The judge dismissed the charge halfway through Mr. Crews' trial. Upon information and belief, Aurora did not discipline the involved officers for their unconstitutional treatment of Mr. Crews. Aurora paid Mr. Crews to settle his legal claims.
 - 93. On June 29, 2015, APD officers used excessive force against Jeffrey Gale, an

unarmed Black man, after a bystander called 911 to report that Mr. Gale had attempted to steal someone's wallet. The bystander reported to the 911 dispatcher that no physical force, threats, or weapons were used in the attempted theft. Mr. Gale was 49 years old, 5'7", weighed approximately 150 pounds, and suffered from gout in both ankles. After locating Mr. Gale, two APD officers handcuffed him then forced him to the ground, kicking him in the head and back. Five more APD officers joined in to hogtie Mr. Gale. After he was handcuffed, hogtied, and lying face-down on the ground, the officers tased Mr. Gale at least three times, both in the back of his ribs and the back of his head. Mr. Gale was crying out in pain and begging for the officers to stop. One officer responded to his cries of pain by saying, "You better shut the fuck up or this is going to get really ugly for you." Aurora settled an excessive force lawsuit brought by Mr. Gale based on this incident.

- 94. On March 6, 2015, an Aurora police officer used excessive force in the unjustified shooting and killing of Naeschylus Vinzant-Carter, an unarmed Black man. Mr. Vinzant-Carter was being pursued by Aurora's SWAT team, near an elementary school, when he was confronted. One officer then opened fire, killing Mr. Vinzant-Carter. Aurora paid \$2,600,000 to settle Mr. Vinzant-Carter's claims. Upon information and belief, Aurora did not discipline any of the involved officers for this use of excessive force.
- 95. On September 25, 2014, an APD officer used excessive force in arresting Cory Scherbarth by using a leg sweep to drop Mr. Scherbarth to the ground despite his lack of aggression toward the officer or anyone else, but rather in response to Mr. Scherbarth's non-threatening questioning of the officer about his intentions. After Mr. Scherbarth was handcuffed with no resistance, while he was lying on his stomach, APD officers slammed his head into the ground and punched him in the face, and one officer pressed his body weight down against Mr.

Scherbarth with his knee against Mr. Scherbarth's shoulder. A lawsuit based on this incident claiming excessive force against the individual APD officers is ongoing.

- 96. On July 8, 2014, APD officers used excessive force against Gaye O'Malley, a 55-year-old Black woman, after she called 911 to request medical assistance for her friend who had fallen and injured herself at home. Without justification, an APD officer took Ms. O'Malley to the ground using an "arm drag takedown," a "twist-lock," and a "prone control hold." The APD officer had a history of unusually aggressive conduct toward citizens, particularly Black people. Ms. O'Malley was handcuffed, arrested, removed her from the home, and charged with assault, battery, obstructing a police officer, resisting arrest, and obstructing municipal operations. Aurora later settled a lawsuit brought by Ms. O'Malley.
- 97. On July 3, 2014, APD officers used excessive force against Adam Bentz in response to his peacefully using his cellphone to record what he perceived as APD unlawfully towing his vehicle. Despite the fact that there was absolutely no indication that Mr. Bentz posed any physical threat to APD officers or anyone else, an APD officer grabbed Mr. Bentz around his neck, applied constricting pressure, and took Mr. Bentz down to the ground. The APD officer maintained the hold of Mr. Bentz's neck for 80 seconds while other APD officers restrained Mr. Bentz's limbs, leading Mr. Bentz to lose consciousness and stop breathing, although he was later revived. The force used against Mr. Bentz far exceeded that necessary to arrest him. Aurora later settled a lawsuit brought by Mr. Bentz asserting excessive force.
- 98. On June 22, 2012, when APD officers were searching for three suspects described as Caucasian, they stopped Stetson Fields, a Black man, despite having no probable cause or reasonable suspicion to do so. After Mr. Fields left the encounter, the APD officers chased him until they located him behind a bush. Although Mr. Fields complied with the officers' request to

come out from the bush and did not pose any threat to the officers, the officers released a police dog to attack Mr. Fields, leaving him with injuries.

- 99. On July 23, 2011, an APD officer conducting an impromptu police undercover investigation shot and killed Juan Contreras, a Latino man. Mr. Contreras had found a set of lost car keys and was attempting to return them to the owner when he was wrongfully suspected of committing a minor crime, and APD shot and killed him. Aurora paid \$400,000 to settle Mr. Contreras' claims.
- 100. On January 14, 2011, APD officers arrested Jovan McGlothin, a Black man. During the arrest, one of the officers used a racial slur to refer to Mr. McGlothin (saying, "we have you now, [n-word]," or something similar). After two officers had Mr. McGlothin entirely within their control such that he posed no threat to them or anyone else, one of the officers used excessive force by kicking Mr. McGlothin in the mouth and chipping one of his teeth. Aurora settled an excessive force lawsuit based on this incident.
- 101. On December 18, 2010, Aurora police officers used excessive force in their brutal treatment of Rickey Burrell, a Black man lying helpless in his bed after suffering a seizure. The officers had responded to a 911 call from Mr. Burrell's family. Rather than render assistance, Aurora officers inexplicably jumped on Mr. Burrell, wrenched his arm behind his back, and handcuffed him. The officers proceeded to roughly drag Mr. Burrell outside, though he was clad only in underwear that he had soiled during his seizure. Mr. Burrell suffered a wrist fracture and other injuries to his back and shoulder as a result of the officers' actions. Aurora paid \$100,000 to settle Mr. Burrell's claims. Aurora did not discipline any of the involved officers for their unlawful actions.
 - 102. On May 10, 2009, Aurora police used excessive force in severely beating David

Walker, a Black man, after responding to a call at his house in Aurora. APD officers unlawfully entered the house without a warrant, and tased Mr. Walker at least seven times without any reason or justification to do so. APD officers further hit Mr. Walker multiple times with batons, and hit and kicked him. ADP's excessive force caused Mr. Walker to suffered nerve damage. At least one of the APD officers involved had an extensive history of excessive force allegations. Aurora settled an excessive force lawsuit based on the incident brought by Mr. Walker.

- 103. On February 12, 2009, Aurora police officers used excessive force in effecting the arrest of Carla Meza, a Latina woman. Aurora officers responded to a domestic violence report after Ms. Meza was accused of assaulting her girlfriend. Officers handcuffed Ms. Meza and proceeded to make homophobic remarks toward her before one of the officers kicked her in the head while she was handcuffed, breaking her eye socket. The officer kicked her in the head because she refused to comply with his unlawful commands. Surprisingly, even Aurora conceded that the officer used excessive force.
- 104. In June 2006, an APD officer choked, slapped, and slammed to the ground twelve-year-old Cassidy Tate, a Black girl. The officer had accused the girl's mother of illegally parking in a handicapped spot, despite the fact that Ms. Tate's mother had a handicap placard and used portable oxygen. In contacting Ms. Tate and her mother, the Aurora officer stated, "can you believe these fucking N's," which was a clear reference to the "n-word." Ms. Tate's claims settled for \$175,000. Not only did Aurora not discipline the officer, it later promoted him. Later, the same officer who brutalized Ms. Tate was caught on body camera footage referring to Black people as "Alabama Porch Monkeys." The officer was later terminated by APD, but the City of Aurora reinstated him.
 - 105. In December 2003, APD officers shot and killed Jamaal Bonner, a young Black

man, during a prostitution sting. When an Aurora SWAT team burst into his hotel room, Mr. Bonner, who was unarmed, stood up in surprise. Aurora officers tased him, causing him to go to the ground face down. Though Mr. Bonner had already been effectively tased, was surrounded by Aurora police officers, and was not armed, an Aurora officer shot Mr. Bonner three times, killing him. Aurora did not discipline any of the involved officers for their unlawful actions. Aurora paid \$610,000 to settle the family's legal claims.

- 106. This consistent pattern of unconstitutional police behavior, all or nearly all of which was claimed by Aurora itself to be within its authorized and approved policies, training and customary practices, raises a more than plausible and compelling inference of racially-biased policing and failure to comply with constitutional limitations on seizures and searches. Evidence of these other wrongs as set forth herein is legally admissible to show proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.
 - 3. Defendant Wilson is liable for the Officer Defendants' violations of Plaintiffs' rights.
- and seizures, and/or would be influenced by racial bias when contacting Black People, and that such bias could cause the APD officers to take very similar actions to those Officer Defendants took against Plaintiffs here.
 - 108. In light of this knowledge or constructive knowledge, Defendant Wilson could

have and should have pursued reasonable methods for training and supervising APD officers, including Officer Defendants, in these areas to eliminate or reduce the risks of unconstitutional police behavior, but she failed to do so.

- 109. Moreover, Defendant Wilson failed to adequately investigate and discipline numerous APD officers for similar unlawful conduct to the unlawful conduct Officer Defendants committed against Plaintiffs. Her refusal to find officer wrongdoing and failure to discipline officers ratifies and encourages blatantly illegal conduct.
- 110. Defendant Wilson's failure to adequately address prior similar unlawful conduct sent a clear message to APD law enforcement officers under her command that such misconduct is acceptable and approved.
- 111. Defendant Wilson's past acceptance, ratification and toleration of similar illegal conduct, and her failure to adequately train and supervise APD officers in the relevant areas, was a proximate cause of Officer Defendants' unlawful search and seizure of, and excessive force against, Plaintiffs.

STATEMENT OF CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF Colo. Rev. Stat. § 13-21-131 Colo. Const. Art. II, Section 7 – Unlawful Seizure

- 112. Plaintiffs hereby incorporate all other paragraphs of this Complaint as if fully set forth herein.
- 113. The Individual Defendants acted under color of state law and within the course and scope of their employment as APD law enforcement officers at all times relevant to the allegations in this Complaint.
 - 114. At all relevant times, the Individual Defendants were "peace officers" under Colo.

- Rev. Stat. § 24-31-901(3) and were employed by a local government.
- 115. Plaintiffs had a protected interest under the Colorado Constitution, article II, §7 in being secure in their persons from unreasonable seizures by law enforcement personnel.
- 116. Officer Defendants, acting in concert with one another, unreasonably seized and detained Plaintiffs, in violation of the Constitution of the State of Colorado.
- 117. Officer Defendants stopped Plaintiffs, did not allow Plaintiffs to leave, and deprived them of their freedom of action for a sustained period of time.
- 118. Officer Defendants did not at any time during their encounter with Plaintiffs have probable cause or reasonable suspicion, or any other legally valid basis, to believe that any Plaintiff had committed, were committing, or were about to commit any violation of the law.
- 119. Officer Defendants did not at any time have a reasonable basis for believing that any Plaintiff was a danger to herself or others.
- 120. Officer Defendants did not at any time have a warrant authorizing any seizure of any of the Plaintiffs.
- 121. Officer Defendants seized Plaintiffs against their will, despite lacking any legally valid basis for the seizure.
- 122. Officer Defendants violated Plaintiffs' state constitutional rights by engaging in an unlawful seizure of Plaintiffs that was objectively unreasonable in light of the facts and circumstances confronting Officer Defendants before and during their encounter with Plaintiffs.
- 123. Officer Defendants engaged in a collective plan or effort to seize Plaintiffs without probable cause or reasonable suspicion, or alternatively, each Defendant Officer failed to take reasonable steps to intervene in the other Officer Defendants' unlawful seizure of Plaintiffs, despite being in a position and having the opportunity to do so. Each is therefore liable for the

damages resulting from the objectively unlawful and unreasonable arrest and seizure of Plaintiffs.

- 124. Officer Defendants subjected or caused Plaintiffs to be subjected to the deprivation of individual rights secured by the bill of rights of the Colorado Constitution.
- 125. Officer Defendants did not act upon a good faith and reasonable belief that their actions in seizing Plaintiffs without probable cause or reasonable suspicion were lawful.
- 126. The acts or omissions of the Officer Defendants were the moving force behind, and the proximate cause of, injuries sustained by Plaintiffs.
- 127. Defendant Wilson failed to reasonably train and supervise APD officers, including Officer Defendants, in specific issues relating to seizures without probable cause or reasonable suspicion, despite the obvious need to do so.
- 128. Defendant Wilson knew or should have known that her failure to adequately supervise and train APD officers in such issues relating to unlawful seizures was likely to harm individuals like Plaintiffs; it was reasonably foreseeable that her failures in these areas would cause the harm or a similar harm that Plaintiffs have suffered, are suffering, and will suffer.
- 129. In failing to reasonably train and supervise APD officers, including Officer Defendants, in such issues relating to unlawful seizures, Defendant Wilson caused Plaintiffs to be subjected to the deprivation of their rights to be secure in their persons against unreasonable seizures, as guaranteed by the Colorado Constitution, article II, § 7.
- 130. Defendant Wilson's actions and omissions violated Plaintiffs' state constitutional rights, and were a substantial and significant contributing cause and proximate cause of Plaintiffs' damages.
 - 131. Defendant Wilson did not act upon a good faith and reasonable belief that her

actions and omissions in failing to adequately train and supervise APD officers in this area were lawful.

- 132. Defendant Aurora is liable for the acts and omissions of its agents and/or employees, and for the herein described acts by Individual Defendants, who were acting within the scope and course of their employment.
- 133. The Individual Defendants' conduct described herein was attended by circumstances of malice, or willful and wanton conduct, which the Individual Defendants must have realized was dangerous, or that was done heedlessly and recklessly, without regard to the consequences, or of the rights and safety of others, particularly Plaintiffs.

SECOND CLAIM FOR RELIEF Colo. Rev. Stat. § 13-21-131 Colo. Const. Art. II, Section 7 – *Unlawful Search*

- 134. Plaintiffs hereby incorporate all other paragraphs of this Complaint as if fully set forth herein.
- 135. The Individual Defendants acted under color of state law and within the course and scope of their employment in as APD law enforcement officers at all times relevant to the allegations in this Complaint.
- 136. At all relevant times, the Individual Defendants were "peace officers" under Colo. Rev. Stat. § 24-31-901(3) and were employed by a local government.
- 137. Plaintiffs had a protected interest under Colorado Constitution, article II, § 7 in being secure in their persons and effects from unreasonable searches and seizures by law enforcement personnel.
- 138. Plaintiffs had a legitimate expectation of privacy in their bodies and the property on their persons as against unreasonable government searches.

- 139. Officer Defendants, acting in concert with one another, unreasonably searched Plaintiffs' persons.
- 140. Officer Defendants did not at any time before or during their encounter with Plaintiffs have a warrant authorizing any such search of Plaintiffs' persons or their belongings.
- 141. Officer Defendants did not have probable cause to arrest any of the Plaintiffs before or during their encounter, and Officer Defendants had no authority to perform a search incident to lawful arrest.
- 142. Officer Defendants did not have reasonable suspicion to believe that any of the Plaintiffs had committed, were committing, or were about to commit a crime; Officer Defendants had no reasonable basis to suspect any of the Plaintiffs were armed and dangerous; and Officer Defendants had no authority to perform a protective frisk.
- 143. None of the Plaintiffs voluntarily consented to Officer Defendants' search of her person.
- 144. Officer Defendants violated Plaintiffs' state constitutional rights by engaging in an unlawful search of Plaintiffs' person and effects on their persons that was objectively unreasonable in light of the facts and circumstances confronting Officer Defendants before and during their encounter with Plaintiffs.
- 145. Officer Defendants engaged in a collective plan or effort to search Plaintiffs without a lawfully valid basis to do so, or alternatively, each Defendant Officer failed to take reasonable steps to intervene in the other Officer Defendants' unlawful search of Plaintiffs, despite being in a position and having the opportunity to do so. Each is therefore liable for the damages resulting from the objectively unlawful and unreasonable search of Plaintiffs.
 - 146. Officer Defendants subjected or caused Plaintiffs to be subjected to the

deprivation of individual rights secured by the bill of rights of the Colorado Constitution.

- 147. Officer Defendants did not act upon a good faith and reasonable belief that their actions in searching Plaintiffs without a valid basis to do so were lawful.
- 148. The acts or omissions of the Officer Defendants were the moving force behind, and the proximate cause of, injuries sustained by Plaintiffs.
- 149. Defendant Wilson failed to reasonably train and supervise APD officers, including Officer Defendants, in specific issues relating to searches of detainees' persons and effects, despite the obvious need to do so.
- 150. Defendant Wilson knew or should have known that her failure to adequately supervise and train APD officers in such issues relating to unlawful searches was likely to harm individuals like Plaintiffs; it was reasonably foreseeable that her failures in this area would cause the harm or a similar harm that Plaintiffs have suffered, are suffering, and will suffer.
- 151. In failing to reasonably train and supervise APD officers, including Officer Defendants, in such issues relating to unlawful searches, Defendant Wilson caused Plaintiffs to be subjected to the deprivation of their rights to be secure in their persons and personal effects against unreasonable searches, as guaranteed by the Colorado Constitution, article II, § 7.
- 152. Defendant Wilson's actions and omissions violated Plaintiffs' state constitutional rights, and were a substantial and significant contributing cause and proximate cause of Plaintiffs' damages.
- 153. Defendant Wilson did not act upon a good faith and reasonable belief that her actions and omissions in failing to adequately train and supervise APD officers in this area were lawful.
 - 154. Defendant Aurora is liable for the acts and omissions of its agents and/or

employees, and for the herein described acts by Individual Defendants, who were acting within the scope and course of their employment.

155. The Individual Defendants' conduct described herein was attended by circumstances of malice, or willful and wanton conduct, which the Individual Defendants must have realized was dangerous, or that was done heedlessly and recklessly, without regard to the consequences, or of the rights and safety of others, particularly Plaintiffs.

THIRD CLAIM FOR RELIEF Colo. Rev. Stat. § 13-21-131 Colo. Const. Art. II, Section 7 – Excessive Force

- 156. Plaintiffs hereby incorporate all other paragraphs of this Complaint as if fully set forth herein.
- 157. The Individual Defendants acted under color of state law and within the course and scope of their employment as law enforcement officers at all times relevant to the allegations in this Complaint.
- 158. At all relevant times, the Individual Defendants were "peace officers" under Colo. Rev. Stat. § 24-31-901(3) and were employed by a local government.
- 159. Plaintiffs had a protected interest under Colorado Constitution, article II, § 7 in being free from the use of excessive force by law enforcement personnel.
- 160. Officer Defendants seized Plaintiffs by means of unreasonable and excessive physical force, including but not limited to physical restraints, handcuffs, and pointing guns at Plaintiffs.
- 161. Officer Defendants did not have, at any time before or during their encounter with Plaintiffs, a legally valid basis to seize any of the Plaintiffs.
 - 162. Officer Defendants had no warrant authorizing any seizure of Plaintiffs.

- 163. Plaintiffs had committed no crime and Officer Defendants did not have probable cause or reasonable suspicion to believe that any Plaintiffs had committed, were committing, or were going to commit a crime.
- 164. Officer Defendants had no reasonable basis to believe any of the Plaintiffs posed a threat of harm to Officer Defendants or any other officers, any of the Plaintiffs, or anyone else—especially as Plaintiffs were obviously unarmed and mostly children.
- 165. Before and during Plaintiffs' encounter with Officer Defendants, Plaintiffs made no attempt to flee from Officer Defendants or other officers, nor did Plaintiffs resist Officer Defendants' commands and actions toward Plaintiffs.
- 166. Officer Defendants did not have a legally valid basis to seize Plaintiffs in the manner and with the level of force used under the circumstances presented.
- 167. Officer Defendants' use of force against Plaintiffs, as described herein, was objectively unreasonable in light of the circumstances confronting them before and during the encounter with Plaintiffs.
- 168. Officer Defendants violated Plaintiffs' state constitutional rights by using objectively unreasonable and excessive force against Plaintiffs.
- 169. Officer Defendants engaged in a collective plan or effort to use unreasonable and excessive force against Plaintiffs, or alternatively, each Defendant Officer failed to take reasonable steps to intervene in the other Officer Defendants' unlawful use of force against Plaintiffs, despite being in a position and having the opportunity to do so. Each is therefore liable for the damages resulting from the objectively unreasonable and excessive use of force against Plaintiffs.
 - 170. Officer Defendants subjected or caused Plaintiffs to be subjected to the

deprivation of individual rights secured by the bill of rights of the Colorado Constitution.

- 171. Officer Defendants did not act upon a good faith and reasonable belief that their actions in using unreasonable and excessive force against Plaintiffs were lawful.
- 172. The acts or omissions of the Officer Defendants were the moving force behind, and the proximate cause of, injuries sustained by Plaintiffs.
- 173. Defendant Wilson failed to reasonably train and supervise APD officers, including Officer Defendants, in issues relating to the use of excessive force, despite the obvious need to do so.
- 174. Defendant Wilson knew or should have known that her failure to adequately supervise and train APD officers in such issues relating to unlawful force was likely to harm individuals like Plaintiffs; it was reasonably foreseeable that her failures in this area would cause the harm or a similar harm that Plaintiffs have suffered, are suffering, and will suffer.
- 175. In failing to reasonably train and supervise APD officers, including Officer Defendants, in such issues relating to the use of force, Defendant Wilson caused Plaintiffs to be subjected to the deprivation of their rights to be free from the use of excessive force by law enforcement officers, as guaranteed by the Colorado Constitution, article II, § 7.
- 176. Defendant Wilson's actions and omissions violated Plaintiffs' state constitutional rights, and were a substantial and significant contributing cause and proximate cause of Plaintiffs' damages.
- 177. Defendant Wilson did not act upon a good faith and reasonable belief that her actions and omissions in failing to adequately train and supervise APD officers in this area were lawful.
 - 178. Defendant Aurora is liable for the acts and omissions of its agents and/or

employees, and for the herein described acts by Individual Defendants, who were acting within the scope and course of their employment.

179. The Individual Defendants' conduct described herein was attended by circumstances of malice, or willful and wanton conduct, which the Individual Defendants must have realized was dangerous, or that was done heedlessly and recklessly, without regard to the consequences, or of the rights and safety of others, particularly Plaintiffs.

FOURTH CLAIM FOR RELIEF Colo. Rev. Stat. § 13-21-131 Colo. Const. Art. II, Section 25 – Denial of Equal Protection

- 180. Plaintiffs hereby incorporate all other paragraphs of this Complaint as if fully set forth herein.
- 181. The Individual Defendants acted under color of state law and within the course and scope of their employment in as APD law enforcement officers at all times relevant to the allegations in this Complaint.
- 182. At all relevant times, the Individual Defendants were "peace officers" under Colo. Rev. Stat. § 24-31-901(3) and were employed by a local government.
- 183. Plaintiffs had a protected interested under Colorado Constitution, article II, § 25 to enjoy the equal protection of the laws, including the right to be free from racial discrimination in actions by law enforcement officers.
- 184. Officer Defendants acted with the purpose of depriving Plaintiffs of the equal protection and benefits of the law, and equal privileges and immunities under the law, in violation of Colorado Constitution, article II, § 25.
 - 185. Each Plaintiff is Black.
 - 186. Plaintiffs' race of Black was a motivating factor in the Officer Defendants'

decisions to seize Plaintiffs and use force against them, as well as in the decisions regarding how much force to use.

- 187. Officer Defendants treated all Plaintiffs less favorably than their similarly situated White counterparts, wholly or in part because Plaintiffs are Black.
- 188. Officer Defendants acted with an intent or purpose to discriminate against Plaintiffs because they are Black.
- 189. There was no rational basis for Officer Defendants' discriminatory actions, let alone a purpose narrowly tailored to serve a compelling governmental interest.
- 190. Officer Defendants unlawfully seized and searched Plaintiffs and used excessive force against them, as described herein. The lack of any reasonable suspicion or probable cause, along with APD's long history of racially biased policing, show that the seizure and search of and use of excessive force against Plaintiffs were motivated in whole or in part because they are Black.
- 191. Officer Defendants engaged in a collective plan or effort to take racially biased actions against Plaintiffs, or alternatively, each Defendant Officer failed to take reasonable steps to intervene in the other Officer Defendants' racially biased actions against Plaintiffs, despite being in a position and having the opportunity to do so. Each is therefore liable for the damages resulting from depriving Plaintiffs of the equal protections of the law.
- 192. Officer Defendants subjected or caused Plaintiffs to be subjected to the deprivation of individual rights secured by the bill of rights of the Colorado Constitution.
- 193. Officer Defendants did not act upon a good faith and reasonable belief that their actions against Plaintiffs based on racial bias were lawful.
 - 194. The acts or omissions of the Officer Defendants were the moving force behind,

and the proximate cause of, injuries sustained by Plaintiffs.

- 195. Defendant Wilson failed to reasonably train and supervise APD officers, including Officer Defendants, in specific issues relating to racial bias and racially biased policing, despite the obvious need to do so.
- 196. Defendant Wilson knew or should have known that her failure to adequately supervise and train APD officers in such issues relating to racial bias was likely to harm individuals like Plaintiffs; it was reasonably foreseeable that her failures in this area would cause the harm or a similar harm that Plaintiffs have suffered, are suffering, and will suffer.
- 197. In failing to reasonably train and supervise APD officers, including Officer Defendants, in such issues relating to racial bias, Defendant Wilson caused Plaintiffs to be subjected to the deprivation of their rights to equal protection of the laws, as guaranteed by the Colorado Constitution, article II, § 25.
- 198. Defendant Wilson's actions and omissions violated Plaintiffs' state constitutional rights, and were a substantial and significant contributing cause and proximate cause of Plaintiffs' damages.
- 199. Defendant Wilson did not act upon a good faith and reasonable belief that her actions and omissions in failing to adequately train and supervise APD officers in this area were lawful.
- 200. Defendant Aurora is liable for the acts and omissions of its agents and/or employees, and for the herein described acts by Individual Defendants, who were acting within the scope and course of their employment.
- 201. The Individual Defendants' conduct described herein was attended by circumstances of malice, or willful and wanton conduct, which the Individual Defendants must

have realized was dangerous, or that was done heedlessly and recklessly, without regard to the consequences, or of the rights and safety of others, particularly Plaintiffs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully requests this Court enter judgment in their favor and against Defendants, and award them all relief as allowed by law and equity, including, but not limited to:

- a. Declaratory relief and injunctive relief, as appropriate;
- b. Actual economic damages as established at trial;
- c. Compensatory damages, including, but not limited to those for past and future pecuniary and non-pecuniary losses, physical and mental pain, humiliation, fear, anxiety, loss of enjoyment of life, loss of liberty, privacy, and sense of security and individual dignity, and other non-pecuniary losses;
- d. Punitive or exemplary damages for all claims as allowed by law in an amount to be determined at trial;
- e. Issuance of an Order mandating appropriate equitable relief, including but not limited to:
 - i. Issuance of a formal written apology from each Defendant to Plaintiffs;
 - ii. The imposition of appropriate policy changes designed to avoid future similar misconduct by Defendants;
 - iii. Mandatory training designed to avoid future similar misconduct by Defendants;
 - iv. Imposition of disciplinary action against appropriate employees of Aurora;
- f. Pre-judgment and post-judgment interest at the highest lawful rate;
- g. Attorney's fees and costs; and

h. Such further relief as justice requires.

PLAINTIFFS DEMAND A JURY TRIAL ON ALL ISSUES SO TRIABLE.

DATED this 25th day of January 2021.

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