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# Utah Mock Trial Competition

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## The 2023 Mock Trial Civil Case

UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH,  
NORTHERN DIVISION

SHEA LYMAN, an individual,

Plaintiff,

v.

CANYONS COUNTY  
TRANSPORTATION DISTRICT, a  
municipal corporation of the State of  
Utah; and CANYONS COUNTY  
TRANSPORTATION DISTRICT  
POLICE OFFICER PARKER  
RICHMOND, in Richmond's  
Individual capacity,

Defendants.

CIVIL NO.  
8:23cv00101

***NOTE: All characters, names, events, places, and circumstances***

***in this Mock Trial case are fictitious.***



Updated by Michelle Oldroyd, Kyle Kaiser, and the  
Hon. Augustus Chin

**2023**  
**High School and Junior High School**  
**Mock Trial Case**

## 2023 High School and Junior High School Mock Trial Case:

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### Case Summary .....

### Pleadings

Complaint for Damages and for Declaratory and Injunctive Relief .....

Defendants' Answer to Plaintiff's Complaint.....

Stipulations.....

Jury Instructions.....

Legal Authority.....

### Witnesses and Affidavits

Witness Listing .....

#### Plaintiff Witnesses

Affidavit, Shea Lyman.....

Affidavit, Carey Dallarosa .....

Affidavit, Sammie Garland .....

#### Defense Witnesses

Affidavit, Parker Richmond .....

Affidavit, Shiloh Torrey .....

Affidavit, Jalen Ridge.....

### Exhibits

Exhibit Listing.....

Exhibit 1.... Map of Ramona Street C-Rail Station.....

Exhibit 2.... Capital City Beez T-Shirt.....

Exhibit 3.... Stun Gun.....

Exhibit 4.... (4a and 4b) Cruze Deposition and Incident Report.....

Exhibit 5.... CCTD Police Department Handbook.....

Exhibit 6.... CCTD Police Department Training Records.....

Exhibit 7.... CCTD Police Department Discipline Statistics.....

Exhibit 8 ... Cruze/Irsay Incident Report.....

Exhibit 9.... Nguyen Incident Report.....

Exhibit 10.. Bowlen Incident Report.....

## CASE SUMMARY

On July 16, 2020, Shea Lyman attended the Capital City Beez baseball game. Once the game ended, Shea rushed to catch a commuter train (C-Rail) to go home. At the same time and place, Officer Parker Richmond was searching for a fleeing armed robbery suspect. Officer Richmond mistakenly thought Lyman was the suspect and shocked Lyman with a stun gun. In this action, Shea Lyman is suing the Canyons County Transportation District (CCTD) and Officer Parker Richmond alleging that excessive force was used.

### Witness Listing

<b>PLAINTIFF</b>	
Shea Lyman	Plaintiff
Carey Dallarosa	Witness at the Scene
Sammie Garland	Citizen Review Committee

<b>DEFENSE</b>	
Parker Richmond	Defendant
Shiloh Torrey	Student
Jalen Ridge	Internal Affairs Division

## Introduction of Complaint, Answer, Stipulations, and Jury Instructions

The Complaint, Answer, Stipulations, and Jury Instructions appear on the following pages. This is a brief explanation of the information they provide.

The **Complaint** is prepared by the plaintiff's lawyers and is submitted to the Court. It is what initiates the lawsuit. The Complaint lays out the plaintiff's factual allegations and offers an overview of why these allegations amount to a violation of the law. Note, however, that the Complaint is not evidence. Rather, the purpose of the Complaint is to frame the issues for trial and help the parties hone-in on specific arguments each will make.

The **Answer** is prepared by the lawyers for the defense; it responds directly to the Complaint. It identifies the allegations with which it agrees and those it will challenge. Like the Complaint, the Answer is not evidence and exists solely to frame the issues for trial.

**Stipulations** are the facts that both sides agree upon. They may be referred to – but not disputed by either side – during trial.

**Jury Instructions** are usually issued from the judge to the jury after both sides have completed their case. Jury instructions frame the law for jurors, so they can focus on whether the evidence supports – or fails to support – the allegations. Jury Instructions are included for purposes of understanding the elements that need to be proved or disproved during the trial. Even though the case is a bench trial, the instructions will guide the judge in reaching a verdict on the merits. They may be referred to in argument.

# PLEADINGS





Shannon T. Schmidt (USB No. 006753STS)  
sschmidt@cpslaw.com  
Allan M. Beach (USB No. 003289AMB)  
abeach@cpslaw.com  
CARLYLE, POLLARD & SCHMIDT LLP  
1134 W. Lasso St., Suite 4000  
Capital City, UT 82658  
Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, NORTHERN DIVISION**

**SHEA LYMAN**, an individual,

**Plaintiff,**

**v.**

**CANYONS COUNTY TRANSPORTATION  
DISTRICT**, a municipal corporation of  
the State of Utah; and **CANYONS  
COUNTY TRANSPORTATION  
DISTRICT POLICE OFFICER PARKER  
RICHMOND**, in Richmond's individual  
capacity,

**Defendants.**

**COMPLAINT FOR DAMAGES  
AND FOR DECLARATORY  
AND INJUNCTIVE RELIEF**

**CIVIL NO.  
8:23cv00101**

**I. INTRODUCTION**

1. Plaintiff Shea Lyman ("Lyman" or "Plaintiff") brings this civil rights action against Defendants Canyons County Transportation District ("CCTD") and CCTD police officer Parker Richmond ("Richmond") (collectively, "Defendants") for violating Lyman's clearly established constitutional rights. On July 16, 2020, Richmond used excessive and unreasonable force against Lyman when Richmond discharged a CCTD-issued "stun gun" into Lyman during an arrest. Richmond did so without probable cause to believe that Lyman had committed a crime and without any legitimate reason to believe that Lyman posed a threat to Richmond's or any other person's safety. Richmond's use

of excessive force was a direct and proximate result of CCTD's policies and customs. Accordingly, Lyman brings this action against CCTD and Richmond for damages and other relief.

## **II. JURISDICTION**

2. This Court has jurisdiction over Plaintiff's claims by virtue of 28 U.S.C. §§ 1331 and 1343, *i.e.*, because this case involves a violation of Lyman's federal civil and constitutional rights.

3. Venue is proper in this Court pursuant to 28 U.S.C. § 1391, *i.e.*, because the events giving rise to Lyman's claims against CCTD and Richmond occurred in the judicial district and division in which this Court is situated.

## **III. PARTIES**

4. Plaintiff Lyman is an individual who resides in Capital City, Utah.

5. Defendant Richmond is an individual employed as a certified police officer by CCTD and a resident of Capital City, Utah. At all material times herein, Richmond was acting under color of law and within the course and scope of Richmond's employment with CCTD.

6. Defendant CCTD is an independent municipal corporation located in the State of Utah and is not an arm of the State. CCTD operates the Canyons County Light Rail ("C-Rail") and maintains its own police force, which includes sworn and certified peace officers. By law, CCTD police have all authority of other municipal police employed in the State of Utah, including the ability to investigate and arrest individuals for crimes committed within their jurisdiction, that is, on CCTD property.

7. CCTD is also responsible to train its officers on constitutional police procedure, and its policies and practices must ensure that its officers perform their duties within the bounds of the constitution.

## **IV. FACTUAL ALLEGATIONS**

8. Lyman is a high school math teacher at Capital City High School in Capital City, Utah. After work on Friday, July 16, 2020, Lyman attended a minor-league Capital City Beez baseball game in Capital City, Utah. To get to the stadium, Lyman used the C-Rail.

9. To get to the Beez game, Lyman boarded a Green Line C-Rail train at the Webster Street C-Rail station, transferred to a Blue Line train at the Ramona Street station, and rode the rest of the way to the stadium. Lyman planned to take the same route home. Lyman was carrying a black backpack with textbooks, teaching outlines, and other work materials.

10. After the game, Lyman boarded a 9:30 p.m. Blue Line train to the Ramona Street station. There were dozens of other Capital City Beez fans on the train. Like Lyman, most of them wore dark red t-shirts with the team's signature "CCB" logo. Lyman was running late and knew that Lyman would have only a few minutes to transfer to the Green Line train at the Ramona Street station.

11. The same night, Richmond, and Richmond's partner, fellow CCTD police officer Courtney Cruze ("Cruze"), were stationed at the Ramona Street C-Rail station. At approximately 9:37 p.m., they received a radio dispatch indicating that an armed robbery had occurred at the Emerson Street C-Rail station, which is one stop away from the Ramona Street station. According to the dispatch, the suspect boarded the train bound for Ramona Street after the robbery. The dispatch clearly indicated that the suspect was wearing "an orange t-shirt," "jeans," and "a dark baseball cap," and was carrying "a dark colored backpack." The dispatch gave no other physical description of the suspect and did not mention the suspect's gender.

12. Richmond and Cruze exited their CCTD police cruiser and proceeded to the platform where the train carrying Lyman, and which may have been carrying the reported attacker, would soon appear. There they waited for the Blue and Green Line trains to arrive.

13. When the two trains arrived, passengers immediately flooded the station. Lyman ran onto the western side of the platform and toward the Green Line train, which would depart in just a few minutes.

14. A few seconds after the trains arrived, Cruze noticed Lyman running across the platform. Cruze saw that Lyman—like dozens of other game-goers returning home on the C-Rail—was wearing a dark red Capital City "CCB" Beez t-shirt. At that time, Cruze had no reason to believe that Lyman posed a threat to anyone in the

platform area, including either of the officers. Regardless, Cruze pointed at Lyman and shouted to Richmond, “Richmond, black backpack to your left!”

15. After making visual contact with Lyman, and after having the opportunity to see that Lyman did not match the description of the purported suspect, Richmond deployed and discharged Richmond’s CCTD-issued stun gun. The stun gun was in “probe” mode, in which barbed probes attached to wires are projected from the gun toward a suspect, penetrating the suspect’s skin. Before firing so, Richmond neither announced Richmond as a police officer nor warned Lyman that Richmond intended to use the stun gun. Richmond fired; the stun gun’s probes penetrated Lyman’s skin.

16. Richmond discharged the stun gun into Lyman without any probable cause to believe that Lyman was the suspect or had committed any other crime. Contrary to the dispatch’s description, Lyman was wearing neither an orange t-shirt nor any sort of baseball cap.

17. Following Richmond’s discharge of the stun gun, Lyman fell to the ground and began convulsing. Richmond shocked Lyman for between three and five seconds before disengaging the stun gun.

18. As a direct and proximate result of Richmond’s use of the stun gun, Lyman suffered physical injuries that required immediate medical attention, including a facial contusion and lacerations on Lyman’s forehead that Lyman sustained as a result of Lyman’s fall. As a direct and proximate result of Richmond’s use of the stun gun, Lyman has also suffered severe psychological trauma.

19. The CCTD Police Department’s policies, practices, and customs allow, encourage, and direct CCTD police officers to use stun guns and other types of force in situations where officers lack a reasonable basis for the use of such force, or in circumstances where the officers should use lesser force.

20. Specifically, since 2016, the CCTD Police Department has countenanced at least three reported incidents in which police officers have discharged their CCTD-issued stun guns into suspects without justification or in a manner that violated CCTD protocols. In each case, the CCTD Police Department did not appropriately discipline and, to date, has not appropriately disciplined the offending officer. For example, in December 2017, a CCTD Police Department supervisor determined that Cruze had

improperly and illegally directed a fellow officer to discharge a stun gun into a suspect who had already been subdued, which the fellow officer did. Cruze received only superficial discipline and soon returned to duty.

21. Following those incidents, the CCTD Police Department was on notice that additional measures were necessary to protect the public from its officers' pattern of unlawful conduct. Those measures would have included additional training, discipline, and, where appropriate, termination of the employment of officers who violate the constitutional rights of any member of the public, or who are otherwise deemed to have used excessive force.

22. Notwithstanding that knowledge, the CCTD Police Department's existing policies, practices, and customs, with regard to the use of force by its officers, have persisted without any material change since at least December 2016. The CCTD Police Department's deliberate indifference in the face of known risks associated with its officers' use of force amounts to an official practice of the CCTD Police Department.

23. Due to the CCTD Police Department's official practice, Richmond and Cruze knew that they could use excessive and unreasonable force against suspects with impunity. In particular, Cruze instructed Richmond to use unconstitutional force based on CCTD Police Department Practice.

24. As a direct and proximate result of their knowledge and of the CCTD Police Department's official policies and practices, Richmond violated Lyman's clearly established constitutional right to be free from excessive force.

**V. FIRST CLAIM FOR RELIEF  
(42.S.C. § 1983—Unlawful Arrest in Violation  
of the Fourth Amendment)**

25. Lyman incorporates and realleges paragraphs 1 through 24, above.

26. At all times relevant, Richmond, as a police officer for the CCTD Police Department, was acting under color of state law.

27. Richmond's use of the stun gun and further restraint of Lyman was an arrest constituting a seizure defined by the Fourth Amendment to the United States Constitution.

28. Richmond did not have a warrant for the arrest of Lyman or any other person at the time the arrest occurred.

29. No exception to the warrant requirement for Lyman's arrest existed at the time the arrest occurred.

30. Richmond did not have probable cause to arrest Lyman at the time the arrest occurred.

31. Richmond's actions in seizing and arresting Lyman were unreasonable and, accordingly, violated Lyman's right to be free from unreasonable arrest and seizure protected by the Fourth Amendment to the Constitution.

32. As a result of the unlawful seizure and arrest, Lyman suffered physical and emotional damages, for which Richmond is liable under 42 U.S.C. § 1983. Lyman is entitled to an award of economic, noneconomic, and punitive damages against Richmond in amounts to be determined at trial. Furthermore, Richmond should be awarded costs and attorneys' fees under 42 U.S.C. § 1988.

**VI. SECOND CLAIM FOR RELIEF**  
**(42 U.S.C. § 1983—Excessive Force in Effectuating a Seizure in**  
**Violation of the Fourth Amendment)**

33. Lyman incorporates and realleges paragraphs 1 through 32, above.

34. At all times relevant, Richmond, as a police officer for the CCTD Police Department, was acting under color of state law.

35. Richmond's use of the stun gun was a seizure defined by the Fourth Amendment to the United States Constitution.

36. At the time of the seizure, Richmond had no cause to seize Lyman.

37. At the time of the seizure, Richmond had no need to use physical force to restrain Lyman.

38. At the time of the seizure, Lyman was neither a suspect nor a threat.

39. At time of the seizure, Lyman did not resist Richmond's commands.

40. Richmond's use of a stun gun, while less lethal than a firearm, was a use of force that Richmond knew or reasonably should have known, could cause serious bodily injury and has the possibility to cause death.

41. Richmond's use of the stun gun was unreasonable under the circumstances.

42. Richmond's use of the stun gun violated Lyman's right to be free from unreasonable seizures and excessive force protected by the Fourth Amendment to the Constitution.

43. As a result of the unlawful use of excessive force, Lyman suffered physical and emotional damages, for which Richmond is liable under 42 U.S.C. § 1983. Lyman is entitled to an award of economic, noneconomic, and punitive damages against Richmond in amounts to be determined at trial. Furthermore, Richmond should be awarded costs and attorneys' fees under 42 U.S.C. § 1988.

**VII. THIRD CLAIM FOR RELIEF  
(42 U.S.C. § 1983—*Monell* Liability on CCTD for Richmond's  
Fourth Amendment Violations)**

44. Lyman incorporates and realleges paragraphs 1 through 43, above.

45. As described above, in violation of the Fourth Amendment to the United States Constitution, Richmond subjected Lyman to an unlawful seizure and arrest, using excessive and unreasonable physical force.

46. At all times relevant, Richmond was acting under color of law.

47. CCTD is an independent political subdivision, which can be liable for its own unconstitutional conduct under 42 U.S.C. § 1983.

48. As described above, the policies, practices, and customs of the CCTD Police Department caused, resulted in, or otherwise make CCTD liable for the violation of Lyman's rights under the Fourth Amendment to the United States Constitution.

49. As a result of the above, Plaintiff is entitled to an award of economic, non-economic, and punitive damages against Defendants in amounts to be determined at trial.

50. Pursuant to 42 U.S.C. § 1988, Lyman should be awarded attorneys' fees and costs incurred herein.

**VIII. PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for relief as follows:

1. Assume jurisdiction over this matter and grant a jury trial for all issues so triable.
2. Award Plaintiff economic, non-economic, and punitive damages against Defendants in amounts to be determined at trial.
3. Award Plaintiff reasonable attorneys' fees and costs incurred herein; and
4. Grant such other relief as may be just and proper.

DATED: June 2, 2022.

CARLYLE, POLLARD & SCHMIDT LLP

s/Shannon Schmidt

SHANNON T. SCHMIDT, USB No.  
006753STS

ALLAN M. BEACH, USB No. 003289AMB

Telephone: (801) 234-4000

Attorneys for Plaintiff



James J. McCoy (USB No. 750046)  
Senior Deputy City Attorney  
[jamesmccoy@capcity.ut.gov](mailto:jamesmccoy@capcity.ut.gov)  
Corrina M. Ruberosa (USB No. 083376)  
Deputy City Attorney  
[corrinaruberosa@capcity.ut.gov](mailto:corrinaruberosa@capcity.ut.gov)  
Office of the City Attorney of Capital City  
812 Red Rock Street, Suite 2100  
Capital City, UT 82658  
Telephone: (801) 871-7000  
Facsimile: (801) 871-8000  
Attorneys for Defendants

**UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, NORTHERN DIVISION**

**SHEA LYMAN**, an individual,

**Plaintiff,**

**v.**

**CANYONS COUNTY TRANSPORTATION  
DISTRICT**, a municipal corporation of  
the State of Utah; and **CANYONS  
COUNTY TRANSPORTATION  
DISTRICT POLICE OFFICER PARKER  
RICHMOND**, in Richmond's individual  
capacity,

**Defendants.**

**DEFENDANTS' ANSWER TO  
PLAINTIFF'S COMPLAINT**

**CIVIL NO.  
8:23cv00101**

For their Answer to Plaintiff Shea Lyman's ("Plaintiff's") Complaint, Defendants Canyons County Transportation District ("CCTD") and Parker Richmond ("Richmond") (collectively, "Defendants") respond to Plaintiff's allegations as follows:

**I. INTRODUCTION**

1. Defendants deny the allegations in paragraph 1.

## **II. JURISDICTION**

2. Defendants admit the allegations in paragraph 2.
3. Defendants admit the allegations in paragraph 3.

## **III. PARTIES**

4. Defendants admit the allegations in paragraph 4.
5. Defendants admit the allegations in paragraph 5.
6. Defendants admit the allegations in paragraph 6.
7. Defendants admit that, in general, CCTD has an obligation to train and supervise its officers to ensure that its officers operate within the bounds of the U.S. Constitution but denies that it failed to do so in this case or that CCTD is otherwise responsible for any alleged damages sought by Plaintiff.
8. Defendants admit the allegations in paragraph 7.

## **IV. FACTUAL ALLEGATIONS**

9. Upon information and belief, Defendants admit the allegations in paragraph 8.
10. Defendants are without sufficient knowledge as to the truth of the allegations in paragraph 9 and, therefore, deny them.
11. Defendants are without sufficient knowledge as to the truth of the allegations in paragraph 10 and, therefore, deny them.
12. Defendants deny the allegation in paragraph 11 that the dispatch “clearly” indicated the suspect was wearing “an orange t-shirt.” Defendants otherwise admit the allegations in paragraph 10.
13. Defendants admit the allegations in paragraph 12.
14. Defendants admit the allegations in paragraph 13.
15. Defendants admit that CCTD police officer Courtney Cruze (“Cruze”) noticed Plaintiff running across the platform, and that Cruze then pointed out Plaintiff to Richmond. Defendants otherwise deny the allegations in paragraph 14.
16. Defendants admit that Richmond discharged Richmond’s CCTD-issued stun gun, which was in probe mode, into Plaintiff, and that the probes penetrated Plaintiff’s skin. Defendants otherwise deny the allegations in paragraph 15.

17. Defendants admit that Plaintiff was not wearing an orange t-shirt or a baseball cap. Defendants otherwise deny the allegations in paragraph 16, including any allegation that Richmond was aware of the color of Plaintiff's shirt at the time of the event.

18. Defendants admit the allegations in paragraph 17.

19. Defendants are without sufficient knowledge as to the truth of the allegations in paragraph 18 and, therefore, deny them.

20. Defendants deny the allegations in paragraph 19.

21. Defendants admit that the CCTD Police Department disciplined Cruze following an incident involving a stun gun in December 2010. Defendants otherwise deny the allegations in paragraph 19.

22. Defendants deny the allegations in paragraph 21.

23. Defendants deny the allegations in paragraph 22.

24. Defendants deny the allegations in paragraph 23.

25. Defendants deny the allegations in paragraph 24.

## **V. PLAINTIFF'S FIRST CLAIM FOR RELIEF**

26. Defendants incorporate their responses to paragraphs 1 through 24, above.

27. Defendants admit the allegations in paragraph 26.

28. Defendants admit that Richmond seized Lyman during the events in question but deny the remaining allegations in paragraph 27.

29. Defendants admit the allegations in paragraph 28.

30. Defendants deny the allegations in paragraph 29.

31. Defendants deny the allegations in paragraph 30.

32. Defendants deny the allegations in paragraph 31.

33. Defendants deny the allegations in paragraph 32.

## **VI. PLAINTIFF'S SECOND CLAIM FOR RELIEF**

34. Defendants incorporate their responses to paragraphs 1 through 33, above.

35. Defendants admit the allegations in paragraph 34.

- 36. Defendants admit the allegations in paragraph 35.
- 37. Defendants deny the allegations in paragraph 36.
- 38. Defendants deny the allegations in paragraph 37.
- 39. Defendants admit that, with the value of hindsight, Lyman was not actually a threat, nor was Lyman the suspect whom Defendants sought. Defendants deny all other allegations and affirmatively assert that they reasonably believed him to be both a suspect in a dangerous felony and a threat to others.
- 40. Defendants deny the allegations in paragraph 39.
- 41. Defendants admit that use of a stun gun is less-lethal force, but that it is possible for the targets of stun guns to be injured when they are used. Defendants deny all other allegations in paragraph 40.
- 42. Defendants deny the allegations in paragraph 41.
- 43. Defendants deny the allegations in paragraph 42.
- 44. Defendants deny the allegations in paragraph 43.

#### **VII. PLAINTIFF'S THIRD CLAIM FOR RELIEF**

- 45. Defendants incorporate their responses to paragraphs 1 to 44, above.
- 46. Defendants deny the allegations in paragraph 45.
- 47. Defendants admit the allegations in paragraph 46.
- 48. Defendants admit the allegations in paragraph 47, but CCTD affirmatively asserts that has not violated the Constitution in this case.
- 49. Defendants deny the allegations in paragraph 48.
- 50. Defendants deny the allegations in paragraph 49.
- 51. Defendants deny the allegations in paragraph 50.
- 52. Defendants deny the allegations in paragraph 51.

#### **FIRST AFFIRMATIVE DEFENSE (Failure to State a Claim)**

Plaintiff's claim for relief fails to allege facts sufficient to state a claim for relief.

**SECOND AFFIRMATIVE DEFENSE  
(Qualified Immunity)**

Officer Richmond is entitled to qualified immunity for all claims of damages brought against him.

**THIRD AFFIRMATIVE DEFENSE  
(Punitive Damages)**

CCTD, as a local government entity, is immune from claims for punitive damages. Furthermore, Plaintiff is not entitled to an award of punitive damages against Officer Richmond because Officer Richmond took no action with malice or evil motive.

Defendants reserve the right to plead additional affirmative defenses as discovery reveals additional information.

WHEREFORE, having answered Plaintiff's Complaint, Defendants pray that Plaintiff's Complaint be dismissed, and that judgment be entered in Defendants' favor and for their costs and disbursements incurred herein, in addition to any other relief as may be justified.

DATED: June 30, 2022.

Respectfully submitted,

*s/Corrina M. Ruberosa*

James J. McCoy (USB No. 750046)  
Corrina M. Ruberosa (USB No. 083376)  
Telephone: (801) 871-7000

Attorneys for Defendants



**UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, NORTHERN DIVISION**

**SHEA LYMAN**, an individual,

**Plaintiff,**

**v.**

**CANYONS COUNTY TRANSPORTATION  
DISTRICT**, a municipal corporation of  
the State of Utah; and **CANYONS  
COUNTY TRANSPORTATION  
DISTRICT POLICE OFFICER PARKER  
RICHMOND**, in Richmond's individual  
capacity,

**Defendants.**

**STIPULATIONS**

**CIVIL NO.  
8:23cv00101**

The parties stipulate and agree to the following:

1. The parties have waived their rights to a jury trial, and the case will be tried to the bench. The relevant jury instructions will be utilized by the Court in formulating its verdict.
2. Armed robbery is a first-degree felony under Utah state law.
3. Lyman did not commit the armed robbery to which Canyons County Transportation District (CCTD) Officers Richmond and Cruze were responding on July 16, 2020. Lyman has never been convicted of any crime. The suspect in the July 16, 2020, robbery remains at large.
4. The diagram shown in Exhibit 1 is a fair and accurate representation of the Ramona Street C-Rail stop of the Canyons County Light Rail, though not to scale.
5. Lyman was wearing the Beez shirt shown in Exhibit 2 at the time of Lyman's arrest on July 16, 2020.

6. The photograph shown in Exhibit 3 is a fair and accurate representation of the stun gun that Richmond discharged into Lyman on July 16, 2020.
7. CCTD is an independent municipal corporation that is not an arm of the state and is a “person” subject to liability under 42 U.S.C. § 1983 for its own misconduct.
8. Richmond was employed by CCTD and acting under color of law when Richmond discharged Richmond’s stun gun into Lyman on July 16, 2020.<sup>1</sup>
9. Courtney Cruze was shot and killed in the line of duty on May 7, 2021. Officer Cruze is, therefore, unavailable.
10. Exhibit 4a is the recorded testimony under oath of Officer Cruze and thus, under Rule of Evidence 801(d)(1), neither party may object to the admissibility of the deposition transcript itself merely because Officer Cruze is not in court to testify. However, the parties reserve the right to object to portions of the content deposition that contain otherwise inadmissible testimony, including hearsay.
11. Any party may introduce Officer Cruze’s testimony contained in Exhibit 4a in the party’s case-in-chief. To do so, the party must alert the court and the opposing counsel to the portion of the deposition the party wishes to enter by page and line number and read the testimony into the record. This introduction of evidence will count against the parties’ direct examination time. If the opposing party wishes to object to the testimony, counsel must do so before the answer to the question is read into the record. The objection stops the timeclock. After the proponent of Officer Cruze’s testimony enters the testimony into the record, the opposing party may introduce other parts of the testimony following the same procedure. That evidence will count against the party’s direct examination time.
12. Parties may also use Exhibit 4a for any other proper purpose, including impeachment of another witness, following standard rules of evidence and procedure.
13. The CCTD Police Department first issued stun guns to all its officers in April 2007. The only three incidents in which citizens have complained about CCTD

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<sup>1</sup> Under “color of law” in this context means that the person is exercising power given to him or her by local or state government, even if that person exceeds the scope of the authority or acts contrary to state law.



police officers' use of their stun guns are detailed in Exhibits 8, 9, and 10. Apart from those incidents, the CCTD Police Department received no other complaints related to the use of its officers' stun guns.

14. Officer Richmond has asserted the defense of qualified immunity. The Court has previously ruled that issues of fact prevent a pretrial determination of Officer Richmond's entitlement to qualified immunity. The parties agree that qualified immunity will be separately addressed in a subsequent legal pleading after trial. Officer Richmond will not assert qualified immunity during trial, and Plaintiff need not address whether any asserted right was clearly established at the time.<sup>2</sup>
15. No witness may invoke the Fifth Amendment or any other privilege.
16. This phase of the trial shall deal with Defendants' liability only. If necessary, a determination as to damages and any other relief to which Plaintiff may be entitled will be made in a separate proceeding.

The parties stipulate and agree to the foregoing and respectfully request that, as applicable, the court enter an order to that effect.

**SO STIPULATED:**

/s/Shannon T. Schmidt

Shannon T. Schmidt  
Counsel for Plaintiff

/s/James J. McCoy

James J. McCoy  
Counsel for Defendants

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<sup>2</sup> While qualified immunity is often asserted by individual defendants in §1983 cases, for purposes of this mock trial, it shall not apply. Qualified immunity provides that a public official is not liable under 42 U.S.C. § 1983 if the official "could reasonably have believed that his actions were legal in light of clearly established law and the information he or she possessed at the time" and if defendant's conduct was "reasonable . . . even though it might have violated [Plaintiff's] constitutional rights."



**UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, NORTHERN DIVISION**

**SHEA LYMAN**, an individual,

**Plaintiff,**

**v.**

**CANYONS COUNTY TRANSPORTATION  
DISTRICT**, a municipal corporation of  
the State of Utah; and **CANYONS  
COUNTY TRANSPORTATION  
DISTRICT POLICE OFFICER PARKER  
RICHMOND**, in Richmond's individual  
capacity,

**Defendants.**

**JURY INSTRUCTIONS**

**CIVIL NO.  
8:23cv00101**

The Court will now submit the case to the jury; you need to decide, based on the law and the evidence presented to you at trial, whether the plaintiff has prevailed in proving the plaintiff's claims against each defendant.

**INSTRUCTION NO. 1: PREPONDERANCE OF THE EVIDENCE**

The Plaintiff must prove all of the Plaintiff's claims by a "preponderance of the evidence." That means that the Plaintiff must persuade you by evidence that makes you believe that Plaintiff's claims are more likely true than not true. Another way of saying this is proof by the greater weight of the evidence, however slight. After weighing all of the evidence, if you decide that something is more likely true than not, then you must find that the fact has been proved. On the other hand, if you decide that the evidence about a fact is evenly balanced, or that it is not more likely true than not, then you must find that the fact has not been proved. You should consider all of the evidence in making that determination, no matter who produced it.

## INSTRUCTION NO. 2: SECTION 1983 CLAIMS IN GENERAL

Plaintiff has alleged that Defendant Richmond has violated Plaintiff's right to be free from unreasonable seizures in violation of the Fourth Amendment. This right is enforceable through a federal law that allows recovery against "persons" who under "color of law," violate someone's federal constitutional rights.

To find in favor of the Plaintiff as to the Plaintiff's claim against Defendant Richmond, the Plaintiff must prove that

1. Defendant Richmond is a person acting under color of law, and
2. Defendant Richmond violated Plaintiff's rights to be free from unreasonable searches and seizures as protected by the Fourth Amendment to the United States Constitution.

In this case, the parties have agreed that Defendant Richmond is a person acting under color of law. Therefore, you must only decide whether, by a preponderance of the evidence, Defendant Richmond violated Plaintiff's Fourth Amendment rights.

Here, the Plaintiff has alleged that Defendant Richmond violated the Fourth Amendment in two ways: (1) Defendant Richmond arrested Plaintiff without probable cause, and (2) Defendant Richmond used excessive force during the arrest. I will explain both of those claims to you in the following instructions.

## INSTRUCTION NO. 3: UNLAWFUL ARREST

The Plaintiff must prove by a preponderance of the evidence that Defendant Richmond arrested him without probable cause.

A **warrantless arrest is unlawful under the Fourth Amendment** in these circumstances **if it is made without probable cause. "Probable cause" exists when, under all of the circumstances known to an officer at the time, an objectively reasonable police officer would conclude there is a fair probability that the person arrested has committed or was committing a crime.** The standard is lower than proof beyond a reasonable doubt, and even lower than the preponderance standard. But probable cause requires more than a bare suspicion of criminal activity.

Probable cause must consider all the facts that Defendant Richmond knew at the time of the arrest and must consider all the facts and circumstances of the arrest. It does not matter whether Defendant Richmond himself believed he had probable cause, and you must not consider Defendant Richmond's intentions or motivations, whether good or bad, in determining whether probable cause existed.

The Fourth Amendment is not violated simply because Defendant Richmond arrested the wrong person. However, if the Defendant Richmond acted unreasonably in arresting Plaintiff, considering all information available to the officer under the circumstances, then Defendant Richmond violated the Constitution in arresting Plaintiff.

If you find the Plaintiff has proved that Defendant Richmond arrested the Plaintiff without probable cause, then your verdict must be for Plaintiff on Plaintiff's First Claim. If, on the other hand, the Plaintiff has failed to prove that Defendant Richmond arrested the Plaintiff without probable cause, your verdict should be for Defendant Richmond on Plaintiff's First Claim.

#### **INSTRUCTION NO. 4: EXCESSIVE USE OF FORCE**

Plaintiff must prove by a preponderance of the evidence that Defendant Richmond used excessive force when effectuating Plaintiff's seizure and arrest. A seizure of a person is unlawful under the Fourth Amendment if a police officer uses excessive force in making an arrest or in defending himself, herself, or others. Thus, the Plaintiff must prove by a preponderance of the evidence that Defendant Richmond used excessive force when Defendant Richmond discharged Defendant Richmond's stun gun at the Plaintiff.

Under the Fourth Amendment, a police officer may only use such force as is "objectively reasonable" under all of the circumstances. In other words, you must judge the reasonableness of a particular use of force from the perspective of a reasonable officer on the scene and not with the 20/20 vision of hindsight. In determining whether Defendant Richmond used excessive force in this case, consider all of the circumstances known to Defendant Richmond on the scene, including, but not necessarily limited to:

1. The severity of the crime or other circumstances to which Defendant Richmond was responding;
2. Whether the Plaintiff posed or reasonably appeared to pose an immediate threat to the safety of any officers or to others;
3. Whether the Plaintiff was or reasonably appeared to be actively resisting arrest or attempting to evade arrest by flight;
4. The amount of time and any changing circumstances during which Defendant Richmond had to determine the type and amount of force that appeared to be necessary;
5. The type and amount of force used; and
6. The availability of alternative methods to subdue the Plaintiff.

If, according to these factors, you find the Plaintiff has proved that Defendant Richmond used excessive force in arresting Plaintiff, your verdict should be for the Plaintiff on the Plaintiff's Second Claim against Defendant Richmond. If, on the other hand, the Plaintiff has failed to prove that Defendant Richmond arrested the Plaintiff using excessive force, your verdict should be for Defendant Richmond on the Plaintiff's Second Claim.

#### **INSTRUCTION NO. 5: DEFENDANT CCTD**

In order to find in favor of the Plaintiff on the Plaintiff's Third Claim against Defendant Canyons County Transportation District ("CCTD"), you must find that the Plaintiff proved each of the following elements by a preponderance of the evidence:

1. Defendant Richmond was employed by CCTD;
2. Defendant Richmond **acted under color of law**;
3. Defendant Richmond violated Plaintiff's Fourth Amendment rights by either arresting Plaintiff without probable cause or using excessive force in the arrest, according to the standards set forth in Instruction Nos. 3 or 4;
4. Defendant Richmond acted pursuant to an expressly adopted official policy or a longstanding practice or custom of Defendant CCTD; and
5. But for the existence of the policy, custom, or practice, the underlying constitutional violation would not have occurred.

The parties have stipulated that Defendant Richmond was employed by CCTD and acted under color of law, so that element is not in dispute.

“Official policy” means a rule or regulation promulgated, adopted, or ratified by the Defendant CCTD. “Practice or custom” means any permanent, widespread, well-settled practice or custom that constitutes a standard operating procedure of the Defendant CCTD.

If you find the Plaintiff has proved each of these elements, and if you find that the Plaintiff has proved all the elements the Plaintiff is required to prove under Instruction No. 2, your verdict should be for the Plaintiff on the Plaintiff’s claim against Defendant CCTD. If, on the other hand, you find that the Plaintiff has failed to prove any one or more of these elements or the Plaintiff’s claims against Defendant Richmond, your verdict should be for Defendant CCTD.

DATED: \_\_\_\_\_, 2022.

s/Alexis Joseph Patterson

Alexis Joseph Patterson  
United States District Judge





## LEGAL AUTHORITY

The following legal authority is helpful background. They are included so that teams may enrich their understanding of the legal basis used in 42 U.S.C. § 1983 cases. They are *not evidence*; therefore, they cannot be used in witnesses' testimony, but they may be used in legal argument as the parties deem appropriate. Additionally, though the cases cited here are based on real cases, the parties may only utilize the summaries and holdings described here. Though the cases come from multiple jurisdictions from across the country, the parties are to assume that all authorities are binding on this court in this trial.

### CONSTITUTIONAL PROVISIONS AND STATUTES

**U.S. CONST., Amend. IV:** "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

**42 U.S.C. § 1983:** "Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State ..., subjects, or causes to be subjected, any ... person within the jurisdiction [of the United States] to the deprivation of any rights, privileges, or immunities secured by the Constitution [of the United States], shall be liable to the party injured in an action [for damages and other relief]."

**42 U.S.C. § 1988:** Provides that a plaintiff that prevails on a claim under 42 U.S.C. § 1983 is entitled to reasonable attorney fees.

**Definition of Probable Cause *United States v. Watson*, 423 U.S. 411 (1976):** An officer may arrest a suspect without a warrant, if the arrest is in a public place, and the arresting officer has probable cause to believe the suspect is committing, or has committed, a felony, without violating the Fourth Amendment.

***Hinkle v. Beckham County Board of County Commissioners*, 962 F.3d<sup>3</sup> 1204 (10th Cir. 2020):** In reviewing probable cause a court "examines the events leading up to the arrest, and then decide whether these historical facts, viewed from the standpoint of an objectively reasonable police officer, amount to probable cause." To establish probable cause "officers need only the kind of fair probability on which reasonable and prudent

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<sup>3</sup> Cases reported in the "Federal Reporter" abbreviated "F.", "F.2d," "F.3d", or "F.4th", are decided by United States Courts of Appeals. The Court of Appeals for the Tenth Circuit is the court that covers Utah.

officers, not legal technicians, act.” The probability must be a “substantial probably” as opposed to a “bare suspicion” that the offense took place and the suspect is the one that committed the offense.

***Hill v. California*, 401 U.S. 797 (1971):** The Fourth Amendment is not violated by an arrest based on probable cause solely because the wrong person is arrested.

***Humphrey v. Mabry*, 482 F.3d 840 (6th Cir. 2007):** If an officer acts unreasonably in identifying a person as a criminal suspect considering all the facts and circumstances, then probable cause does not exist.

### DEFINITION OF EXCESSIVE FORCE

***Graham v. Connor*, 490 U.S.<sup>4</sup> 386 (1989):** Under the Fourth Amendment, a police officer’s use of force is only “excessive” if it is objectively unreasonable. Determining whether the force used to affect a particular seizure is “reasonable” under the Fourth Amendment requires balancing of the nature and quality of the intrusion on the individual’s Fourth Amendment interests against the countervailing governmental interests at stake. The “reasonableness” of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.

***Koon v. United States*, 518 U.S. 81 (1996):** The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.

***Muehler v. Mena*, 544 U.S. 93 (2005):** Factors that bear on whether an officer’s use of force is “reasonable” include the severity of the suspected crime, whether the person being detained is the subject of the investigation, whether such person poses an immediate threat to the security of the police or others, and whether such person is actively resisting arrest or attempting to flee.

### REQUIREMENTS FOR MUNICIPAL LIABILITY PROVISIONS

***Monell v. Department of Social Services of New York*, 436 U.S. 658 (1978):** A municipality is not responsible for its employees’ constitutional violations simply

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<sup>4</sup> Cases found in the U.S. Reports, abbreviated “U.S.”, are decisions of the United States Supreme Court.

because it employed someone. Civil rights plaintiffs suing a municipal entity under 42 U.S.C. § 1983 must show that their injury was caused by a municipal policy, or custom.

***Sloman v. Tadlock*, 21 F.3d 1462 (9th Cir. 1994):** Customary practices, if widespread among police employees, are a sufficient basis for municipal liability.

***Cash v. County of Erie*, 654 F.3d 324, 334 (2d Cir. 2011):** A municipal policy may be pronounced or tacit and reflected in either action or inaction. In the latter case, a city's policy of inaction in light of notice that its program will cause constitutional violations is the functional equivalent of a decision by the city itself to violate the Constitution. Consistent with this principle, where a municipal entity exhibits deliberate indifference to constitutional deprivations caused by its agents or employees, such that the inaction constitutes a deliberate choice, that acquiescence may be properly thought of as a policy or custom that is actionable under 42 U.S.C. § 1983.

***Wellington v. Daniels*, 717 F.2d 932, 936 (4th Cir. 1983):** A municipality may not be held liable under 42 U.S.C. § 1983 absent a causal connection between its policy or custom and the constitutional deprivations visited on the plaintiff. The causal link may be direct, as where the policy expressly commands the injury of which the plaintiff complains. Or the causal link may be indirect, in that the constitutional injury may be, for whatever reason, a natural consequence of the municipality's policy or custom. In either case, the plaintiff must demonstrate causation by a preponderance of the evidence. However, the initial inquiry is the existence of the policy or custom; even if a municipality "caused" a constitutional injury in some other sense, it may not be held liable absent a causal link between the injury and its policy or custom.



# **WITNESSES AND AFFIDAVITS**



1   **AFFIDAVIT OF SHEA LYMAN, for the Plaintiff**

2           I, Shea Lyman, being first duly sworn and pursuant to 28 U.S.C. § 1746, declare  
3 and state as follows:

4           My name is Shea Lyman. I'm 29 years old, and I'm a high school math teacher  
5 at Capital City High School in Capital City, Utah. (Go Pioneers!) I grew up here in  
6 Capital City, and I've wanted to be a teacher for most of my life. Both of my parents are  
7 teachers, and, in fact, they met during their first year of teaching at CCHS. Suffice to  
8 say, teaching is in my DNA.

9           After graduating from CCHS, I went to college at the University of Capital City,  
10 where I earned a bachelor's degree in math. I thought for a while about going to work in  
11 banking and finance, but it hit me pretty quickly that I'd have a really hard time sitting  
12 behind a desk all day, even if I got to crunch numbers – one of my favorite things to do  
13 – while I was there. I'm one of those people who can't sit still for very long; some  
14 people say I'm downright impatient, especially when I'm tired.

15           Anyway, given my love for my college math classes and for the volunteer  
16 teaching I did during my college summers, I ultimately decided to follow in my parents'  
17 footsteps. A year after graduating from college, I headed out to Southern University,  
18 where I earned a master's degree in education in 2018. I racked up some pretty  
19 substantial student debt, which I'm still working to pay off, but it was worth every penny.  
20 I loved it down in the South and learned a lot. Then, just before I graduated, can you  
21 imagine how thrilled I was when CCHS offered me a job as an entry-level math  
22 teacher? I bolted at the opportunity, and I've been teaching at CCHS ever since.

23           One of the things I love most about being back in Utah is the team of the Capital  
24 City Beez. I'm a big baseball fan, and, while it's disappointing that we don't have a pro  
25 team here, the minor leagues are almost as good. Since I came back from the South,  
26 I've become a huge Capital City Beez fan. Whenever I go to a game, I wear my dark  
27 red Capital City Beez t-shirt with the Capital City Beez' signature "CCB" logo on the  
28 front; a fair and accurate picture of that shirt is shown in Exhibit 2.

29           To get to the games, I usually take the C-Rail. "C-Rail" is short for Canyons  
30 County Light Rail, which runs all over Canyons County and, in some cases, beyond. It's  
31 really convenient and affordable. Typically, I'll board a Green Line C-Rail train at the

1 Webster Street station which is just a few blocks away from CHS. There's no direct  
2 train to the stadium, so I have to get off at the Ramona Street station and transfer to the  
3 Blue Line. Sometimes the transfer can be a little tight, especially on the way back home  
4 from the games. The Ramona Street station is always mobbed at that time, and it can  
5 be tough to navigate your way through the crowds. Plus, I'm really not a fan of crowds;  
6 they make me claustrophobic, and, whenever I'm in one, my first thought usually is,  
7 "How soon until I can get out of here?"

8 A few times, I've even missed my Green Line train back home when the Blue  
9 Line train is late, which is a total pain. One time, when the Blue Line was late, I had to  
10 pay \$70 for a taxi back to my apartment! Believe me, especially on a teacher's salary,  
11 that's big money for a cab ride.

12 July 16, 2020, is a day I'll never forget. That day, I went to a Capital City Beez  
13 game with some friends. My friends live on the other side of Capital City— after college,  
14 they all decided to move to the über-trendy "Northern Heights" neighborhood – so I met  
15 them at the stadium. I hopped on a 3:30 p.m. C-Rail train right after work and headed  
16 over. Since I was coming from work, I had my usual black backpack with me. It's a  
17 regular old, college student backpack that you can buy at any discount retailer. I can't  
18 imagine how anybody would think I was carrying anything illegal in there. I mean, I just  
19 use it to carry around my teaching outlines, textbooks, and yet-to-be-graded tests!

20 Anyway, I got to the game for batting practice at about 4:15 without a problem.  
21 The game was, of course, a ton of fun. The Capital City Beez were playing the Des  
22 Moines Dodgers who are incredibly good. The Capital City Beez held their own through  
23 the first few innings, but things began to deteriorate in the fourth. It looked like it was  
24 going to be a pretty decisive loss but then, in the eighth inning, Bernie Rodriguez – he's  
25 the face of the Capital City Beez' franchise and will probably go pro someday – sent a  
26 grand slam flying over the left field fence. That tied it up! The game went into two extra  
27 innings, and, by the time it was done, I'd said my goodbyes to my friends, and we got  
28 toward the stadium exit; it was about 9:15 p.m. Happily, the Capital City Beez had eked  
29 out a win, but I was pretty tired and couldn't wait to get home.

30 Since the game ran long, I missed my usual 8:30 p.m. train. My friends' train to  
31 the other side of the city departed from the stadium at about 9:25, so a few minutes  
32 after saying goodbye, I boarded a train scheduled to leave at 9:30 to the Ramona Street



1 station and would arrive there at about 9:45. Already this was a recipe for disaster: the  
2 train didn't end up leaving until about 9:35, and it was packed to the brim with Capital  
3 City Beez fans. I knew they were Capital City Beez fans because most of them were  
4 wearing red Capital City Beez "CCB" t-shirts and matching red caps. I thought I may  
5 have seen someone in a white Capital City Beez cap, but I can't be sure. Already I was  
6 worried that I would miss my connecting train home, which departed from Ramona  
7 Street at 9:50.

8 The train from the stadium arrived at Ramona Street at about 9:49 – right as my  
9 connecting Green Line was pulling up to the platform. The station was immediately in  
10 pandemonium. Throngs of passengers returning from dinner in Cap City's famous  
11 "Downtown Bistro" departed the Green Line train and ran headlong into a swarm of  
12 Capital City Beez fans departing the Blue Line train. Some of them were pushing and  
13 jostling each other on the platform in an effort to make their connection. Not me,  
14 though. I just ran, ducked, and dodged as best I could through the crowds in the  
15 direction of the door to the train.

16 The last thing I remember clearly was looking into the Green Line train car from a  
17 few feet away on the platform. There were a few teenagers walking inside the car, but  
18 they were about 10 feet in front of me. As I was dashing to my train, I heard a voice  
19 behind me that sounded like it was saying something about "hands." It didn't sound like  
20 the voice was yelling or that it was speaking to me in particular. At that point, I was  
21 focused entirely on getting into the train car before the doors closed. I wasn't paying  
22 attention to my hands, but even if I had reached for something in my pocket, they  
23 couldn't have been in there for long—can you run with your hands in your pockets?  
24 Then, when I saw some of the teenagers in front of me stop and look up at the voice, I  
25 started to turn around toward the eastern side of the platform to look, too. Since I  
26 remembered a voice saying something about "hands," I also began raising my hands.  
27 I'm sure that, at some point, my hands were clearly up and visible. At that point, I had  
28 run from the westernmost door to the Blue Line train and was almost right in front of the  
29 westernmost door to the Green Line train as shown in Exhibit 1, with which I am familiar  
30 and which I agree is a fair and accurate representation of the Ramona Street C-Rail  
31 station.

Next thing I knew—before I could completely turn around, and while my hands were still visible—I felt a searing, unbearable pain in my left shoulder and upper back. I didn't lose consciousness, but I wish I had. My muscles froze, and I began convulsing uncontrollably. I think I was screaming, but the shock was so intense and disorienting that I couldn't really tell. It was the single most painful, terrifying experience I've ever had in my life. I fell, hit the ground hard, and looked up to see a police officer rushing over to me from the eastern side of the station. I remember that I was facing eastward and parallel to the train, and away from the door, because I had started to turn. I was still pretty dazed, but I figured the officer would want to see my ID, so I reached with my left hand into my pocket for my wallet, where I keep my driver's license and the C-Rail pass I have to swipe every time I get on or off a C-Rail train. Before I could get to it, though, the officer grabbed my hands, flipped me onto my stomach, and handcuffed me. After they discovered that I didn't have a gun and was just a high school teacher coming back from a baseball game, they let me go.

I learned later that the officer, who was a C-Rail police officer named Parker Richmond, thought I had just committed some sort of robbery and used a stun gun on me. But how could Officer Richmond think that? After I decided to sue, I learned that the suspect they were after was supposedly wearing a white cap and an orange shirt, which I wasn't. I don't even own a white cap! The red shirt I was wearing is fairly and accurately depicted in Exhibit 2. In any event, there was no need for Officer Richmond to use the stun gun on me. If Officer Richmond had announced as a police officer and warned me that a stun gun might be used, I would absolutely have complied with everything I was told to do. But, apart from the "hands" comment which I'm not even sure came from Officer Richmond, I didn't hear a peep from Officer Richmond or any police officer before I got shocked.

I hereby attest to having read the above statement and declare under penalty of perjury under the laws of the United States that it is true and correct. Before giving this statement, I was told it should contain all relevant testimony, and I followed those instructions. I also understand that I can and must update this affidavit if anything new occurs to me until the moment before I testify in this case.

/s/ Shea Lyman

Shea Lyman

1 Subscribed and sworn before me on this 9th day of September 2022.

2

3

4



## **AFFIDAVIT OF CAREY DALLAROSA, for the Plaintiff**

I, Carey Dallarosa, being first duly sworn and pursuant to 28 U.S.C. § 1746, declare and state as follows:

My name is Carey Dallarosa. I'm 72 years young. I grew up in Queens, New York, and moved to Utah when I was ten. Funny story, actually: my dad owned a deli which everybody used to say served the best Reuben in the tri-state area. But then one day, he read this article in the *New York Times* claiming that someplace called "Green Mountain Deli" supposedly served the best Reuben in the universe. Needless to say, he was pretty miffed, so he packed up and headed out to Cap City, Utah, to see if it was the real thing. Problem was, he didn't read the whole article: the Green Mountain Deli from the article was in Capital City, *Vermont*, not Capital City, Utah. He didn't realize that until he got to Utah. But he liked Utah so much that he decided to move here anyway.

My dad really did make the best Reuben in the whole universe, and, pretty soon, the deli he opened up in Capital City needed to expand. That's actually how I got into electrical stuff. I helped him do the wiring in the space he moved into, and I've been hooked ever since. I worked for Fontana Electric, Inc. here in Capital City for years. I've worked on everything; I did everything from wiring new ceiling lights in little old ladies' bathrooms to repairing overhead power lines after a major storm. I know the science, and I know the real-life part of it, too: I've been shocked several times, and, believe me, it's never pleasant. I retired in 2015, but I still keep up with the trade.

Anyway, they told me they wanted me to talk about what I saw at the Ramona Street C-Rail station. Before I do, though, there's something I have to get off my chest: from 2004 to 2006, I served time for a theft conviction. The Canyons County District Attorney said I was stealing valuables from the houses and offices of some of my customers and then selling them at pawn shops. It was ridiculous! The only way they got me was by framing me; they put some of the loot in my house when they came to question me, and then said I took it. It was a set-up, but, in order to avoid a trial – following which I was sure I'd end up with a stricter prison sentence, I just told the judge and the prosecutor what they wanted to hear and accepted a plea bargain. But believe me, since then, I sure haven't been too hot on police officers.

1           Anyway, on July 16, 2020, I was on my way back from my favorite Italian joint in  
2   Cap City's "Downtown Bistro," and, as usual, I was taking the C-Rail. I was taking my  
3   usual route home – Green Line from Middlefield Road to Ramona Street where I'd  
4   transfer to the Blue Line. When I got to Ramona Street, the station was packed. It was  
5   mostly from the Capital City Beez baseball fans in red shirts; some of them were also  
6   wearing baseball hats.

7           I was sort of tuned out because I was writing a text message on my phone to my  
8   cousin Jimbo. All of a sudden, I heard someone yell something about a black backpack  
9   and hands. I can't say whether the person said anything else since I wasn't really  
10   paying attention, but I could hear that above the crowd noise. Anyway, in my book,  
11   when someone yells "hands!" really loudly, like this person did, you look up, so that's  
12   what I did. I didn't hear the person say anything else, at least that I could make out. I  
13   was confused for a second because the way that person yelled, I thought I would be in  
14   the middle of a robbery or something.

15          At first, I didn't see nothing. After about a second, though, I noticed some person  
16   in front of me over near the door to the Green Line train. I was standing about as far to  
17   the west side of the station as you can go, about midway in between the two trains,  
18   looking at the person's right side. The person was, like a lot of other people there,  
19   wearing a red Capital City Beez shirt, which is why I didn't pick the person out at first.

20          I now know that person to be Shea Lyman. Right when I saw Shea, they started  
21   turning away from me toward the eastern side of the platform and begin to raise both  
22   their hands. Shea only got Shea's hands to about waist height. All of a sudden—  
23   BAM—Shea hit the ground hard and started flopping and shaking and seizing. Shea  
24   was screaming, and it looked like Shea was in a lot of pain. I saw the electrodes from a  
25   stun gun and wires coming out from Shea. A police officer used a stun gun on Shea.  
26   Figures, right? I bet that Shea wasn't doing anything wrong.

27          Right afterward, the police officer who fired the stun gun came running up. A  
28   second later another police officer, who was a little older than the first one, also came  
29   running up. They rolled Shea over and applied handcuffs. While they were looking  
30   through Shea's things, the first one was sort of panicking and said, "Cruze, I shouldn't  
31   have fired! This is the wrong person!" Then, the other officer said, "Relax, Rook,  
32   happens all the time. You know what we all do to get IAD off our backs; just tell them

1 that those kids were in danger or that the perp's hands were in the perp's pockets or  
2 something. It'll all blow over. It always does."

3 A different police officer came up to me right afterward and questioned me, and I  
4 told her everything – except the part about the two officers' statements about how they  
5 shouldn't have fired because it was the wrong person, and the other officer's response.  
6 I didn't think they'd believe me, and I didn't want to give them a reason to frame me  
7 again, you know?

8 Anyway, I later found out that Shea sued the police officers. I read it in the  
9 newspapers that this was one of many times that CCPD officers have unnecessarily  
10 used force against innocent people. A few weeks later, Shea's lawyers called me up  
11 and asked me if I could tell them anything about what happened. I didn't want to get  
12 involved, but I figured I had a civic duty to tell the truth, which is exactly what I'm doing  
13 here. I hope those police officers and the whole department pay for what they've done.

14 I hereby attest to having read the above statement and declare under penalty of  
15 perjury under the laws of the United States that it is true and correct. Before giving this  
16 statement, I was told it should contain all relevant testimony, and I followed those  
17 instructions. I also understand that I can and must update this affidavit if anything new  
18 occurs to me until the moment before I testify in this case.

19  
20 /s/ Carey Dallarosa

21 Carey Dallarosa

22 Dated: September 12th, 2022

23 Subscribed and sworn before me on this 12th day of September 2022.

24 /s/ Bobbie Dousa

25 Bobbie Dousa

26 Notary Public in and for the State of Utah





## **AFFIDAVIT OF SAMMIE GARLAND, for the Plaintiff**

I, Sammie Garland, being first duly sworn and pursuant to 28 U.S.C. § 1746, declare and state as follows:

My name is Sammie Garland. I'm 53 years old. I was a certified police officer for 35 years and retired after making Sergeant. Now, I feel like my "job" is enjoying Utah's outdoors as much as I can. In my "spare time," I serve as the chair of Canyons County's Citizen Review Committee, which we call "the CRC." The CRC conducts civilian oversight of city police, including Canyons County Transportation District ("CCTD") police officers. We investigate allegations of police misconduct, issue findings on whether misconduct has occurred and, if so, recommend remedial and disciplinary measures. We aren't officially a part of the police department, so all we do is make recommendations. That said, the CCTD and the Capital City Police Department each tend to take our recommendations very seriously. In about 75% of the cases we review, the police department agrees with the recommendations we make.

I'd say I have a pretty even-handed record on the CRC. Like each of my colleagues, I vote to recommend discipline in about one in every ten of the cases that come before us (or maybe slightly fewer). Not every incident is as simple as it seems, and I try to see that in every case I work on. For example, in 2014, I voted against a finding of misconduct in a case involving a Capital City police officer who fatally shot a suspected bank robber twice in the chest.

A little more about me: I was born and grew up in Tall Tree, Utah, a small town in rural Aspen County. I went to college at Northern Utah State, where I earned a degree in human biology and physiology and began my career as a beat cop with the Aspen County Police Department in the early 1990s. It was a pretty boring job; my beat included such hot spots as the city's most popular local yoga studio, a few daycare centers, and an old folks' home. Suffice to say, I didn't see much action. A few years later, though, and after I was promoted to Sergeant, I left the department after learning of several incidents of what I thought was excessive force by "dirty" officers who went unpunished for their misconduct. I could have stayed on after I got my 25 years in, or transitioned to a civilian job within the P.D., but I just decided to leave. They told me that I was overreacting, and, in retrospect, maybe I was in some cases.

1           Anyway, I decided to move back to Tall Tree in 2007 after accepting a job as an  
2 internal affairs specialist with the Tall Tree Police Department. Most officers in my shoes  
3 would have seen the job as a dead end, but I loved it. My job was to make sure that our  
4 public servants were serving the public as effectively as they possibly could, which I  
5 found really rewarding. I worked as hard as I could, and I even got statewide recognition  
6 in 2010 for uncovering a major drug ring in which three Tall Tree police officers were key  
7 players. It was all over the *Aspen County Gazette*, and, I have to say, I loved the praise.  
8 I mean, who doesn't like getting their picture in the paper?

9           When I was at the Tall Tree Police Department, I also conducted yearly trainings  
10 for Tall Tree officers on the use of lethal and non-lethal force, which included lessons on  
11 the use and effects of stun guns. I drew on my knowledge of human biology, experience  
12 in the field, and the training materials the department had provided in conducting the  
13 trainings, the purpose of which was to educate the officers about the risks and effects of  
14 using pepper spray, stun guns, and their department-issued sidearms. I should note,  
15 though, because I was doing internal affairs work before the stun guns were widely  
16 available, I've never used one while actually policing in the field.

17           I really enjoyed Tall Tree, but, when my spouse got a job as a software engineer  
18 at Capital City's hottest tech company in 2012, we moved back to Canyons County. I  
19 applied for jobs at the Capital City Police Department and at the CCTD Police  
20 Department, but – to my great disappointment – I was told that neither was hiring. I took  
21 that as a sign that my retirement plans were calling. But I wanted to stay involved in  
22 police work, so I asked the Canyons County Board of Supervisors to appoint me to the  
23 CRC, which it did. I worried that my background in rural-area police work would make  
24 for a difficult adjustment in Capital City. I thought urban police work might be different  
25 from and more dangerous than rural police work, but I quickly found that not to be true.

26           I was asked by Shea Lyman's lawyers to review the evidence in the case and give  
27 an opinion about the incident on July 16, 2020. Drawing on my background and  
28 experience, I examined several different pieces of evidence, including the affidavits of  
29 Shea Lyman, Carey Dallarosa, Parker Richmond, and Shiloh Torrey; Courtney Cruze's  
30 deposition and an attached report regarding a 2017 incident in which Officer Cruze shot  
31 a suspected bank robber in the back, all of which is shown in Exhibit 4; the summary of  
32 CCTD disciplinary statistics as compared with similar national statistics that was

1 prepared by Jalen Ridge, a fair and accurate copy of which is reflected in Exhibit 7; the  
2 CCTD Police Department's handbook, a fair and accurate copy of which is in Exhibit 5;  
3 departmental training records concerning the use of stun guns, a fair and accurate copy  
4 of which is in Exhibit 6; and three other reports regarding CCTD officers' use of stun  
5 guns, fair and accurate copies of which are in Exhibits 8, 9, and 10. Those are the types  
6 of materials the CRC normally relies upon in its investigations and were sufficient for me  
7 to arrive at my conclusions. I analyzed them using the normal methods I would use  
8 when analyzing an act of alleged police misconduct at the CRC, which are reliable and  
9 accepted in my field. I applied those methods reliably.

10 Based on my analysis, I reached two conclusions. First, I believe that it was  
11 questionable that Officer Richmond should have used a stun gun in this situation at all.  
12 Second, it is possible that Lyman would have remained composed enough following the  
13 stun gun shock to put Lyman's left hand in Lyman's pocket. Second, CCTD police  
14 officers provoke more citizen complaints and receive less discipline related to the use of  
15 force than other police departments across the nation, which has resulted directly from  
16 the CCTD's policies and practices regarding the use of force.

17 As to the first conclusion, it is important to understand how stun guns work and  
18 what the normal physiological effects of a stun gun are on the human body.

19 I have experience with the stun gun used by Officer Richmond in this case and  
20 depicted in Exhibit 3. It has two modes—a "Probe" mode and a "Drive Stun" mode. In  
21 the "probe" mode, you can aim the stun gun just like a firearm—there's even a laser  
22 sight—and when you fire it, barbed probes, attached to long copper wires, are fired from  
23 the gun. If successful, the probes pierce the target's skin, shooting an electrical current  
24 that makes the target's muscles tense up, and they collapse on the ground.  
25 ("Drive" mode is direct contact used in close quarters.)

26 In most cases, the suspect is paralyzed when shocked but only while the stun gun  
27 is "engaged," meaning while electricity is flowing into the suspect's body. The paralysis  
28 occurs because the flow of electricity disrupts the suspect's nervous system by  
29 interfering with the electrical signals that originate in a normal human's brain. However,  
30 when the stun gun disengages, the flow of electricity ceases, and the suspect's nervous  
31 system can return to normal, which means that, unless there is some sort of injury that's  
32 been caused, the suspect can move again.

1           This model used in this case has an effectiveness of 70% at 25 feet. That means  
2 if the target is standing still 25 feet away from the officer, and the stun gun is fired, there  
3 is an 70% chance that the probes will make proper contact and incapacitate the target.  
4 The other 30% of the time, one or both probes might spread too far or not penetrate the  
5 skin, so the electrical circuit is not established, or the probes may miss the suspect  
6 entirely. The effectiveness decreases if the subject is farther away or in motion. The  
7 copper wire is about 35 feet long in total. When used in a crowded area, there is always  
8 a chance the probes might hit a bystander, but that's very rare.

9           We often call stun guns "non-lethal" force, but the better term is probably "less-  
10 than-lethal" force. The stun gun incapacitates the target by tensing the target's muscles.  
11 It is very painful, even on targets who are in good shape. Normal, healthy targets tend to  
12 recover almost after the charge is turned off, but that's not always the case.

13           Just because stun guns are less lethal doesn't mean there are never any injuries  
14 when a stun gun is used. To someone untrained, being on the business end of a stun  
15 gun can be psychologically traumatic. A target may experience cuts, injuries, or burns  
16 where the probes penetrate and may be injured if he or she falls wrong when being  
17 incapacitated. And if a target has an underlying medical condition (such as a bad heart)  
18 or if the shock is administered longer than necessary, the stun may cause more serious  
19 damage and, rarely, contribute to the target's death.

20           CCTD policy cautions officers from using stun guns—or any less-than-lethal  
21 force—only as a last resort, and that's generally how I trained my officers in Tall Tree.  
22 Some officers think that stun guns are much safer than other less-than-legal force  
23 options. But it all depends upon the circumstances.

24           In this case, the circumstances did not warrant use of a stun gun. Of course, if  
25 Officer Richmond should have reasonably known that Lyman did not match the  
26 description of the suspect they were looking for, Officer Richmond never should have  
27 used any force to begin with. And, of course, Officer Richmond should not have fired  
28 before clearly and loudly ordering Lyman to stop, demanding that Lyman comply, and  
29 informing Lyman that failure to comply would result in the use of force. The exception to  
30 that rule is when an officer is unable or does not have time to comply, but, from my  
31 review of the record, nothing prevented Officer Richmond from doing that in this case. If  
32 Officer Richmond had provided a clear warning, or if Officer Richmond believed that a

bystander was in imminent danger, then a use of force might comply with standard police practice and CCTD policy.

Beyond that, the benefits of using the stun gun seem to outweigh the risks in this situation. Lyman was not standing still but running away toward the outer limit of the effective range of the weapon. There were other bystanders around. And because of the location, there was a risk of injury when Lyman fell after being stunned. I'm surprised it worked at all and that Lyman wasn't hurt more. It's not reasonable for a rookie cop to be able to take in all of these considerations in the hot pursuit of a suspected fleeing felon, but safety and situational awareness are top priorities. If the facts were different, maybe some experienced officers might agree with Officer Richmond's decision to use the stun gun, but I wouldn't - based on my review of the record.

Second, it is my opinion that Lyman's claim that Lyman raised both hands and *then* placed Lyman's left hand back in a pocket is perfectly plausible. Once Officer Richmond's gun disengaged, Lyman would have regained control of Lyman's nervous system which would have allowed hand movement. Sure, the experience of being shocked with a stun gun is extremely painful and leaves many people dazed for a few minutes after the shock. But that's all physiological, and I can't say what the psychological effects of the shock would have been. From a pure physiological perspective, though, I can say with absolute certainty that Lyman *could* have put Lyman's hand in Lyman's pocket.

As to my final conclusion, the statistics speak for themselves. Preliminarily, I have no reason to believe, and do not believe, that the statistics Ridge relied on are inaccurate; I believe they accurately reflect the number of complaints the CCTD Police Department has received since 2007, and those complaints' respective dispositions. That is not to say that those dispositions were appropriate in every case, though. I also independently verified the statistics Ridge used from the Bureau of Justice Statistics. In other words, the national "averages" that Ridge uses are accurate.

However, based on the number of officers in CCTD's police force, CCTD generally receives a slightly higher number of yearly complaints regarding the use of force than the national average. The national average for a department of CCTD's size would be 2.85 complaints per year, but the CCTD Police Department averages over 3 complaints per year. That might not seem like a big difference, but it's very troubling

1 when you consider the rates at which those complaints are sustained – which is almost  
2 *never*. In seven years, the CCTD Police Department has only had *two* citizen complaints  
3 sustained. While, admittedly, CCTD police officers serve in somewhat unique  
4 environments in and around train stations – in which confrontations with suspects  
5 generally are more likely – there’s nothing “unique” about the way citizen complaints  
6 should be processed.

7 The handling of those complaints sent a message to CCTD police officers that  
8 they could use as much force as they pleased without consequence. The complaint in  
9 Exhibit 8 is a perfect example; there, Officers Cruze and Irsay received a far less severe  
10 punishment than was warranted or than the CRC would normally recommend. The  
11 normal punishment for that sort of thing would be, at minimum, a weeklong suspension,  
12 and possibly other measures. Effectively, the punishment that was actually handed  
13 down – a half-day suspension – amounted to a “slap on the wrist.”

14 It is also especially concerning that Officer Cruze was involved in two of the three  
15 stun gun-related incidents shown in Exhibits 8, 9, and 10, plus the incident on July 16. If  
16 anyone at CCTD would have been exposed to its lax policies regarding the use of force,  
17 it would have been Officer Cruze. The same is true of his training; the Department’s  
18 training records in Exhibit 6 show that Cruze was permitted to be more lackadaisical  
19 about receiving proper training than any other member of the department. Additionally,  
20 Officer Cruze at least partly instigated the incident on July 16 by pointing out Lyman to  
21 Officer Richmond and indicating that Richmond should subdue Lyman. Thus, via Officer  
22 Cruze, CCTD’s lax policies regarding punishment for the excessive use of force appear  
23 to have contributed directly to the incident in which Officer Richmond discharged the stun  
24 gun into Lyman.

25 Based on my review of the evidence, I believe the CCTD Police Department’s  
26 policies and practices directly resulted in an excessive use of force on Shea Lyman. I  
27 hope justice is served. Nobody should have to go through what Lyman experienced.

28 I hereby attest to having read the above statement and declare under penalty of  
29 perjury under the laws of the United States that it is true and correct. Before giving this  
30 statement, I was told it should contain all relevant testimony, and I followed those  
31 instructions. I also understand that I can and must update this affidavit if anything new  
32 occurs to me until the moment before I testify in this case.

1 /s/ Sammie Garland

2 Sammie Garland

3 Dated: September 14th, 2022

4 Subscribed and sworn before me on this 14th day of September 2022.

5  
6 /s/ Bobbie Dousa

7 Bobbie Dousa

8 Notary Public in and for the State of Utah





## **AFFIDAVIT OF PARKER RICHMOND, for the Defense**

I, Parker Richmond, being first duly sworn and pursuant to 28 U.S.C. § 1746, declare and state as follows:

My name is Parker Richmond, and I'm 26 years old. I'm a police officer with the Canyons County Transportation District Police Department. I grew up Chicago, on the South Side, so I know what "rough neighborhood" means better than just about anyone. On top of that, I come from a family of police officers; both my father and grandfather served in the Chicago Police Department. I moved to Utah to go to college – I went to Pioneer College on a full scholarship – and I've been here ever since.

Chalk it up to my family, I guess, but I've wanted to be a cop for as long as I can remember. When I graduated from Pioneer in 2018 with a bachelor's degree in Criminal Justice, I put in applications at the Capital City Police Department and the Canyons County Transportation Police Department. CCTD ended up hiring me, and, when I finished my time at the academy in January 2019, I was ready to hit the ground running, and I did. I graduated from the police academy successfully and am a certified peace officer. Even though I work for a police department for a transit district, I have the same training, and have the same authority, as an officer working for a city police department. I've had a great career on the CCTD police force so far, and I hope to continue for as long as they'll have me.

The Chief ended up pairing me with Courtney Cruze who, as I quickly found out, was a total legend in the Department. He was there for about as long as the CCTD existed; he had a reputation as being eminently fair, but, at the same time, he was one of the toughest guys around. He taught me – and I found out for myself on the job – that you need to be tough as nails to make it in the CCTD. Sure, I know Cruze had a few complaints filed against him over the years, and maybe that's why Cruze hadn't been promoted in his years on the force, but I don't know an officer here or at the Capital City Police Department who hasn't had at least one excessive force complaint filed against him or her. Early on, Cruze taught me my most important lesson: when we're reasonably sure someone has committed a crime and is a risk to do so again or a threat to ourselves or others, we're fair, but we can't afford to give a suspect the benefit of the doubt in close cases. I can't remember how many times he told me that.

1           Part of the reason for that, Cruze explained, is that policing the C-Rail isn't quite  
2 like regular police work. I certainly don't mean to knock my colleagues over at the Cap  
3 City PD, but things can get much hairier much quicker on the C-Rail. See, unless you're  
4 in a bad neighborhood, most regular beats are manageable. Sure, sometimes you'll  
5 catch a drunk driver, sometimes a domestic call will unexpectedly turn violent, or  
6 sometimes you'll respond to a call about someone trying to steal a car, but on many  
7 days, it's pretty uneventful. I know because I used to ride with my dad along a few  
8 different beats in Chicago when I was a kid, and I have a lot of friends on the force.

9           But when it comes to the C-Rail, it's a little different. Obviously, you've got people  
10 without tickets who, when the ticket-checkers catch them, naturally become a little  
11 belligerent at the prospect of paying a \$250 fine. Plus, everybody is in closer quarters  
12 and – especially during rush hour – is usually operating on a shorter fuse. That means  
13 more pushing, more shoving, and a few more fights than you'll usually run into on your  
14 average street corner. Needless to say, we're always vigilant about whatever sort of  
15 threat might come up on the C-Rail, no matter how big or seemingly small it might be.

16           Before July 16, 2020, I had received one and only one complaint against me  
17 alleging excessive use of force. Between the time I started in January 2019 and that  
18 time, I had arrested or assisted in arresting about two dozen suspects, most on drug-  
19 related offenses. The suspect who filed a complaint claimed that I used my pepper  
20 spray on him without any good reason. Half of that is true – I sure did use my pepper  
21 spray on him, but that was only because he came rushing at me with a switchblade while  
22 he was high on drugs. He was about 20 feet away from me when I sprayed him.  
23 Afterward, Cruze – who, as my partner, was there with me – told me he was amazed I  
24 hadn't reached for my gun or at least my stun gun. At CCTD, we're required to keep our  
25 guns on one side of our belt and our stun guns on the other side; that requirement exists,  
26 so, in the heat of the moment, we don't grab the wrong one. I decided to use my pepper  
27 spray because I wanted to be cautious. I'm a peaceful person, and my philosophy is that  
28 I'm only going to use as much force as is necessary to deal with the threat and not an  
29 iota more. That incident, though, taught me that pepper spray wasn't necessarily the  
30 best tool. If I had hesitated, if I had second-guessed myself, or if I didn't have lucky aim  
31 with the canister, I believe I might not be alive today. I reinforced the lesson that Cruze  
32 had taught me when I started: there's a reason we don't give known or suspected

1 criminals the benefit of the doubt. It was an eye-opening moment for me (and an eye-  
2 closing one too—that pepper spray got in everyone’s eyes and made it hard to arrest the  
3 perp)! Based on my conversations with my colleagues at the CCTD, I think it’s a lesson  
4 that all police officers have at one point or another in their careers.

5         Anyway, the suspect’s complaint was found to be frivolous. He was convicted  
6 and is now serving 10 years in prison for possession with intent to distribute and for  
7 attempted assault on an officer, so you know his complaint was probably no good from  
8 the get-go. Another officer, Paul Bowlen, whom I worked with had a similar experience  
9 that I witnessed. That experience is described in Exhibit 10, with which I am familiar and  
10 which I agree is an accurate representation of what happened that day.

11         July 16, 2020, was a night I won’t forget anytime soon. That night Cruze and I  
12 were stationed in our CCTD cruiser at the Ramona Street C-Rail stop. I was wearing my  
13 CCTD uniform with the standard-issue tools and weapons. That included a Glock 19  
14 pistol on the belt on my right hip, the stun gun that is depicted in Exhibit 3 on my left, two  
15 sets of handcuffs, a radio, a bullet proof vest, a pepper spray vial, and other tools. At the  
16 time, CCTD did not have body cameras for its officers, and security cameras at the  
17 Ramona Street C-Rail stop had not yet been installed, either.

18         I’ve received training on its specifications, features, and use, both in the academy  
19 and through training provided by my employer. I use my stun gun in “probe” mode  
20 (where it shoots barbed probes at a suspect) much more often than in “drive” mode  
21 (where you directly contact the suspect with the gun in close quarters).

22         I’ve been involved in training sessions where volunteer officers were targeted by a  
23 similar stun gun. I’ve even done it myself. It hurt, a lot, and I was a little disoriented  
24 afterward, but the pain stopped when the electricity stopped. I think Cruze volunteered  
25 every year, just to show off. But I know there can be risks with using the gun. I try to  
26 follow CCTD policy on the use of stun guns. But just like I learned with the guy that tried  
27 to kill me, stun guns are often safer than other non-lethal options. They have a lower  
28 likelihood to cause permanent injury and are safer for officers to deploy than something  
29 like a club, and much less likely to cause damage to bystanders than something like  
30 pepper spray. I’ve learned in my training that CCTD considers stun guns a top tool for its  
31 offers to utilize when less-than-lethal force is required.

1           A little after 9:30 p.m., we received a dispatch saying that an armed robbery had  
2 happened on a C-Rail train coming from Emerson Street. The Emerson Street station is  
3 one stop away from Ramona Street. According to the dispatch, a person in their late 20s  
4 or early 30s, and of Shea Lyman's race, had approached a pair of teenagers, brandished  
5 a small silver revolver, and demanded that they turn over their cash, credit cards, and  
6 cell phones. The dispatch did not mention the attacker's gender. Dispatch reported that  
7 the attacker was wearing a blue t-shirt, jeans, and a white baseball cap. After grabbing  
8 the victims' purses and cell phones, the attacker shoved the contraband and the gun into  
9 some sort of dark backpack and ran onto a Green Line C-Rail train headed for Ramona  
10 Street.

11           As soon as Cruze and I heard the dispatch, we looked at each other and  
12 grimaced. We knew that a similar attack had happened on the C-Rail a few weeks ago;  
13 Cruze was on duty at the time and had responded to the attack himself. In that case, a  
14 person in their late 20s or early 30s, and of Shea Lyman's gender and race, had robbed  
15 an elderly couple with a small silver revolver. According to Cruze, the attacker hit one of  
16 the victims on the head with the butt of the revolver when she tried to resist. The force of  
17 the blow knocked her to the ground and gashed her forehead. She got a concussion  
18 and had to get stitches, but she ultimately recovered. She was, however, pretty  
19 traumatized by the incident.

20           Cruze and I got out of our CCTD cruiser and started walking toward the platform,  
21 where the train carrying the attacker would arrive. As we ran to the platform, Cruze  
22 mentioned the prior attack and said, "This perp got away once and under no  
23 circumstances are we going to let that happen again. Remember that we don't give the  
24 criminals the benefit of the doubt. You do whatever you need to do to take this person  
25 down." But as he sometimes did, he then added, "but, I mean, don't do anything stupid."  
26 The train was supposed to arrive on the northern side of the platform. We each knew  
27 that another train – the Green Line train to Webster Street – would arrive on the southern  
28 side of the platform at about the same time, so it would be mobbed. To make sure we  
29 covered the whole area, I positioned myself at about equal distances from each train,  
30 and about equal distances in between the center and westernmost sets of doors on each  
31 train. Basically, I was in the center-left part of the station as shown in Exhibit 1, with  
32 which I am familiar and which I agree is an accurate representation of the Ramona

1 Street C-Rail stop. Courtney positioned himself in the same place on the other side of  
2 the platform, about 100 feet or so away from me.

3 All of a sudden, both trains arrived. Cruze and I thought we'd have a few minutes  
4 to scan the departing passengers from the Blue Line train before the Green Line arrived,  
5 but the Blue Line was late. A lot of people seemed to be pushing, jostling, and running  
6 across the platform to make their connection to the Green Line. Cruze and I  
7 maneuvered as best we could in the crowds – we were simultaneously scanning the  
8 crowds and peering into the train itself to look for the attacker.

9 All of a sudden, I heard Cruze shout, "Rook (short for "Rookie"), black backpack to  
10 your left!" I was facing the Blue Line train, but I swung around and saw a person, whom I  
11 later learned to be Shea Lyman, running across the platform from the westernmost door  
12 to the Blue Line train toward the westernmost door to the Green Line train. Lyman  
13 seemed to match the attacker's description, wearing jeans and a black backpack.  
14 Lyman also appeared to be running directly toward a group of teenagers who were  
15 standing at the door of the train. I saw that Lyman was wearing what I thought was a  
16 dark or red t-shirt – although, in the split second I had to react, I couldn't tell exactly  
17 because it was partly obscured by the backpack. It could have been orange, or it could  
18 have been red. I couldn't tell at the time. Then again, there were lots of people wearing  
19 similar shirts on the platform. And to be honest, I was so focused on Lyman's backpack,  
20 I might not have been paying attention to the shirt color. Lyman didn't seem to be  
21 wearing any sort of hat, but I remember thinking at the time that, whoever this person  
22 was, the person was the attacker and had probably stuffed the cap in the backpack to  
23 avoid detection during the escape.

24 Then I noticed something really scary: as Lyman was rushing toward the group of  
25 teenagers, Lyman's left hand was in Lyman's left pocket and seemed to be fumbling  
26 around for something that Lyman couldn't quite get a grip on. My mind immediately  
27 flashed back to the attacker's silver revolver, the business end of which another group of  
28 teenagers had been looking down just a little while earlier. I wasn't going to let that, or  
29 even something worse, happen again.

30 I immediately unclipped the safety device securing my stun gun to my belt. A fair  
31 and accurate depiction of my stun gun is shown in Exhibit 3. I took a few steps to close  
32 distance and yelled at Lyman, "You with the black backpack, Police! Stop right where

1 you are and put your hands up!" That is all I remember saying. Lyman didn't respond at  
2 all. Lyman didn't stop, didn't raise Lyman's hands, or do anything but continue running  
3 toward those teenagers while fumbling around for something in Lyman's pocket. To me,  
4 given the dispatch we had received, that took the situation from "urgent" to "this might be  
5 life or death." I was about 20 feet away from Lyman, and, while it was loud on that  
6 platform, there's no way that Lyman didn't hear me. I mean, some of the *teenagers* even  
7 turned around and looked at me when I yelled, but Lyman just kept running. What if  
8 Lyman was about to pull out that silver revolver and use it on those teenagers?

9 At that point, I had to make a decision. What I had in front of me was a person  
10 who partly matched the description of a vicious, violent attacker who kept running toward  
11 a group of teenagers after I had called for the person to stop. On one hand, if I did  
12 nothing, the consequences could be dire. On the other, if I used my stun gun, I could  
13 stop what would potentially have been a devastating second attack without any  
14 permanent physical damage to the attacker. Like I said, I'm a peaceful person, and I  
15 never want to harm a suspect unless there's no other alternative. I made the only  
16 decision I could. I stopped running, unholstered my stun gun, pointed it at Lyman, and  
17 fired. At the time, Lyman was approximately 20-25 feet away from me. The stun gun's  
18 two electrified barbs lodged in Lyman's left shoulder. Lyman screamed, convulsed, and  
19 fell over on Lyman's side, parallel to the C-Rail and facing east. Lyman's hand was still  
20 in Lyman's pocket, so Cruze and I turned Lyman over and got handcuffs on. Lyman was  
21 complaining about pain, but we had to act quickly. After we had a second to more  
22 closely see that Lyman's clothes didn't match the description of the assailant, searched  
23 Lyman's backpack, discovered that there was no gun, and checked out Lyman's story,  
24 we released Lyman and called an ambulance for Lyman's medical treatment.

25 I was shaken up when I realized that Lyman might not be our suspect, and Cruze  
26 reassured me that I made the right decision under the circumstances. I know some  
27 witnesses claim that Cruze told me to lie to IAD about the incident, but he never said  
28 that. And I would never lie about what happened regardless.

29 I know Lyman turned out not to be the attacker, and I feel really bad about that.  
30 But in those circumstances, I had no choice. It's easy to be an armchair quarterback  
31 when it comes to these sorts of incidents, but, at the end of the day, we police officers  
32 have to make split-second decisions based on limited information. If we feel like we

1 need to second-guess ourselves every time we face a dangerous suspect, that could  
2 mean we wait an extra second while an armed suspect takes a swipe at us—or an  
3 innocent bystander. No police officer does that.

4 I'm really, really sorry for what happened to Shea Lyman. But Lyman heard me  
5 and should have stopped when I called. If Lyman had done so, I might have been able  
6 to rule Lyman out, and might have even been able to scan the rest of the crowd and  
7 catch the attacker.

8 I hereby attest to having read the above statement and declare under penalty of  
9 perjury under the laws of the United States that it is true and correct. Before giving this  
10 statement, I was told it should contain all relevant testimony, and I followed those  
11 instructions. I also understand that I can and must update this affidavit if anything new  
12 occurs to me until the moment before I testify in this case.

13 /s/ Parker Richmond

14 Parker Richmond

15 Dated: September 8th, 2022

16 Subscribed and sworn before me on this 8th day of September 2022.

17  
18 /s/ Bobbie Dousa

19 Bobbie Dousa

20 Notary Public in and for the State of Utah





## **AFFIDAVIT OF SHILOH TORREY, for the Defense**

I, Shiloh Torrey, being first duly sworn and pursuant to 28 U.S.C. § 1746, declare and state as follows:

I'm Shiloh Torrey. I'm 15 years old, and I'm a student at Capital City High School in Capital City, Utah. I've lived in Capital City my whole life, and I've never really been in any sort of trouble. I mean, people tend to say I'm kind of a "goodie two shoes," but I think that's just because of that one-time last year when I caught some of my friends cheating on math tests. I noticed them on the other side of our classroom looking at their cell phones under their desks. I told our teacher about it even though I knew they'd be in big trouble – I mean, what else was I going to do?

I'm an okay student, I guess. I get mostly B's and B+'s. My favorite class is art, by far. I really like visual art, and I'm thinking about studying it in college. Problem sets, papers, and lab experiments are interesting enough, I guess, but I love trying to capture the world around me in a painting or photograph. My friends say I'm pretty good at it, too, and that I notice things that other people don't. Like in the early fall when my class takes its yearly field trip to Central Utah, I'm always the first one to point out some of the more difficult-to-spot wildlife on our hikes. Owls are my favorite.

Anyway, on July 16, 2020, my friends and I were coming home from the Capital City Beez baseball game. We all go to CCHS, but only one of us, my best friend Sammie Phalke, is in one of Shea Lyman's classes which Sammie doesn't like very much. We all had roundtrip C-Rail tickets to travel to and from the game. Since we all live in Cap City, we have to take the Green Line to Ramona Street and then transfer to the Blue Line, which we then take the rest of the way to the stadium. Because I'm generally pretty forgetful, I gave my ticket to Sammie to hold on to.

The game was great. I mean, I don't really care all that much about baseball, but it was really great to hang out with my friends! The game went pretty late, so I was a little tired when we all headed out. We took a Blue Line C-Rail train back to Ramona Street where, like we had on the way there, we were planning on transferring to a Green Line train to take the rest of the way home.

As we were about to board the Green Line train back to Webster Street, I stopped and started fumbling for my ticket. After a second, I realized that I had

1 forgotten that I gave it to Sammie. I felt like such a space cadet. But to be honest, that  
2 sort of thing happens to me a lot. At that point, when I realized Sammie had my ticket, I  
3 was just a few feet in front of the westernmost door to the Green Line train; the whole  
4 Ramona Street station is accurately reflected in Exhibit 1, with which I am familiar. The  
5 rest of my group was walking ahead of me toward the train, and they had just about  
6 boarded it when, suddenly, I heard a voice behind me. The voice yelled something that  
7 sounded like, "You with the backpack! Hands in the air!" It's possible that the voice  
8 yelled "please" or something like that, too, but I'm not sure

9 I froze for a split-second. I thought I had done something wrong! But then when  
10 I got my bearings back, I turned around and saw someone whom I later learned was  
11 Shea Lyman just a few feet away from me. I was directly in between Lyman and the  
12 train. Lyman seemed to be running really fast and straight toward me. Also, I thought it  
13 looked like Lyman was trying to get a hand in Lyman's left pocket, like trying to get  
14 ahold of keys or something. Then again, why would Lyman need keys if Lyman was  
15 just about to get on the C-Rail? It was a little hard to see because of the crowd, but I  
16 remember how weird it looked. And because of how fast Lyman was running toward us,  
17 I was a little scared. It looked like Lyman was going to run me over, so I started to  
18 move out of the way.

19 Then, before I knew what was happening and just a second or two after I had  
20 turned around, Lyman started screaming and fell to the ground. It looked like Lyman  
21 was running straight toward my friends and me and then, all of a sudden, Lyman started  
22 twitching and yelling, and then sort of jerked to Lyman's left and fell in that same  
23 direction. I could see for sure that Lyman's left hand was in Lyman's pocket after falling;  
24 only when Lyman hit the ground, it didn't look like Lyman was fumbling around for  
25 Lyman's keys anymore. Because of the crowd and the stress I was under, I couldn't tell  
26 what had happened after that. I think I saw a police officer turn Lyman over and put  
27 handcuffs on, but I may not have seen everything else that was going on. I learned  
28 later that a police officer behind Lyman had shot Lyman with a stun gun.

29 Afterward, the police interviewed me, and I told them everything I've said here.  
30 It was a really scary day, but I remember everything exactly like it happened. I feel  
31 really bad for Lyman; it sounds like Lyman was just in the wrong place at the wrong  
32 time.

1 I hereby attest to having read the above statement and declare under penalty of  
2 perjury under the laws of the United States that it is true and correct. Before giving this  
3 statement, I was told it should contain all relevant testimony, and I followed those  
4 instructions. I also understand that I can and must update this affidavit if anything new  
5 occurs to me until the moment before I testify in this case.

6 /s/ Shiloh Torrey

7 Shiloh Torrey

8 Dated: September 8th, 2022

9 Subscribed and sworn before me on this 8th day of September 2022.

10  
11 /s/ Bobbie Dousa

12 Bobbie Dousa

13 Notary Public in and for the State of Utah



## **AFFIDAVIT OF JALEN RIDGE, for the Defense**

I, Jalen Ridge, being first duly sworn and pursuant to 28 U.S.C. § 1746, declare and state as follows:

I'm Jalen Ridge, and I'm 45 years old. I am the director of the Internal Affairs Division – IAD as we call it – at the CCTD Police Department.

I have lived in Capital City, Utah, all my life. I grew up in a very bad neighborhood; at the time, shootings, robberies, and other crimes were a daily reality. My best friend's parents owned and operated a small convenience store in the neighborhood, and, when we were 14, my friend's parents were killed in a holdup at the store. The shooter was never caught. I saw the effect of the shooting on my friend, who eventually turned to drugs and wound up in prison, so I decided to become a police officer. I went straight from high school to the Police Academy, where I graduated first in my class. I became a beat cop in 1998 and a detective in 2005. Toward the end of my tenure, after the Department issued them to its officers, I used my stun gun in the field on several occasions. The stun gun I used was an older version of the same make and model that Parker Richmond used on Shea Lyman in this case.

After my years as a detective, though, I realized that some of the problems facing rough neighborhoods like the one I grew up in can, in rare but important cases, have as much to do with the police officer handling the case as with the criminal he or she is trying to nab. That in mind, in 2012, I decided to become an investigator with the Canyons County District Attorney's Conviction Review Unit, which investigates allegations of police misconduct and recommends that the district attorney vacate convictions that are a product of such misconduct.

Right off the bat, I found the job incredibly rewarding and learned two important lessons. First, in my experience, the vast, overwhelming majority of police officers are decent, honest, hardworking people who are genuinely trying to make their communities better places. I also saw how a false complaint—even a frivolous one—can unfairly destroy an officer's reputation. The evidence typically bears that out. Of the 37 cases I reviewed in the Conviction Review Unit, I recommended the vacation of just two convictions. Second, though, I learned that in the rare case in which a police officer tampers with evidence, coerces a suspect into confessing, or commits some other sort

1 of misconduct, the resulting conviction can unfairly destroy the defendant's life and  
2 family. It is important to remember that even an honest mistake can have that effect. In  
3 the two cases in which we recommended vacation of the defendant's conviction, we did  
4 not believe that the investigating officers had *intentionally* tampered with evidence or  
5 coerced a confession; they seemed to be acting in good faith.

6 Anyway, in early 2020, the CCTD Police Department's then-current IAD director  
7 retired. The Department approached me about taking over the position, and I accepted.  
8 I began work on July 23, 2020, just days after the incident with Shea Lyman and Parker  
9 Richmond at the Ramona Street C-Rail station. I had never conducted a formal IAD  
10 review before, but, given my extensive experience in police work and as a detective, I  
11 had no concerns about the integrity of my investigation. I have kept up my training and  
12 remain a certified peace officer.

13 In the course of my investigation, I interviewed Shea Lyman, Carey Dallarosa,  
14 Parker Richmond, and Shiloh Torrey. Their affidavits, which I have also reviewed,  
15 reflect everything that they each told me during those interviews. I also looked into the  
16 CCTD Police Department's protocols and procedures for responding to complaints of  
17 excessive force, with an emphasis on the use of stun guns. In connection with that part  
18 of my investigation, I reviewed the CCTD Police Department's handbook (Exhibit 5);  
19 departmental training records concerning the use of stun guns (Exhibit 6); a series of  
20 statistics comparing complaints that CCTD police officers receive as compared with  
21 similar national statistics (I assembled the results in Exhibit 7.); Courtney Cruze's  
22 deposition, attached to which was an IAD report regarding a 2017 incident in which  
23 Cruze shot a fleeing suspect in the back (all of which is in Exhibit 4); and three recent  
24 IAD reports regarding CCTD officers' use of their stun guns (Exhibits 8, 9, and 10).

25 I came to three conclusions: (1) Sammie Garland's opinion about Officer  
26 Richmond's use of the stun gun views the facts from only one side and ignores other  
27 important facts; (2) it's incredibly unlikely, although technically not impossible, that  
28 Lyman moved Lyman's hand from outside of Lyman's pocket and then into the pocket  
29 following the shock from the stun gun; and (3) the CCTD Police Department has  
30 responded appropriately to the excessive force complaints it receives.

31 As to my first conclusion, Garland opines that in this case, the circumstances did  
32 not warrant use of a stun gun. But Garland's opinion is based on a very particular view

1 of the evidence—that a reasonable officer could tell that Lyman did not match the  
2 suspect, that Officer Richmond was able to, and chose not to, order Lyman to stop, and  
3 that the chances of an effective use of the stun gun were low. Garland ignores,  
4 however, that Richmond was chasing someone matching the description of a suspect,  
5 believed to have committed multiple first-degree felonies, who was running toward a  
6 group of bystanders. And Garland discounts that other force options would not have  
7 been appropriate. Firing into a crowd of bystanders would have been unacceptable.  
8 Pepper spray would not have been effective because the suspect was running away  
9 from Officer Richmond, and there was a substantial risk of cross-contamination. And  
10 Officer Richmond was too far away to use short range tools, like a baton, or simply  
11 tackling Lyman.

12 As with Officer Nygen's use of a stun gun, described in Exhibit 9, Officer  
13 Richmond may have committed a technical violation of CCTD policy by not providing a  
14 clear command or warning of use of force, but Officer Richmond's actions were justified  
15 because of the imminent threat to the public.

16 Second, I conclude that it is unlikely to a reasonable degree of professional  
17 certainty that Lyman's hand moved from out of the pocket and then back into the pocket  
18 following the shock from the stun gun. The key is that we consider both the  
19 physiological *and* psychological effects of a stun gun on the human body. I generally  
20 agree with Garland's description of the physiological effects of a stun gun on the human  
21 body. As a pure biological matter, Garland is correct to say that the flow of electricity  
22 from the stun gun interferes with the electrical signals that come from the brain. In other  
23 words, the electricity makes it all but impossible for a normal person to move their  
24 muscles while being shocked.

25 The key though – and the reason that Garland's analysis misses the mark – is  
26 that stun gun shocks often produce physiological and psychological effects that can  
27 linger for several minutes *after* the shock itself. Those effects – which I witnessed  
28 personally several times during my time as a police officer – may include disorientation,  
29 muscle tension, temporary paralysis, and potentially others. Generally, only a person  
30 with the build and mental toughness of a professional athlete can maintain enough  
31 composure following the use of a stun gun to maneuver in the way that Lyman would  
32 have had to in order to get a hand back in a pocket. Lyman, I understand, had neither.

1 For that reason, while I can't say it would be completely impossible, it would have been  
2 incredibly difficult for Lyman to move Lyman's hand with enough poise and coordination  
3 to get it into Lyman's pocket in the moments following the shock.

4 As to my final conclusion, the first key thing is understanding how the complaint  
5 process typically works and the terminology that accompanies the process. If a  
6 complaint is determined to be valid, then the complaint gets "sustained," and disciplinary  
7 action generally is taken against the officer. If a complaint is determined to be invalid,  
8 then it is "dismissed," and nothing else happens. But often times, things are not black  
9 and white, and the standards that IAD professionals use across the country – CCTD's  
10 IAD Department included – are built to acknowledge that. We regularly find that there is  
11 insufficient evidence to determine *either way* whether a complaint is truly meritorious. In  
12 that case, the complaint is "not sustained." It's common in the rough-and-tumble world  
13 of policing to have a substantial number of "not sustained" complaints on a department's  
14 file. That doesn't mean it's a bad department; that just means that the circumstances of  
15 certain incidents make it too difficult to tell what happened one way or the other.

16 When you understand that terminology, CCTD statistics look about average  
17 when compared with the national numbers. There are plenty of incidents with police  
18 officers across the country – and CCTD is no exception – where there just is not enough  
19 evidence to come to a conclusion. And as with any department, there are always some  
20 complaints that are "sustained." That doesn't mean the department is necessarily doing  
21 anything wrong; the work of a police officer is pretty rough and tumble, and sometimes  
22 police officers make mistakes. I admit that CCTD's slightly higher-than-average rate of  
23 citizen complaints is potentially troubling. However, in my opinion, the higher rate of  
24 complaints is attributable to the unique environment in which CCTD police officers work:  
25 the close quarters, rush-hour tempers, and other factors lead to a higher number of  
26 officer-citizen confrontations than usual. I cannot say why so many complaints were  
27 found to be "unfounded" or "exonerated" following investigation, but it could be because  
28 there were not any cameras on the C-Rail until last month. It will be interesting to see  
29 whether the added video evidence will make it easier to resolve citizen complaints.

30 Even where a citizen complaint is "not sustained," there may be certain other  
31 things a department can and, in some cases, should do in order to prevent  
32 confrontations where force may be necessary. CCTD appears to have taken some



1 concrete steps to make clear when and how officers should use their stun guns; the  
2 CCTD Police Department's Officer Handbook, shown in Exhibit 5, is an excellent  
3 example. If anything, the Department perhaps could require additional training following  
4 incidents where the use of force is alleged to have been improper. It is important that,  
5 where appropriate, police departments do not just discipline officers and leave it at that.  
6 It is equally critical to give officers the tools they need to avoid confrontations in the  
7 future.

8 All that in mind, if it were my decision, I would have required Officers Richmond  
9 and Cruze to attend additional training sessions on the use of stun guns following the  
10 incident with Shea Lyman. I have not heard anything about any such training taking  
11 place, at least not yet. I am not sure I would have disciplined them, but, clearly,  
12 something went wrong that day, and it is important that CCTD take steps to make sure it  
13 does not happen again.

14 I hereby attest to having read the above statement and declare under penalty of  
15 perjury under the laws of the United States that it is true and correct. Before giving this  
16 statement, I was told it should contain all relevant testimony, and I followed those  
17 instructions. I also understand that I can and must update this affidavit if anything new  
18 occurs to me until the moment before I testify in this case.

19  
20 /s/ Jalen Ridge

21 Jalen Ridge

22 Dated: September 15th, 2022

23 Subscribed and sworn before me on this 15th day of September 2022.

24  
25 /s/ Bobbie Dousa

26 Bobbie Dousa

27 Notary Public in and for the State of Utah



# EXHIBITS

