

1 JOHN L. BURRIS, ESQ., SBN 69888
 2 BEN NISENBAUM, ESQ., SBN 222173
 3 JAMES COOK, ESQ., SBN 300212
 4 KATHERINE MACELHINEY, Esq., SBN 355532
 5 **Burris Nisenbaum Curry & Lacy, LLP**
 6 Airport Corporate Center
 7 7677 Oakport Street, Suite 1120 Oakland, CA 94621
 8 Telephone: (510) 839-5200
 9 Facsimile: (510) 839-3882
 10 Email: John.Burris@johnburrislaw.com
 11 Email: Ben.Nisenbaum@johnburrislaw.com
 12 Email: James.Cook@johnburrislaw.com
 13 Email: Katherine@bncllaw.com

14 JENNIFER CALL, ESQ., ISBN #9895
 15 **Snake River Criminal Defense, PLLC**
 16 200 South Main Street, Ste. H3, Box 22
 17 Pocatello, ID 83204
 18 Telephone: (208) 478-4307
 19 Email: Jen@snakerivercriminaldefense.com

20 Attorneys for Plaintiffs,
 21 Luis Alicea, Wanda Alicea,
 22 Monica Perez, and Ana Vazquez

23 **UNITED STATES DISTRICT COURT**

24 **DISTRICT OF IDAHO**

25 LUIS ALICEA, as Personal Representative of
 26 the Estate of Victor Perez (deceased); WANDA
 27 ALICEA, mother of decedent,

28 Plaintiffs,

vs.

CITY OF POCATELLO, a municipal
 corporation; and DOES 1-50, inclusive,
 individually, jointly and severally,

Defendants.

CASE NO.:

COMPLAINT

1 **JURISDICTION**

2 1. This action arises under Title 42 of the United States Code, Section 1983. Jurisdiction
3 is conferred upon this Court by Title 42 of the United States Code, Section 1331 and 1343 and 42
4 U.S.C. Section 12188(a). The unlawful acts and practices alleged herein occurred in Bannock
5 County, Idaho, which is within the judicial district of this Court. This Court also has supplemental
6 jurisdiction over PLAINTIFF’S state law causes of action under 28 U.S.C. Section 1367.

7 **PARTIES**

8 2. Plaintiff LUIS ALICEA, Personal Representative of decedent’s estate, (“PLAINTIFF”
9 or “L. ALICEA”) is a resident of Idaho and a United States Citizen.

10 3. Plaintiff WANDA ALICEA, mother of decedent, (“PLAINTIFF” or “W. ALICEA”) is
11 a resident of Idaho and a United States Citizen.

12 4. Decedent VICTOR PEREZ (“DECEDENT” or “PEREZ” or “V.P.”) is a resident of
13 Idaho and a United States Citizen.

14 5. Defendant POCATELLO CITY (“CITY”) is and was a municipal corporation in
15 Bannock County, ID duly authorized and existing as such in and under the laws of the State of Idaho;
16 at all times herein mentioned, Defendant CITY has possessed the power and authority to adopt
17 policies and prescribe rules, regulations and practices affecting the operation of the Police
18 Department and its tactics, methods, practices, customs and usage. At all relevant times, Defendant
19 CITY was the employer of Defendant police officers, individually and in their official capacity.
20

21 6. Plaintiff is ignorant of the true names and capacities of Defendants DOES 1 through
22 50, inclusive, and therefore sues these defendants by such fictitious names. Plaintiff is informed and
23 believes and thereon alleges that each defendant so named is responsible in some manner for the
24 injuries and damages sustained by Plaintiff as set forth herein. Plaintiff will amend this Complaint to
25 state the names and capacities of DOES 1-50, inclusive, when they have been ascertained.

26 **ADMINISTRATIVE PREREQUISITES**

27 7. Plaintiff is required to comply with an administrative tort claim requirement under
28 Idaho law. Plaintiff intends to comply with all administrative remedies pursuant to Idaho Code

1 Sections 6-905 through 6-907.

2 **FACTUAL ALLEGATIONS**

3 8. The Incident took place April 05, 2025. The time was approximately 5:30 P.M. The
4 location of the incident was 703 North Harrison Avenue, Pocatello, Idaho 83209. Pocatello Police
5 Department used excessive force against VICTOR PEREZ and were deliberately indifferent to V.P.'s
6 constitutional rights in their conduct preceding the shooting.

7 9. Perez was a non-verbal autistic child that suffered from cerebral palsy. He was
8 seventeen years old. Pocatello Police Department was dispatched to the residence for a possible
9 domestic disturbance. Four officers arrived on scene. Within moments of arriving the officers
10 discharged their weapons. The officers shot Mr. Perez nine times. No de-escalation methods were
11 attempted. Perez possessed a knife at the time of the incident. However, Mr. Perez was located
12 behind a chain link fence. He posed no threat to the officers to warrant the level of force used. After
13 multiple surgeries, Perez was declared brain dead. PEREZ endured conscious pain and suffering prior
14 to his death, proximately caused by the excessive and unjustified use of deadly force. He was taken
15 off life support.
16

17 10. As a result, the Pocatello Police Department caused the death of VICTOR PEREZ. In
18 addition, Mr. Perez's family members, including Luis Alicea, grandfather and guardian to Decedent
19 VICTOR PEREZ; Wanda Alicea, mother to Decedent VICTOR PEREZ; Monica Perez, sister to
20 Decedent VICTOR PEREZ; Ana Vazquez, aunt to Decedent VICTOR PEREZ were present and
21 suffered emotional distress caused by witnessing the reckless conduct of the involved officers by
22 their negligent infliction of emotional distress.

23 **OFFICERS HAD NOTICE OF PEREZ'S TENDENCY FOR MENTAL HEALTH CRISES**

24 Defendants had prior notice of VICTOR PEREZ's mental issues and communication
25 limitations. There is documented proof of notice based on prior visits to the residence:

26 • **DECEMBER 2, 2024**: Officer T. Anderson documented Perez as "mentally disabled,"
27 "somewhat non-verbal," family spoke "broken English," required Spanish communication [Exhibit A,
28 Pocatello Police Department, Detail Incident Report No. 24-P27827 (Dec. 4, 2024)].

1 • **FEBRUARY 25, 2025**: Officers Forburger and Adamson responded to same address for
2 disturbance involving nonverbal, autistic resident whose family spoke only Spanish. [Exhibit A,
3 Pocatello Police Department, Detail Incident Report No. 25-P03674 (Feb. 25, 2025)].

4 **OFFICERS FAILED TO DE-ESCALATE**

5 11. Officers responding to arrest subjects in the midst of mental health crises are trained to
6 de-escalate these situations by utilizing use time, distance, tactical communication, and tactical
7 repositioning. [POST Learning Domain 33] Here, as previously stated, Pocatello officers had prior
8 notice of Victor Perez's proclivities related to having mental health crises based on previous calls in
9 December 2024 and February 2025. Based on the video the officers failed to employ de-escalation
10 techniques as outlined below:

- 11
- 12 • **TIME**: The officers arrived at 6:42. They fired and shot Victor Perez at 6:48. [Idaho News 6,
13 *supra*, at 6:42-6:48]. Six seconds is not sufficient tactical use of time as a means to de-
14 escalate and arrest when the subject is experiencing a mental health crisis.
 - 15 • **DISTANCE**: When the officers pulled their firearms and began shouting commands, a four-
16 foot chain link fence separated the officers from Victor Perez. [Idaho News 6, *supra*, at 6:42-
17 8:02] The officers were positioned on the south side of the fence. [Idaho News 6, *supra*, at
18 7:56] When officers opened fire on Perez, he stood approximately four feet north of the fence
19 separating him from the officers. [Idaho News 6, *supra*]. There was sufficient distance
20 between the officers and Perez showed no indication that he was attempting to get over the
21 fence that separated the DEFENDANTS and everyone else from him. Mr. Perez was no threat
22 to anyone when DEFENDANTS shot and killed him.
 - 23 • **COMMUNICATION**: Communication efforts were inadequate given the officers'
24 documented knowledge of Perez's limitations. Despite prior incident reports clearly
25 establishing that Perez was non-verbal and autistic, and that his family required Spanish-
26 language communication, the officers resorted to yelling commands in English. [Pocatello
27 Police Department, Detail Incident Report No. 24-P27827 (Dec. 4, 2024)].
28

- 1 • **TACTICAL REPOSITIONING**: Just before the shooting, officers were positioned on the
2 north side of the fence. [Idaho News 6, *supra*, at 8:02] Victor was positioned south of the
3 fence four feet beyond. [Idaho News 6, *supra*, at 8:02] Here, the officers could have moved
4 backwards and continued to give commands. The fence, which separated the officers from
5 Victor presented numerous opportunities to utilize tactical repositioning as a de-escalation
6 method.

7 **CAUSES OF ACTION**
8 **FIRST CAUSE OF ACTION**

9 **(42 U.S.C. § 1983: Violation of the Fourth Amendment of the United States Constitution -**
10 **Excessive Force)**

11 **(Plaintiff LUIS ALICEA, as Personal Representative of the Estate of Victor Perez)**
12 **(Against Defendants and DOES 1-50)**

13 12. PLAINTIFF re-alleges and incorporates by reference paragraphs 1 through 26 of this
14 Complaint.

15 13. Defendant's above-described conduct violated PLAINTIFF'S rights as provided for
16 under the Fourth Amendment to the United States Constitution.

17 14. At all relevant times, Defendant officers DOES 1-50 were acting under color of state
18 law and within the course and scope of their employment with Defendant CITY, through the
19 Pocatello Police Department.

20 15. On or about April 5, 2025, Defendant officers responded to a domestic disturbance
21 call at the residence of DECEDENT, V.P., a 17-year-old autistic, non-verbal minor with cerebral
22 palsy. Prior incident reports from December 2024 and February 2025 documented V.P.'s disabilities,
23 communication limitations, and the family's limited English proficiency. CITY and employees acting
24 in their capacity of agents of the Pocatello Police Department had a legal obligation to protect the
25 health and safety of all persons including PEREZ. This duty was breached when Defendant officers
26 used lethal force against a mentally and physically disabled minor child.

27 16. Upon arrival, Defendant officers encountered V.P. behind a four-foot chain-link fence
28 in a disoriented state, holding a knife. V.P. was not advancing toward the officers, did not verbally

1 respond, and exhibited signs of physical and cognitive disability. Despite this, Defendant officers
2 issued shouted commands in English and immediately escalated the encounter.

3 17. Without attempting de-escalation, communication, or tactical repositioning, Defendant
4 officers fired multiple rounds at V.P. within seconds of arrival—ultimately shooting him nine times.
5 No less-lethal methods were attempted. The officers had sufficient time, distance, and information to
6 avoid using deadly force. V.P. was not an immediate threat to the officers or anyone’s safety.

7 WHEREFORE, PLAINTIFF prays for relief as hereinafter set forth.

8
9 **SECOND CAUSE OF ACTION**
10 **(42 U.S.C. § 1983: Violation of the 14th Amendment of the United States**
11 **Constitution: Substantive Due Process – Loss of Familial Relationship)**
12 **(Plaintiff WANDA ALICEA, mother of decedent)**
13 **(Against Defendants CITY, and DOES 1-50)**

14 18. PLAINTIFF re-alleges and incorporates by reference paragraphs 1 through 33 of this
15 Complaint.

16 19. Plaintiff WANDA ALICEA is the biological mother of the DECEDENT, V.P.
17 Plaintiff shared a close familial bond with V.P. and participated in his daily life and care. V.P. was a
18 minor at the time of his death and lived with or near the Plaintiff at all times relevant.

19 20. Defendants’ above-described conduct violated PLAINTIFF’s rights as provided for
20 under the Fourteenth Amendment to the United States Constitution.

21 21. Defendant officers had prior knowledge of V.P.’s disabilities based on earlier
22 documented encounters, including reports from December 2, 2024, and February 25, 2025, which
23 described him as non-verbal, autistic, and physically impaired. These reports also documented that
24 the family had limited English proficiency.

25 22. Upon arrival, officers issued rapid verbal commands in English, drew their firearms,
26 and fired nine rounds at V.P. within approximately six seconds of encountering him. Officers made
27 no visible attempt to communicate non-threateningly, summon specialized assistance, or use time,
28 distance, or tactical repositioning to de-escalate the encounter. No less-lethal options were attempted
or deployed.

1 29. PLAINTIFF hereby re-alleges and incorporates by reference 1-31 paragraphs of this
2 complaint herein.

3 30. At all relevant times, V.P. was a qualified individual with a disability under the
4 Americans with Disabilities Act (ADA). V.P. was a non-verbal, autistic minor with cerebral palsy,
5 which significantly limited his ability to communicate, understand verbal instructions, and physically
6 respond to police commands.

7 31. Defendant CITY is a public entity within the meaning of 42 U.S.C. § 12131(1), and
8 the Pocatello Police Department is a program or service of the CITY. Officers employed by the
9 CITY, including Defendants DOES 1–50, were acting within the scope of that public service at all
10 relevant times.

11 32. Title II of the ADA prohibits a public entity from excluding a qualified individual with
12 a disability from participation in or denying them the benefits of its services, programs, or activities,
13 or otherwise subjecting them to discrimination by reason of such disability. Law enforcement
14 activities, including arrests and mental health crisis responses, are services and programs within the
15 scope of Title II.
16

17 33. As against Defendant officers, and/or DOES 1-50, Plaintiff further alleges that said
18 officers failed to train and or supervise Defendant officers and DOES 1-50 to recognize symptoms of
19 disability under title II of the Americans With Disabilities Act (ADA); Decedent Perez was a disabled
20 individual within the purview of ADA, who was qualified to “participate in or receive the benefit of”
21 a government entity’s services, programs, or activities. Due to the conduct of Defendant officers
22 Decedent was excluded from participating in, or denied the benefits of those services, programs, or
23 activities, or otherwise discriminated against; and such exclusion, denial, or discrimination was “by
24 reason of” his disability.

25 34. On April 5, 2025, officers with the Pocatello Police Department responded to a call
26 involving V.P. They had prior notice from two prior service calls—in December 2024 and February
27 2025—that V.P. was developmentally disabled, non-verbal, and required accommodation in
28

1 communication. Reports from those visits described V.P. as mentally disabled and noted that his
2 family primarily spoke Spanish.

3 35. Defendant Officers knew or should have known that Perez was a disabled individual
4 within the purview of the Americans with Disabilities Act. based on prior visits. [IR No. 24-P27827
5 (Dec. 4, 2024)]. In fact, their incident reports stated that they knew he was an Autistic teen with
6 limited communication skills. (Ibid.) Further, by failing to de-escalate the situation and by shooting
7 PEREZ within six seconds of their arrival, defendant officers did not accommodate and/or adjust
8 their arrest tactics accounting for PEREZ'S disability. Defendants were deliberately indifferent in
9 assessing the level of force warranted to use against a disabled person. The actions of Defendant
10 officers and Defendant CITY unlawfully denied the Decedent the right to life through their
11 discriminatory policies, procedures, and actions against the Decedent.

12 36. Defendants' actions denied V.P. access to the benefits of a public service; non-
13 discriminatory law enforcement intervention. Further, Defendants subjected decedent to
14 discrimination by reason of his disability, in violation of 42 U.S.C. § 12132. As a direct and
15 proximate result, Victor Perez suffered fatal injuries.

16 WHEREFORE, PLAINTIFF prays for relief as hereinafter set forth.

17
18 **FOURTH CAUSE OF ACTION**

19 **Monell - 42 U.S.C. § 1983**

20 **(Plaintiffs WANDA ALICEA, mother of decedent, and LUIS ALICEA, as Personal**
21 **Representative of the Estate of Victor Perez)**
22 **(Against CITY, and DOES 1-50)**

23 The foregoing allegations are realleged and incorporated herein.

24 37. At all relevant times, DEFENDANT CITY OF POCATELLO, including the
25 POCATELLO POLICE DEPARTMENT, was responsible for the hiring, training, supervision, and
26 discipline of its law enforcement personnel, including DEFENDANT DOES 1-50.

27 38. At all times mentioned, DEFENDANT OFFICERS were acting under color of state
28 law and pursuant to the customs, policies, and practices of DEFENDANT CITY. The actions taken

1 by DEFENDANT OFFICERS reflect systemic failures in the CITY's training and supervision
2 protocols regarding individuals with known mental health conditions and developmental disabilities.

3 39. Prior to the incident involving DECEDENT V.P., DEFENDANT CITY and its
4 POLICE DEPARTMENT had knowledge of recurring situations in which officers encountered
5 residents with mental or developmental disabilities, including multiple prior documented incidents at
6 the Perez residence. Despite this, DEFENDANT CITY failed to adopt, implement, or enforce
7 adequate training or policies to guide officers on how to safely interact with individuals experiencing
8 mental health crises or communication barriers.

9 40. The use of immediate and lethal force by DEFENDANT OFFICERS against V.P.—a
10 non-verbal, cognitively and physically disabled minor—occurred without any meaningful effort at
11 de-escalation, without summoning crisis-trained officers, and despite the officers' documented
12 awareness of V.P.'s disability-related limitations. This incident was a direct result of DEFENDANT
13 CITY's failure to implement appropriate policies or training programs to prevent foreseeable
14 violations of constitutional rights. DEFENDANT CITY maintained a policy, custom, or practice that
15 was deliberately indifferent to the constitutional rights of persons with disabilities.
16

17 41. Plaintiff was deprived of rights as a result of an official policy or custom of the
18 POCATELLO POLICE DEPARTMENT. The DEPARTMENT's official policy or custom was
19 insufficient and inadequate as it related to dealing with arrest subjects experiencing mental health
20 crises because it resulted in practices that were deliberately indifferent to the constitutional rights of
21 individuals with disabilities and those experiencing mental health crises. Defendant officers
22 intentionally and recklessly with a deliberate indifference, engaged in conduct which deprived
23 Decedent and plaintiff of their civil rights because defendant officers' use of deadly force against a
24 disabled minor known to them to have communication limitations and a history of mental health-
25 related incidents was a foreseeable result of the City's failure to train and supervise.

26 42. As a direct and foreseeable result of these unconstitutional policies, practices, and
27 failures in supervision, DEFENDANT OFFICERS engaged in conduct that violated the Fourth and
28 Fourteenth Amendment rights of DECEDENT and PLAINTIFF. PLAINTIFF WANDA ALICEA,

1 suffered loss of their familial relationship with V.P., emotional harm, and the deprivation of
2 constitutional protections guaranteed by law.

3 WHEREFORE, PLAINTIFF prays for relief as hereinafter set forth.

4 **DAMAGES**

5 LUIS ALICEA, as Personal Representative of the Estate of Victor Perez:

- 6 • Conscious pain and suffering experienced by DECEDENT prior to death;
- 7 • Emotional and physical distress endured by DECEDENT between the time of injury and
8 death;
- 9 • Medical expenses incurred in treating DECEDENT's injuries;
- 10 • Funeral and burial expenses;
- 11 • Loss of life and enjoyment of life; and
- 12 • Other general and special damages permitted by statute.

13 WANDA ALICEA, mother of decedent (Fourteenth Amendment — Familial Loss):

- 14 • Deprivation of the constitutionally protected right to familial companionship and society;
- 15 • Emotional distress and suffering resulting from the loss of that relationship.

16 PUNITIVE DAMAGES:

- 17 • PLAINTIFFS allege that the actions of individual DEFENDANTS were malicious,
18 oppressive, and carried out with deliberate indifference to DECEDENT's constitutional
19 rights.
- 20 • PLAINTIFFS seek punitive damages in amounts to be determined at trial under 42 U.S.C. §
21 1988.

22 **JURY DEMAND**

23 PLAINTIFF hereby demands a jury trial in this action.

24 **PRAYER**

25 WHEREFORE, PLAINTIFF prays for relief, as follows:

- 26 1. For general damages according to proof;
- 27
- 28

1 2. For special damages, including but not limited to, past, present and/or future wage
2 loss, income and support, medical expenses and other special damages in a sum to be determined
3 according to proof;

4 3. Any and all permissible statutory damages;

5 4. For reasonable attorney's fees pursuant to 42 U.S.C. §§1983, 1988, and 12132;

6 5. For injunctive relief as the court deems appropriate including City of Pocatello policy
7 or policies relevant to authorizing, allowing, or ratifying the practices and policies of
8 its Police Department and Personnel in the use of force;

9 6. For cost of suit herein incurred; and

10 7. For such other and further relief as the Court deems just and proper.
11
12
13
14

15 Dated: June 26, 2025

/s/ Jennifer Call

16 John L. Burris Esq.,
17 Ben Nisenbaum Esq.,
18 James Cook Esq.,
19 Katherine Macelhiney Esq.,
20 Jennifer Call Esq.,
21 Attorneys for Plaintiff
22
23
24
25
26
27
28