



GUTIERREZ LAW FIRM

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NOTICE TO CEASE AND DESIST

Pomona City Hall
505 S Garey Avenue
Pomona, CA 91766

Date: April 8 2024

To: Mayor Tim Sandoval and Pomona City Council
Pomona Police Chief, Michael Ellis
City Manager, Anita Gutierrez

From: James Gutierrez, Esq., Attorney for Gente Organizada

Re: Demand to Stop Police Violence and Violation of State and Local Laws

Dear Pomona City Council,

This letter is served upon due to the Pomona Police Department's continued violent targeting of our Black and Brown communities and its blatant violation of state and local laws. The City of Pomona and the Police Department state that they lead with core values of compassion and transparency but recent and past actions contradict those stated values. These inconsistencies erode the public's trust in local government and law enforcement and have brought harm to our community.

According to the Operating Policies of the Police Department, specifically Policy #424, states that officers must ensure that portable recorders "remain on continuously," especially during incidents that are "crime interdiction stops" and those that become "adversarial." This policy was directly violated by Officer Jose Diaz, the officer involved in the shooting in the Angela Chanslor neighborhood on February 3, 2022.

According to California Assembly Bill 748, police departments must release body camera footage of "critical incidents" that involve an officer firing a gun or using force which results in great bodily injury or death. Thus, given the Angela Chanslor shooting falls within this criteria, the Pomona Police Department is legally obligated to provide the body camera footage. However, at the April 19, 2022 Police Oversight Commission meeting, Police Chief Michael Ellis



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stated that video of the incident was not available because "no video exists." This claim of missing body camera footage was not found to be a violation in Officer Diaz's case by either the Los Angeles County District Attorney's Office Justice System Integrity Division or the Pomona Police Department Internal Affairs Unit's investigations released in 2023. Yet, in a letter sent to Gente Organizada on January 10, 2024, in response to our allegations of the violation of Policy #424 (Pomona P.D. - Policy Handbook - Portable/Audio Records), the Pomona Police Internal Affairs Unit concludes that the allegation is upheld and admits there was a violation of department policies 1-300.5 (J) and 1-300.6(c) (Pomona Police Department Patrol Policy LEXIPOL POLICY). Nonetheless, there are no details on how the officer will be held accountable and how the department plans to enforce its procedures.

The community has been left in the dark and has the right to know about the details of the incident and how the department will cease from using violent and cover up tactics. Furthermore, upon review of the Angela Chanslor shooting it is an eerily similar ambush tactic that was used by the Pomona Police Department in the murder of Andres Avila roughly a decade ago. Both the shooting and murder ignited claims of targeted retaliation by police toward young community members. This is not an irregular trend as the Pomona Police Department has a documented track record of disproportionately arresting Black and Brown communities, including youth, with gang enhancement charges. In their Gang Enhancement Data from January 1, 2019 to December 31, 2021, 96.3% of the people arrested are Latinx or Black, and 44% of the people arrested are youth and transitional-age youth. These policies use vague language to describe how officers should classify someone as a gang member, allowing racial biases to dictate who they label as gang members and who serves gang enhancement sentences.¹ Both the Angela Chanslor shooting and Andres Avila's murder did considerable harm to the relationship between local government and community. Unfortunately, city accountability mechanisms have not been activated or have utterly failed to intervene. The newly established Police Oversight Commission has stated they are not able to investigate due to limitations related to their bylaws and the Pomona City Council has ignored the matter all together and failed to agendize the issue or communicate to the public on the matter.

This pattern of violating State and local laws was affirmed in November 2022, after the Pomona Police Department settled a police shooting lawsuit that forced changes in officer training and policy. The Pomona Police Department collaborated with the Pomona Police Officers Association (PPOA) and The Police Officers Research Association of California (PORAC) to undermine state law that heightened the use of deadly force standards through correspondence with the PPOA and PPD. PORAC informed the department that the law does "not significantly impact" law enforcement actions. The Pomona Police Department then used this email to train

¹ Data acquired from a PRA Request and presented in the 2022 Gente de Pomona Equity Report, p. 6



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its officers on the new law. A sergeant on the force then sent out the message, “FYI from PORAC. Nothing has changed.”

Unfortunately, the words nothing has changed ring true given the department’s history of violence against young people and gross violations of policy. City representatives must demand transparency from the Pomona Police Department on how they plan to enforce their procedures, stop targeted violence, and launch an immediate investigation into the incidents aforementioned, that meet the investigative standards outlined in the settlement. The City must also stop relying on police special interest organizations like the Pomona Police Officers Association which set out to undermine critical changes in law, compromising public safety by confusing officers about the crucial question of when they are permitted to use force. We call on the Pomona City Council and City Manager to work together to address these patterns of use of force, targeting young community members, turning off body cameras, and the lack of accountability within the Pomona Police Department for violating policies. If you do not cease the aforementioned activity, there will be no other recourse than to commence a claim for damages for a class action lawsuit for noncompliance.

Sincerely,

James P. Gutierrez, Esq.

Attorney at Law