

1 ADRIENNA WONG (State Bar No. 282026)
2 awong@aclusocal.org
3 MOHAMMAD TAJ SAR (State Bar No. 280152)
4 mtajsar@aclusocal.org
5 ACLU FOUNDATION OF SOUTHERN CALIFORNIA
6 1313 West Eighth Street, Suite 200
7 Los Angeles, CA 90017
8 Telephone:(213) 977-9500

9 EVA BITRAN (State Bar No. 302081)
10 ebitran@aclusocal.org
11 ACLU FOUNDATION OF SOUTHERN CALIFORNIA
12 225 W. Hospitality Lane, Ste. 302
13 San Bernardino, CA 92408
14 Telephone: (213) 977-9500

15 CARL TAKEI (State Bar No. 256229)
16 ctakei@aclu.org
17 AMERICAN CIVIL LIBERTIES UNION FOUNDATION
18 125 Broad Street, 18th Floor New York, NY 10004
19 Telephone: (212) 549-2600

20 *Counsel for Plaintiffs*

21
22 **SUPERIOR COURT OF CALIFORNIA**
23 **COUNTY OF LOS ANGELES**

24 GENTE ORGANIZADA, MARIO M. SUAREZ,

25 Plaintiffs,

26 v.

27 POMONA POLICE DEPARTMENT, MICHAEL
28 ELLIS, in his official capacity as Chief of Police, the
CITY OF POMONA

Defendants.

CASE NO.

Unlimited Civil Case

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF
[C.C.P. § 526a]**

1 **INTRODUCTION**

2 1. Across California, police lobbying groups have obstructed efforts to address police
3 violence and improve public safety—using not only their own substantial political expenditures but also
4 public resources funded by taxpayers to carry out their will.

5 2. Public officials give police unions and lobbyists the power to determine public safety
6 policy, granting these special interest groups access that is denied to community members and abdicating
7 their responsibility to hold police accountable.

8 3. This action challenges how Pomona Police Department has permitted police special
9 interest groups to undermine state legislation establishing new limits on police use of deadly force.
10 Pomona Police Department trains its officers and patrols the city in reliance on propaganda created by a
11 police lobbying organization, the Peace Officers Research Association of California (PORAC), even
12 though PORAC vehemently opposed the legislation and began obstructing its implementation as soon as
13 it became law.

14 4. As set forth below, Pomona Police Department’s adoption of police special interest groups’
15 positions and materials has created ongoing conflict between state law and the Department’s training and
16 policy on an issue of utmost seriousness: the legal limitations on police authority to kill.

17 **JURISDICTION AND VENUE**

18 5. This court has jurisdiction under Code of Civil Procedure §§ 410.10, 525, 526, and 526a.

19 6. Venue is proper in the Superior Court of Los Angeles County under Code of Civil
20 Procedure §§ 393, 394, and 395 because Defendants/Respondents in this action reside in Los Angeles
21 County and the acts and omissions raised in this Complaint/Petition have occurred in Los Angeles County.

22 **PARTIES**

23 **A. Plaintiffs**

24 7. Plaintiff Gente Organizada is a nonprofit organization incorporated and headquartered in
25 the City of Pomona. Gente Organizada is a community-led social action organization whose mission is to
26 bring together generations to access, build, and wield their collective power to achieve social justice in
27 their communities. Gente Organizada became involved in efforts to secure police accountability because
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1 of the Pomona Police Department’s history of violence against young people in the city, including most
2 prominently against 16-year-old Christian Aguilar. Gente Organizada uses data to understand the role of
3 police on campus and combat the criminalization of young people and people of color. It serves as the
4 only organizational member of the grassroots Pomona coalition Police Oversight Starts Today. Gente
5 Organizada pays sales taxes in Pomona.

6 8. Plaintiff Mario Miguel Suarez has been a resident of Pomona for over 35 years. Mr. Suarez
7 is a founding member of the Police Oversight Starts Today coalition, which came together around the
8 federal trial—and ultimate acquittal—of the Pomona police officers charged with excessive force against
9 Mr. Aguilar. For 35 years, Mr. Suarez has watched Pomona police officers wield power in the community
10 and escape accountability. Mr. Suarez participates in the Police Oversight Starts Today coalition because
11 he wants to bring meaningful civilian oversight to the Pomona Police Department. A homeowner in the
12 city, Mr. Suarez pays property and sales taxes in Pomona.

13 **B. Defendants**

14 9. Defendant Pomona Police Department is a law enforcement agency in Pomona, California.
15 The Pomona Police Department has a duty to follow California law. Cal. Const. Art. III § 3.5.

16 10. Defendant Michael Ellis is the Chief of the Pomona Police Department. He is responsible
17 for establishing and implementing policies and training within the Pomona Police Department.

18 11. Defendant City of Pomona is a municipality and legal subdivision of the State of California
19 charged with administering and enforcing state and local laws.

20 **BACKGROUND**

21 **A. The Peace Officers Research Association of California**

22 12. The Peace Officers Research Association of California (PORAC) is a law enforcement
23 interest organization representing hundreds of local police associations in California. It is the largest
24 statewide law enforcement organization in the United States.

1 13. For years, PORAC has lobbied to oppose police accountability and criminal justice reform
2 legislation in California.¹ In a membership brochure, it states:

3 No other organization can claim the legislative victories that PORAC has
4 achieved. PORAC has the clout to tie up and/or kill legislative issues that
5 are detrimental to public safety. . . . PORAC is rated as one of the most
6 effective lobbying groups in California.

7 14. PORAC leverages immense financial resources to support its lobbying activities. Its
8 political action committees spend millions of dollars to fund ballot measures and make campaign
9 contributions to elected officials across the state. In Pomona, PORAC contributed nearly \$10,000 to
10 Assembly Member Freddie Rodriguez’s campaign funds over the past two years, and its independent
11 expenditure committee has contributed more than \$250,000 to Los Angeles County District Attorney
12 Jackie Lacey’s reelection campaign.

13 15. PORAC additionally draws from taxpayer-funded public resources to support its lobbying
14 goals. PORAC mobilizes its members—law enforcement officers—to pressure their local elected officials
15 into adopting PORAC’s stances on state legislation, and to promote law enforcement policies and training
16 that reflect PORAC’s views. Local law enforcement officials use taxpayer-funded resources and employee
17 time to follow PORAC’s marching orders.

18 16. In addition to lobbying, PORAC administers a legal defense fund, PORAC LDF, that
19 provides attorney representation to police charged with misconduct, including excessive force.

20 ¹PORAC successfully lobbied for the Public Safety Officers Procedural Bill of Rights Act (codified at
21 Gov. Code §§ 3300 et seq.) and amendments thereto to limit the time in which agencies can conduct
22 misconduct investigations and punish guilty officers (AB 955 (2009)) and prohibit agencies from
23 punishing or denying promotions to officers based on *Brady* violations (AB 2543 (2012)). PORAC has
24 lobbied against legislation to demilitarize police (AB 3131 (2018)), address racial profiling (AB 953
25 (2015)), require investigations of deadly force, sexual assault, and dishonesty (AB 1599 (2019)), require
26 Department of Justice investigations into police killings of civilians (AB 86 (2015)), provide for a study
27 and report on officer-involved shootings (AB 284 (2017)), make records of police misconduct and use of
28 force open to public oversight (AB 66 (2014), SB 1286 (2016), SB 1421 (2018)), strengthen the legal
standard for deadly force (AB 931 (2017), AB 392 (2019)), and prevent agencies from seeking deportation
of noncitizen arrestees (SB 54 (2017)). It has lobbied in support of legislation to make discipline of police
misconduct more lenient (AB 1298 (2017), AB 2778 (2018)), restrict access to evidence of misconduct
(AB 2533 (2016)), and allow use of unmanned aircraft to surveil civilians (SB 262 (2015)). It has also
funded initiatives to expedite death sentences (Prop. 66 (2016)), restrict parole and early release of
incarcerated people (Prop. 20 (2020)), and more severely punish minor property crimes (Prop. 20 (2020)).

1 **B. The Pomona Police Officers Association**

2 17. The Pomona Police Officers Association (PPOA) is a law enforcement association
3 representing sworn officers of the City of Pomona Police Department. On information and belief, PPOA
4 is a member of PORAC. PPOA receives and distributes PORAC newsletters, e-mails, meeting invitations,
5 and lobbying materials.

6 18. PPOA follows PORAC's directions to lobby against police accountability legislation and
7 promotes PORAC's views on laws pertaining to police policy and training within the Pomona Police
8 Department.

9 19. PORAC LDF provides legal representation to PPOA officers charged with excessive force.
10 For example, attorneys paid by PORAC LDF represented Pomona Police Department Officer Chad Jensen
11 when federal prosecutors charged him with civil rights violations in connection with the beating and arrest
12 of 16-year-old Christian Aguilar. Although the City of Pomona paid \$500,000 to settle a civil suit for the
13 harm Aguilar endured, PORAC LDF attorneys ultimately succeeded in defending Jensen against the
14 charges, and Jensen returned to work in 2019.

15 20. In May 2020, Jensen shot and killed Pomona resident Anthony Pacheco.

16 21. Like PORAC, PPOA gives thousands of dollars in campaign contributions to state officials
17 and candidates. PPOA also uses its money and influence to shape city policy. In 2018, PPOA donated
18 over \$9000 each to the campaigns of Pomona City Council Members Steve Lustro and Victor Preciado.

19 22. The city council, in turn, has rejected Pomona residents' requests to establish an
20 empowered civilian oversight body for the Pomona Police Department. PPOA's president has stated that
21 the union "strongly opposes" the demands for independent oversight presented by community members
22 with Police Oversight Starts Today.

23 23. PPOA spent \$56,000 in support of Measure PG, a local sales and use tax measure, to secure
24 more funding for the Pomona Police Department. Measure PG passed in November 2018, and the City
25 initiated the tax in April 2019.

26 **C. The California Act to Save Lives**

27 24. In February 2019, Assembly Member Shirley Weber introduced legislation to change the
28

1 legal standard for police use of deadly force in California: AB 392, the California Act to Save Lives.

2 25. A broad coalition of organizations co-sponsored AB 392, including the Alliance for Boys
3 and Men of Color, Anti Police-Terror Project, California Families United 4 Justice, Communities United
4 for Restorative Youth Justice, Justice Teams Network, PICO California, Policylink, the STOP Coalition,
5 and United Domestic Workers (UDW) America–AFSCME Local 3930. Additionally, 184 other
6 organizations and approximately 100 individuals submitted letters of support for the legislation. Hundreds
7 of family members who lost a loved one to police violence, community-based organizations, and
8 supporters traveled to Sacramento multiple times to participate in legislative hearings and actions in
9 support of AB 392. During the bill’s four legislative hearings, members of families impacted by police
10 violence gave testimony in support of the bill, and hundreds of organizational representatives and
11 individual supporters rallied behind them to deliver statements in support, display photos, and uplift the
12 names of people killed by police. Supporters made over 1,200 constituent calls to ask their elected
13 representatives to vote in favor of AB 392.

14 26. A central purpose of AB 392 was to create a new “necessary” standard for police deadly
15 force stronger than the existing legal standard established by state and federal law. Rather than permitting
16 police to use deadly force when reasonable, as set forth in the United States Supreme Court’s opinion in
17 *Graham v. Connor*, 490 U.S 386 (1989), under the new law police may only use deadly force when
18 necessary. As the legislation states, “it is the intent of the Legislature that peace officers use deadly force
19 only when necessary in defense of human life.” Penal Code § 835a(a)(2).

20 27. AB 392 was amended twice during the legislative process, on March 23 and May 27, 2019.
21 The California Assembly passed the bill on May 29, 2019, and the Senate passed it on July 8, 2019.

22 28. The Senate floor analysis that evaluated the final version of the bill to inform senators
23 before casting their votes summarized: “This bill revises the standards for use of deadly force by peace
24 officers.” It stated: “Unlike existing California statutory law, the provisions of this bill would exceed the
25 standards articulated and set forth by the U.S. Supreme Court in *Graham* and [*Tennessee v.*]*Garner*.”

1 29. On August 19, 2019, Governor Gavin Newsom signed AB 392 into law in a large, public
2 signing ceremony.² The Governor’s office issued a written statement on the signing, which said:

3 AB 392 modernizes standards for use of deadly force by officers.
4 Specifically, this bill updates the existing deadly force standards to provide
5 that deadly force may only be used when necessary. AB 392 also requires
6 officers to use other techniques to address threats instead of using deadly
7 force when safe to do so The provisions in AB 392 will be reflected in
8 both law enforcement agency policy and officer training statewide, and will
9 further ensure that all officers in California are trained to a higher legal
10 standard.³

11 30. The statement also included the following quote by the Governor: “The bottom line is that
12 deadly force should only be used when absolutely necessary.”

13 31. AB 392 took effect on January 1, 2020.

14 32. As amended by AB 392, California law now limits the legal justification for police deadly
15 force to “only when necessary in defense of human life.” Penal Code § 835a(a)(2). The law states:

16 [A] peace officer is justified in using deadly force upon another person only
17 when the officer reasonably believes, based on the totality of the
18 circumstances, that such force is **necessary for either of the following**
19 **reasons:**

20 (A) To defend against an imminent threat of death or serious bodily injury
21 to the officer or to another person.

22 (B) To apprehend a fleeing person for any felony that threatened or resulted
23 in death or serious bodily injury, if the officer reasonably believes that
24 the person will cause death or serious bodily injury to another unless
25 immediately apprehended. Where feasible, a peace officer shall, prior
26 to the use of force, make reasonable efforts to identify themselves as a
27 peace officer and to warn that deadly force may be used, unless the
28 officer has objectively reasonable grounds to believe the person is aware
 of those facts.

 Penal Code § 835a(c) (emphasis added).

² See Ben Adler, *California Raises Standard For When Police Can Use Deadly Force*, CAPITOL PUB. RADIO (Aug. 19, 2019), <https://www.capradio.org/articles/2019/08/19/california-raises-standard-for-when-police-can-use-deadly-force/>.

³ Press Release, Office of Governor Gavin Newsom, Governor Gavin Newsom Signs Use-of-Force Bill (Aug. 19, 2019), <https://www.gov.ca.gov/2019/08/19/governor-gavin-newsom-signs-use-of-force-bill>.

1 33. The law declares: “In determining whether deadly force is **necessary**, officers shall
2 evaluate each situation in light of the particular circumstances of each case, and shall use other available
3 resources and techniques if reasonably safe and feasible to an objectively reasonable officer.” Penal Code
4 § 835a(a)(2) (emphasis added).

5 **D. PORAC and Pomona Police Department Officials Lobbied Against the California Act to**
6 **Save Lives**

7 34. While the Legislature considered AB 392, PORAC aggressively lobbied against the bill
8 alongside other California law enforcement associations.

9 35. In addition to its own lobbying against AB 392 in Sacramento, PORAC urged its members
10 to reach out to their local legislators to oppose the bill.

11 36. Accordingly, in April 2019, PPOA’s president, Detective Jesse Cardenas, received an e-
12 mail addressed to PORAC’s L.A. North Chapter that included PORAC’s analysis of AB 392 and a request
13 for member police associations to submit opposition letters against the bill.

14 37. Subsequently, both Detective Cardenas and then-Chief Michael Olivieri sent letters to their
15 local Assembly member, Freddie Rodriguez, expressing opposition to AB 392. Detective Cardenas used
16 a form letter provided by PORAC to indicate PPOA’s opposition to the bill and to encourage Assembly
17 Member Rodriguez to vote against it.

18 38. Detective Cardenas and Chief Olivieri used taxpayer-funded Pomona Police Department
19 resources to carry out these lobbying activities. Both used the Department e-mail system to send their
20 opposition letters to Assembly Member Rodriguez and to communicate with each other about their
21 respective lobbying, as well as about PORAC’s strategy and talking points. Chief Olivieri requested and
22 obtained the assistance of Pomona Police Department employee Maritza Vera to prepare the letter on AB
23 392 addressed to Assembly Member Rodriguez, which he sent on City of Pomona letterhead. On
24 information and belief, Detective Cardenas and Chief Olivieri carried out these lobbying activities during
25 working hours.

26 39. Following the May amendments to AB 392, PORAC adopted a “neutral” position on the
27 bill. When PORAC made this shift, PPOA fell in line, sending Assembly Member Rodriguez a form letter
28

1 stating that its position on the bill had become “neutral.”

2 **E. Pomona Police Department Officials Waste Taxpayer Funds on Illegal Training and Policy**
3 **Designed to Undermine AB 392**

4 40. As soon as the Legislature passed AB 392, PORAC began a misinformation campaign to
5 undermine the bill’s significance and block its implementation. Disregarding the plain language of the bill
6 and the Legislature’s clearly-expressed intent, PORAC began telling police throughout the state that AB
7 392 does *not* limit their legal authorization to use deadly force to only when “necessary.” In fact, PORAC
8 asserted that AB 392 did not change the legal standard for deadly force at all. Through the PPOA, this
9 misinformation reached the leadership of the Pomona Police Department, which pushed it out as formal
10 guidance.

11 41. On August 19, 2019, the day Governor Newsom signed AB 392 into law, PORAC sent an
12 email to its members stating: “The news media will get most of it wrong. Please re-assure your members
13 that the bill still retains the ‘reasonableness’ standard set forth in the Supreme Court’s 1989 *Graham v.*
14 *Connor* ruling.”

15 42. On August 22, PORAC President Brian Marvel sent an email to PORAC members to “set
16 the record straight” about AB 392. Marvel’s message stated that “the ACLU and Dr. Shirley Weber were
17 not successful in changing the standard to evaluate the use of deadly force from ‘reasonably objective’ to
18 ‘necessary.’” It also claimed that the standard established by AB 392 was “consistent with current case
19 law” and would “not significantly impact the way law enforcement performs their daily jobs as the bill
20 still retains the ‘reasonableness’ standard set forth in the Supreme Court’s 1989 *Graham v. Connor* ruling.”

21 43. PORAC’s August 22 email directed its members to read a linked “legal analysis” of AB
22 392, which it also posted on its website. That “legal analysis” was authored by Bruce Praet, co-founder
23 of the private police consulting company Lexipol. It stated: “[W]e’ve managed to fully retain the
24 ‘reasonableness’ standard so artfully established by the U.S. Supreme Court back in 1989 in *Graham v.*
25 *Connor*.” It further stated: “The final version of AB392 represents the tireless effort of law enforcement,
26 lobbyists, attorneys, associations and others to work closely with reasonable legislators and the Governor
27 to craft language which will highlight some key issues while still permitting officers to act under the
28

1 ‘objective reasonableness’ standard trained for the past 30 years.”

2 44. Then-Captain of the Pomona Police Department Christian Hsu received and forwarded
3 PORAC’s August 22 e-mail to Lieutenant Dennis Cooper, recommending that it be sent to all Pomona
4 Police Department officers. Cooper agreed and stated that he would “push it out” the following Monday.
5 Cooper then forwarded the e-mail to Training Sergeant Scott Hess with the message: “Can you push this
6 out to sworn, please.”

7 45. Pomona Police Department’s Training Center then sent PORAC’s August 22 message to
8 all sworn Pomona Police Department officers, labeling it as “High” importance, and asking that they read
9 PORAC’s information on AB 392. Pomona Police Department’s Training Center also instructed
10 supervisors to review the PORAC content on AB 392 with their personnel and to log that review in their
11 training records.

12 46. Accordingly, six days later, supervisors Sergeant Patrick O’Malley and Corporal James
13 Gibson conducted a training on AB 392 for Pomona Police Department officers. On information and
14 belief, O’Malley and Gibson relied on the PORAC materials to administer this training. Simultaneously,
15 O’Malley delivered a training on “Deep fake news.”

16 47. Sergeant Todd Samuels forwarded the Training Center’s e-mail to a colleague at Cal Poly
17 Pomona with the note: “FYI from PORAC. Nothing has changed contrary to Media reports.”

18 48. In December 2019, Pomona Police Department adopted its current use of force policy and
19 required officers to review and acknowledge the updated policy by the end of January.

20 49. Pomona Police Department’s use of force policy, Policy 300, is a product of the company
21 Lexipol, referenced in the AB 392 “legal analysis” that PORAC circulated on August 22, 2019. On
22 information and belief, Pomona Police Department pays subscription fees to Lexipol for policy language
23 and updates. Like many other law enforcement agencies in California, the Pomona Police Department
24 adopts the standard policy manual marketed by Lexipol and updates the manual as Lexipol instructs.⁴ On
25 August 22, 2019, then-Captain Michael Ellis corresponded with a Lexipol representative to ask when the
26 company would provide an “update regarding AB 392” as promised in the “legal analysis” PORAC

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28 ⁴ See Ingrid V. Eagly & Joanna C. Schwartz, *Lexipol: The Privatization of Police Policymaking*, 96
TEX. L. REV. 891 (2018), available at <https://texaslawreview.org/lexipol>.

1 circulated that day.

2 50. Pomona Police Department’s use of force policy describes its purpose and scope as
3 follows: “This policy provides guidelines on the reasonable use of force.” The policy references a
4 “reasonableness” standard throughout; it does not acknowledge that AB 392 established a separate, stricter
5 “necessary” standard for deadly force. The policy section specifically regulating the use of deadly force,
6 Policy 300.4, does not instruct officers to limit deadly force to “only when necessary in defense of human
7 life,” as the law now does. The policy *deletes* the word “necessary” from portions of the Penal Code that
8 it cites and otherwise quotes nearly verbatim. The policy further omits the requirement for officers “[i]n
9 determining whether deadly force is necessary” to “use other available resources and techniques if
10 reasonably safe and feasible to an objectively reasonable officer.”

11 51. Other police departments that use Lexipol products have revised their use of force policies
12 after implementing Lexipol’s 2019 update. In response to concerns expressed by some California agencies
13 and advocates about the legal sufficiency of Policy 300 in light of AB 392, Lexipol has stated that it
14 welcomes input and suggestions, and it has developed alternative policy language.

15 52. The Pomona Police Department has not changed its use of force policy since adopting its
16 December 2019 update, however—according to the current policy manual it maintains online as required
17 by Penal Code § 13650.⁵ On information and belief, the Pomona Police Department continues to use this
18 policy to regulate, guide, and evaluate its officers’ use of deadly force.

19 53. As a Lexipol subscriber, the Pomona Police Department also received a video training on
20 AB 392 created by the company, titled *The “Act to Save Lives”: What Law Enforcement Needs to Know*
21 *About CA AB 392*. The video states that the legal standard for police use of force post-AB 392 “is the
22 exact same thing we’ve had for the last 50 years.” Consistent with PORAC’s communications to the
23 Pomona Police Department, the video maintains that AB 392 codified the existing “reasonable” force
24 standard of *Graham v. Connor*. It specifically states several times that AB 392 did not establish a
25 “necessary” standard.

26 _____
27 ⁵ Penal Code § 13650 requires law enforcement agencies to post “all *current* standards, policies,
28 practices, operating procedures, and education and training materials.” (emphasis added). In response to
a Public Records Act request for any policy, policy guide, or material created by Lexipol related to AB
392, the Pomona Police Department stated in February 2020 that it had “no responsive records.”

1 54. On information and belief, Pomona Police Department administers additional trainings on
2 arrest, control, and use of force that instruct officers that the pre-existing “reasonableness” standard, rather
3 than the “necessary” standard established by AB 392, governs the use of deadly force.

4 55. In all of the ways described, Pomona Police Department instructs its officers that AB 392
5 did not change the legal standard for police officers’ use of deadly force. This instruction is incorrect: it
6 misstates the legal standard of AB 392 and establishes a different and lower standard for Pomona Police
7 Department officers’ uses of deadly force that violates state law.

8 56. As a result, on information and belief, Pomona Police Department officers have an
9 erroneous view of the law regarding their use of force, and they carry this misunderstanding with them on
10 an ongoing basis as they patrol the community while armed with deadly weapons. On information and
11 belief, other Pomona police share Sergeant Samuel’s view that “nothing has changed” as the result of AB
12 392, and they apply that view to the decisions they make about the use or potential use of deadly force
13 while policing Pomona communities.

14 57. Pomona police have used deadly force several times since AB 392 took effect, killing at
15 least three people. On March 30, 2020, Officer Chad Jensen shot and killed Pomona resident Anthony
16 Pacheco. On June 29, 2020, Pomona police and California Highway Patrol officers shot and killed Nick
17 Costales. On July 5, 2020, Pomona police shot and killed another person in Chino; Sergeant Patrick
18 O’Malley celebrated this killing, posting on his social media: “My boys killed another one tonight.
19 Another notch in the belt.”⁶

20 58. On information and belief, all three 2020 Pomona Police Department shootings are
21 currently under investigation or review, and the Department is applying the wrong legal standard to
22 evaluate those shootings and to determine whether to take disciplinary or remedial action.

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24
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27 _____
28 ⁶ O’Malley retired from the Pomona Police Department roughly six months after conducting the August
28, 2019 training on AB 392, before posting this comment online.

1 **Cause of Action**
2 **(Taxpayer Action Under California Code of Civil Procedure**
3 **Section 526a to Restrain Waste and Illegal Expenditure of Funds)**

4 59. Plaintiffs re-allege and incorporate by reference each of the allegations above as if fully set
5 forth herein.

6 60. Pomona Police Department wastes employee time and Department resources on the
7 dissemination and purchase of materials addressing police use of deadly force that conflict with state law.

8 61. Pomona Police Department wastes employee time and Department resources on officer
9 instruction and training addressing police use of deadly force that conflict with state law.

10 62. Pomona Police Department wastes employee time and Department resources on regulation
11 and guidance of officers' use of deadly force that conflict with state law.

12 63. As a result of the foregoing, Pomona Police Department employees apply the wrong legal
13 standard to decisions relating to the use of deadly force and to the investigation and evaluation of deadly
14 force incidents, all of which entail the waste and illegal expenditure of Department resources and
15 employee time.

16 **Prayer for Relief**

17 Plaintiffs respectfully request that this Court grant the following relief:

- 18 1. An injunction restraining Defendants from expenditure of Pomona Police Department
19 funds, resources, or employee time to instruct or train officers that state law does not
20 establish a "necessary" standard for police use of deadly force;
- 21 2. An injunction restraining Defendants from expenditure of Pomona Police Department
22 funds, resources, or employee time to instruct or train officers that the limitations on
23 deadly force set forth in Penal Code § 835a are the same as or materially
24 indistinguishable from those established by the "reasonable" force standard of *Graham v.*
Connor;
- 25 3. An injunction restraining Defendants from using Pomona Police Department funds,
26 resources, or employee time to disseminate or purchase any materials, including those
27 authored by Peace Officers Research Association of California (PORAC) or Lexipol, that
28

1 deny that state law establishes a “necessary” standard for deadly force or instruct that the
2 limitations on deadly force set forth in Penal Code § 835a are the same as or materially
3 indistinguishable from those established by the “reasonable” force standard of *Graham v.*
4 *Connor*;

- 5 4. An injunction restraining Defendants from any other expenditure of Pomona Police
6 Department funds, resources, or employee time on training, policy, regulation, guidance,
7 investigation, or evaluation of police use of deadly force that conflicts with Penal Code
8 Section § 835a;
- 9 5. A declaration that Defendants’ use of Pomona Police Department funds, resources, and
10 employee time to disseminate, use, and rely on the PORAC and Lexipol materials
11 addressing AB 392 constitutes waste;
- 12 6. Reasonable attorneys’ fees and costs pursuant to Cal. Code Civ. Proc. §§ 1021, 1021.5,
13 and any other applicable law.
- 14 7. All other relief the Court deems just and proper.

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16 Respectfully submitted,

17
18 Dated: July 31, 2020

ADRIENNA WONG
ACLU FOUNDATION OF SOUTHERN CALIFORNIA

19
20
21 By: s/ Adrienna Wong
22 Attorney for Plaintiffs
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