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January 8, 2020

**VIA REGISTERED PROCESS SERVER**

Mayor Kate Gallego  
City of Phoenix  
200 West Washington Street, 11<sup>th</sup> Floor  
Phoenix, Arizona 85003

Councilmember Thelda Williams  
Phoenix City Council District 1  
200 West Washington Street, 11<sup>th</sup> Floor  
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Councilmember Debra Stark  
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200 West Washington Street, 11<sup>th</sup> Floor  
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Councilmember Sal DiCiccio  
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Councilmember Carlos Garcia  
Phoenix City Council District 8  
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Vice Mayor Betty Guardado  
Phoenix City Council District 5  
200 West Washington Street, 11<sup>th</sup> Floor  
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Councilmember Jim Waring  
Phoenix City Council District 2  
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Councilmember Laura Pastor  
Phoenix City Council District 4  
200 West Washington Street, 11<sup>th</sup> Floor  
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Councilmember Michael Nowakowski  
Phoenix City Council District 7  
200 West Washington Street, 11<sup>th</sup> Floor  
Phoenix, Arizona 85003

RE: **Notice of Claim Pursuant to A.R.S. § 12-821.01**

**Claimant:** Jamaar Williams  
**Date of Incident:** July 12, 2019  
**Demand:** \$1,200,000.00

Dear Mayor Gallego, Vice Mayor Guardado, and Esteemed Councilmembers:

This law firm represents Jamaar Williams. I trust you have been expecting this Notice of Claim for some time, and have had ample opportunity to research what happened in Mr. Williams' case. Nonetheless, as required by law, we are serving this Notice of Claim to formally provide you with an opportunity to settle Mr. Williams' claims before we file a federal civil rights lawsuit against the City, its police chief, and the involved officers.

### **OVERVIEW**

On July 12, 2019, a group of Phoenix Police officers arrested Jamaar Williams, transported him to jail, and booked him for two counts of assaulting a police officer at a Central Avenue protest.

Whether Mr. Williams actually committed these offenses was never truly at issue. A licensed attorney and employee of the Maricopa County Public Defender's office, Mr. Williams attended the event as a legal observer and peaceful protestor. His innocence of any criminal wrongdoing was established by a series of eye witnesses and corroborated by video footage. And a Maricopa County Judge ultimately concluded that there was no probable cause for the State to proceed with charges and unilaterally dismissed the case.

All of this raises the temptation to explore why exactly Phoenix Police arrested him and supported his felony prosecution for more than 5 weeks before the case was ultimately dismissed.

Was it because of Mr. Williams' history as a vocal leader in the local chapter of the National Lawyers Guild, as a Deputy Maricopa County Public Defender who represents those accused of wrongdoing by police, and as a visible activist for police reform?

Was it because of the actions and history of his fiancé – herself an activist and civil rights lawyer who two weeks earlier filed a \$12.5 million notice of claim against the City of Phoenix?

Or did Phoenix PD's mistreatment of Mr. Williams have nothing to do with anything specific to Mr. Williams himself – and everything to do with its long-standing pattern of attempting to shortcut civil liability by proactively charging victims of police violence with crimes.

The desire to address these issues is real. But this Notice of Claim will not do so for two reasons. First, any such efforts would amount to be mere speculation at this point because Phoenix PD has refused to produce any information about the arrest. And second, and more importantly, because speculating about the "why" behind the officer's actions ultimately distracts from the real problems here: the undisputed and undeniable conduct of the Phoenix Police Department.

This Notice of Claim squarely focuses on this reality:

*That the arrest and prosecution of Mr. Williams for a crime he didn't commit was not a mere overreach by a small group of officers – but, instead, the product of a coordinated campaign in which the highest levels of the Department (including Chief Jeri Williams herself) attempted to prop up false charges against an innocent man to ensure his conviction for felonies he never committed.*

This is the conduct at the heart of this Notice of Claim. And it is not premised on mere allegations. Quite the contrary, it is based on undisputed facts that the Police Department cannot deny and that this Council cannot ignore. These facts will ultimately form the basis for a federal lawsuit (and summary judgment) if this matter is not settled.

### **FACTUAL BACKGROUND**

#### **A. “Lights for Liberty”**

In the spring and summer of 2019, the mainstream media was reporting extensively on the crisis unfolding on the southern border. Stories of young children, separated from their parents and living in cages, captured the public imagination. And, across the country, groups previously unaccustomed to civil action began planning protests.

One of these national groups, “Lights for Liberty,” planned a candlelight vigil to be held in multiple locations throughout the country on the evening of July 12, 2019.

When Jamaar Williams learned of the event on social media he was curious. As a prominent local activist and legal observer, he knew most of the organizers in the greater Phoenix area. But he was unfamiliar with the “Lights for Liberty” group. With the event attracting online interest from thousands of individuals – many of whom presumably attending a protest for the first time – Mr. Williams had some concerns. While he was relieved to learn of the involvement of some good local organizers, he was fearful that many of the attendees might lack experience dealing with Phoenix Police and its often-aggressive methods of crowd control, and felt his presence there could be important.



**Jamaar Williams**

B. Jamaar Williams

Understanding Mr. Williams' interest in attending this event requires a basic understanding of his background.

A practicing attorney, Mr. Williams is a full-time employee of Maricopa County, working as Deputy Public Defender who advocates for the rights of indigent people accused of serious felony offenses. In his limited free time, Mr. Williams serves as a leader of the National Lawyers Guild's Central Arizona chapter and Mass Liberation Arizona. He teaches public seminars on constitutional rights and how to safely interact with police, provides support for community groups, and publicly advocates for police reform.

Finally, and most relevant to the current matter, Mr. Williams is a trained legal observer and activist. A former intern at the State Legislature, Maricopa County Court system, and Community Legal Services, Mr. Williams is a dedicated student of both the law and of civic action. He has received extensive training in both areas. And he regularly attends protests, marches, and other public demonstrations to be in solidarity with the participants; to observe, document, and report on constitutional abuses by police; and to ensure the safety of all involved.



**Mr. Williams speaking at a press conference on behalf of the National Lawyers Guild**

When Mr. Williams first learned of the Lights for Liberty Vigil, he discussed it with his fiancé, civil rights lawyer Heather Hamel. Ms. Hamel also has a background in civic activism. Both she and Mr. Williams had been illegally pepper-sprayed by Phoenix PD in a prior protest. And, just two weeks removed from filing an historic multi-million dollar notice of claim against the City for the illegal body cavity search of her client, Ms. Hamel shared Mr. Williams concerns



about the safety of a large number of potentially untrained protestors interacting with *this* police department.

The couple decided that they should attend the event, lend their experience as trained activists, and document Phoenix PD's behavior in order to keep all participants safe. And, when the vigil turned into a march shortly after 9 p.m., they had an opportunity to do so.

C. The Candlelight Vigil and March

The group of several hundred protestors gathered at the United Methodist Church on the southeast corner of Central Avenue and Palm Lane. After an initial group of speakers concluded, the entire group began walking up Central Avenue – initially on the sidewalk, and then in the northbound lanes of traffic.



**A Vigil participant marches with daughter up Central Avenue**

The march was peaceful, respectful, and lawful. As the march progressed, Mr. Williams and Ms. Hamel actively engaged with other participants. They offered guidance and advice to novice protestors. They tried to guard against dehydration by encouraging others to drink water. And, when necessary, assumed the mantle of advocating for the group with police.

After walking some distance up Central Avenue, the group turned and began marching south, back to the church where multiple lines of Phoenix police in riot gear were waiting for them.

As they walked with the group, Mr. Williams and Ms. Hamel discussed the likelihood of Phoenix police arresting participants. Both had work obligations the following morning, and they agreed that they could not – and would not – risk arrest for any act of civil disobedience.

Accordingly, when several members of the group splintered off and sat on the light rail tracks, Mr. Williams and Ms. Hamel remained with the rest of participants. That crowd, including Mr. Williams and Ms. Hamel, was eventually moved by Police to the public sidewalk on the east border of Central Avenue.



**Mr. Williams handing out water to light-rail protestors Phoenix Police surrounded them**

**D. Officer Magee's Assault on Mr. Williams and Ms. Hamel**

As the event wore on, Phoenix PD's patience visibly waned and they moved to arrest the individuals sitting on the light rail track in an act of non-violent civil disobedience. At the time, Mr. Williams was delivering bottles of water to the group on the light rail. When the line of

officers stepped forward and surrounded the protestors, he founded himself in the middle of the police circle.

Believing he was going to be arrested, Mr. Williams put his arms up in a classic surrender position. A Phoenix police officer inside the circle saw him, asked “what are you doing here?” and pushed him outside of the line of police. His arms still up in the air, Mr. Williams then walked back towards his fiancé in the crowd. The two moved from the road to the sidewalk where they pulled out their cell phones and began to film the officers’ arrests of the protestors.

As Mr. Williams and Ms. Hamel stood on the sidewalk with the other Vigil participants, another police line inched forward towards them. The officers ordered the group “get on the sidewalk.” Even as the last of the participants exited Central Avenue and were on the sidewalk, officers continued to repeat the instructions while pushing forward. Finally, without warning, a line of Phoenix police officers in riot helmets began violently pushing Vigil participants.

With video rolling (including, presumably, from the officers’ body-worn cameras), Phoenix Police Officer Darrell Magee aggressively shoved Mr. Williams and Ms. Hamel – despite the fact that both were already standing on the sidewalk.

After being shoved, Mr. Williams was able to quickly recover and maintain his balance. But Ms. Hamel was not. Officer Magee’s shove caused her to fall backwards over a small plant and suffer a laceration to her calf.

After Mr. Williams helped his fiancé to her feet, he noticed that she was bleeding. Both of them immediately began engaging with Officer Magee. They filmed him. They demanded his badge number. They rhetorically asked if he’d ever been served with a notice of claim.

Initially, Officer Magee was visibly irritated. Although he would eventually cool off a bit, he would not forget about the prominent activist couple and their threats of accountability.

#### E. The Unlawful Arrest of Mr. Williams

As the night was coming to a close, Mr. Williams and Ms. Hamel turned to leave the protest. On their way out, they stopped and talked to a few friends. When they heard screams from the crowd, the two looked up and saw a Phoenix PD officer pointing a pepper-ball gun at peaceful protesters standing on the sidewalk.

Mr. Williams immediately returned to the front of the line. He pulled out his camera and attempted to film, in hopes of encouraging the officer to stand down. He announced to the officers that the individuals were on the sidewalk, and that they had a First Amendment right to protest peacefully there.

Phoenix PD responded to Mr. Williams violently. They grabbed him, pulled him behind the police line, and threw him to the ground face first. During this process, a Phoenix police officer

also struck Ms. Hamel—who was standing next to Mr. Williams—in the face, causing her upper lip to swell.



**Police grab Mr. Williams, just before dragging him behind the police line**

Once behind the police line, and out of sight of the litany of participants who were filming with their cell phones, multiple officers piled on top of Mr. Williams. They pinned his arms underneath of him and screamed at him to “stop resisting.” Mr. Williams yelled back to them that he was not resisting – that he was unable to move at all given the weight of the police officers piled on him. Eventually, the officers let up, allowed Mr. Williams to place his hands behind his back, and secured him in handcuffs. They then hauled him to a police vehicle and brought him to the Maricopa County jail where he was booked with the light-rail protestors.

F. False Charges Against Mr. Williams based on Perjured Statements.

Mr. Williams was not sitting on the light rail with the other 15 people who were arrested. When instructed to do so, he moved to the sidewalk like other Vigil participants. He knew, based both on his activist training and understanding of the law, that he conducted himself lawfully.

But he also knew this didn’t matter. He made his living defending people accused of crimes. He knew how police operated. And he knew that they would need to charge him with something to justify their use of force (even if, as in most First Amendment cases, the charges were almost immediately dismissed).

So, as he sat in jail waiting to see a judge, Mr. Williams mentally ran through the various misdemeanors that he knew police were likely considering. He assumed that, like the other 15 people arrested that night, he would be charged with unlawful assembly.

He would soon learn that he was wrong.

On a jail phone call with his fiancé, Mr. Williams was informed that things were far worse than he ever could have imagine: In addition to the misdemeanor charges with which all of the light rail protestors were charged, Phoenix police were also claiming that Mr. Williams had committed two counts of aggravated assault against police officers – both class 5 felonies under Arizona law.

Mr. Williams' reaction upon hearing this was drastic. He was speechless. Tears welled up in his eyes. He struggled for breath as he considered what was happening.

Felony charges would put at risk everything he had spent the last decade building: his career as a respected public defender, his work with the National Lawyers Guild, even his law license. And although he knew he had not committed any crimes – and had certainly not assaulted a police officer – his experience in the justice system made clear that the truth didn't matter.

All that matters in the justice system is what can be proved. And Mr. Williams knew well that if there wasn't clear evidence of Mr. Williams *not* assaulting the officer, all of the officers would testify to the contrary.

G. Mr. Williams' Supporters Collect Clear Evidence of His Innocence

The gravity of the charges against Mr. Williams was not lost on anyone. So, immediately upon learning what Phoenix PD was trying to do, his legal team got to work.

They interviewed witnesses and obtained written statements from a series of eye witnesses directly refuting the officers' allegations. They collected and poured through dozens of hours of amateur video footage documenting Mr. Williams' peaceful and lawful behavior throughout the entire protest. And they organized video that directly refuted the factual assertions made by Phoenix PD and established Mr. Williams' innocence. Meanwhile, however, the gears of the system continued to grind.

H. Prosecutors "turn down" the aggravated assault charges.

Merely arresting a suspect does not necessarily result in criminal charges. Whether to actually charge a defendant is a decision reserved for prosecutors. But such charging decisions are not made in a vacuum: The prosecutors who make these decisions do so in concert (and often after consultation) with the police officers involved.



Needless to say, it is particularly awkward for a prosecutor to refuse to charge an assault against a police officer. Such a decision necessarily requires informing the “victim” officer, as well as his or her colleagues, that the officers’ sworn testimony is not sufficiently reliable to justify charging the case. Not surprisingly, this is a rarity.

Yet it is exactly what happened here. The Maricopa County Attorney’s Office reviewed all of the evidence submitted by Phoenix PD in support of the charges. And, after doing so, the assigned prosecutors concluded that there was not sufficient evidence to charge Mr. Williams with any counts of assault on an officer.

But, inexplicably, the felony prosecution would continue.

I. The Misguided and Malicious Prosecution of Mr. Williams

MCAO’s refusal to prosecute Mr. Williams for aggravated assault did not resolve the case.

Instead, under the inevitable pressure from Phoenix PD, prosecutors agreed to proceed with other charges against Mr. Williams. They filed a direct complaint against Mr. Williams for felony resisting arrest – an offense that the arresting officers themselves had not even alleged Mr. Williams had committed at the time he was booked.

Like many others in his position before him, Mr. Williams was faced with an impossible choice. He could plead guilty to a reduced misdemeanor charge to avoid a career-threatening felony conviction – but doing so would require that he admit that the arrest was lawful, thereby immunizing the officers from any civil liability. Alternatively, Mr. Williams could insist on maintaining his right to force the officers to be accountable in civil court – but only if he refused a settlement offer and thereby risked a felony conviction that could cost him his career.

For many defendants in this position, this is an excruciating choice. But for Mr. Williams it was simple: Having dedicated his life to speaking truth to power and shining a light on the inequities of the system, he refused to consider a guilty plea. Instead, he worked diligently with his legal team to collect and present all of the exculpatory information to the MCAO in hopes of procuring a dismissal.

Refusing the dismissal request, MCAO proceeded with the prosecution for resisting arrest. And, on August 22, 2019 – five weeks after he was arrested – Mr. Williams’ case finally proceeded to a Preliminary Hearing. The public hearing would serve as an opportunity for a sitting judge to hear witness testimony, consider the evidence against Mr. Williams, and determine whether there was probable cause for the MCAO to proceed with the proposed charges.

J. The Preliminary Hearing and Dismissal of All Charges Against Mr. Williams

At the preliminary hearing, the MCAO presented what was presumably its best case for indictment. The State’s presentation did include a single piece of video (whether body camera,

surveillance, or otherwise). Nor did it involve the testimony of the alleged victims of the assaults they claimed Mr. Williams had committed. Or that of any other officer who had actually observed Mr. Williams allegedly resisting arrest.

Instead, in an apparent effort to shield the involved officers from the dire consequences of testifying falsely under oath, MCAO relied exclusively on the testimony of Officer Francisco Barrios. Officer Barrios was at the Lights for Liberty event that night – but he did not observe *any* of Mr. Williams’ alleged criminal acts. With Officer Barrios’ entire universe of knowledge being based on statements from other police officers, MCAO and Phoenix PD were able to get the false statements of Mr. Williams’ conduct in front of the judge without exposing any of its officers to cross-examination under oath.

Maricopa County Superior Court Commission David Seyer was not fooled. After hearing the evidence, he promptly dismissed all of the charges against Mr. Williams, concluding that there was no probable cause to support them.

That would not, however, be the end of this story.

K. Phoenix PD’s Conspiracy and Cover-Up

After Mr. Williams retained me to represent him my office immediately sent a request to the Phoenix Police Department for production of public records. As has been our experience with this department, that request was ignored.

Nonetheless, our investigation was able to uncover some information about the events that unfolded within the Phoenix Police Department in the wake of Mr. Williams arrest. What we found is deeply disturbing.

It appears that Phoenix Police administration identified the gravity of this situation almost immediately after Mr. Williams was arrested. The officers’ decision to pursue felony charges against an active Deputy Public Defender and visible police reform activist promptly made its way up the chain-of-command, ultimately landing on the desk of Chief Jeri Williams.

With the full resources of the Department at her disposal, Chief Williams had a unique opportunity. She had the chance to review all of the evidence with fresh eyes. And, as the department’s chief executive and politically appointed leader, she had the responsibility to bring a measure of rationality and reason to the emotionally charged process.

She chose not to do so.

Instead of leading, Chief Williams fell in lock-step with the officers below her on the chain of command. She blindly trusted the officers on the scene and ignored the evidence that undermined their statements. And, most incredibly, she personally vouched for the basis of the false charges against Mr. Williams.

At the risk of the egregiousness of this misconduct being lost, we repeat it now in plain English: ***Faced with the opportunity to personally correct her officers' constitutional overreach, Chief Williams instead served as the face of a department-wide effort to frame a public attorney and civil rights activist for a crime he didn't commit.***

### **DAMAGES AND DEMAND**

Jamaar Williams incurred some modest physical injuries as a result of the excessive force employed in arresting him. He suffered some bruising and soreness, the discomfort lingering for a few weeks and serving as a reminder of what he'd suffered.

Mr. Williams also endured the emotional damages of spending an unnecessary night in jail. Indeed, by either a quirk of the system or something less innocent, he was forced to wait for nearly 18 hours to see a judge before he could be released.

And he has dealt with some modest post-traumatic stress symptoms from the interaction – some low-level anxiety and occasional sleep disturbances.

But none of that these damages approached the level of his deepest losses.

Mr. Williams spent over five weeks wondering if his job, his career, his law license, and his freedom would all be taken from him by virtue of false accusations that he had assaulted a police officer. Worse, he saw a level of systemic corruption that shocked even him: the Chief of Police herself actively engaging in attempting to frame him for crimes he never committed.

There is no amount of money that can adequately compensate a man for this type of political persecution. Nor should any amount of money be able to silence Mr. Williams and purchase his ability to seek answers about a department-wide conspiracy that, to date, has remained concealed. But, as you know, A.R.S. § 12-821.01 requires that Mr. Williams provide a sum certain for which this matter can be resolved. That sum is \$1,200,000.

### **CONCLUSION**

Why did the highest levels of the Phoenix Police Department try to frame a 34-year-old public attorney and civil rights activist for a crime he didn't commit?

Was this part of a deliberate effort to destroy a visible public critic of the department – one who would, during this very prosecution, be appointed as a member of the Mayor's Ad Hoc Committee on police reform?

Or was it merely a continuation of the Department's long-standing practice of attempting to short-circuit potential excessive force lawsuits by claiming that the officer was the victim rather than the aggressor?

These are questions that will likely go unanswered if this matter is settled. Which, frankly, is why we don't much care whether or not you choose to settle this case. While Mr. Williams can use the proceeds of a settlement to do a lot of good in the community, we are equally willing to employ the discovery tools of the civil justice system to finally unearth the truth in this case.

We look forward to finally obtaining the public records for which we have been waiting for nearly six months. And we are anxious to compel the sworn testimony of all of the officers, administrative officials, and others who were involved in the ill-advised decision to proceed with this unconstitutional politically-motivated prosecution.

Nonetheless, as required by A.R.S. § 12-821.01, we will wait 60 days for your formal answer to our \$1,200,000 settlement demand. If you have any questions in the meantime, please do not hesitate to contact me directly.

Very truly yours,

THE PEOPLE'S LAW FIRM, PLC

A handwritten signature in black ink, appearing to read "S. Benedetto", with a long horizontal flourish extending to the right.

Steve Benedetto

For the Firm