

COVER PAGE

Travis Justin Sneed



To:

City of San Jose – Office of the City Attorney
200 East Santa Clara Street
San Jose, CA 95113

County of Santa Clara – Office of the County Counsel
70 West Hedding Street
San Jose, CA 95110

Subject: Request for Early Resolution – False Arrest & Civil Rights Claims (Demand)

Date: Thursday September 24, 2025

Attachments:

Exhibit A – SJPd Press Release re: McNamara's Text Messages

Exhibit B – KTVU / Media Article: "San Jose police documents reveal identities..." KTVU FOX 2 San Francisco

Exhibit C – Santa Clara DA to dismiss cases tied to ex-San Jose cop (Mercury News / DA) Santa Clara County District Attorney

Exhibit D – KQED Article: "College Student Shot ... after release of racist text messages" KQED

Exhibit E – KTVU Article: "Judge orders ... discuss racist texts" KTVU FOX 2 San Francisco

Exhibit F – Other relevant case docket summaries (if you have them)

DEMAND LETTER



Thursday September 24, 2025

VIA CERTIFIED MAIL

City of San Jose – Office of the City Attorney
200 East Santa Clara Street
San Jose, CA 95113

County of Santa Clara – Office of the County Counsel
70 West Hedding Street
San Jose, CA 95110

Re: Request for Early Resolution – False Arrest & Civil Rights Claims

Dear Counsel:

I submit this letter in good faith to afford the City of San Jose (SJPd) and Santa Clara County (Santa Clara County Jail) the opportunity to resolve claims arising from my arrest and detention on **February 16, 2023**, without immediate resort to litigation.

1. Summary of Facts & Harm

- On that date, I was stopped by San Jose Police Officer **McNamara**, cited for DUI and arrested despite a recorded BAC of **0.03**, well below the state legal limit.
- My vehicle was impounded at my expense.
- I was transported to **Santa Clara County Jail** and during the booking process, I was handcuffed to a chair for nearly **eight hours** without being permitted access to a phone, bail process, legal counsel, or restroom facilities, and I was told I needed to “sober up.”
- As a direct result of being denied restroom access, I developed a chronic urinary tract and kidney infection that required two hospitalizations. My insurance paid over **\$60,000** in medical costs.
- I lost workdays, suffered lost income, paid impound costs, endured sanctions from my school and internship program, and have ongoing reputational harm due to the arrest appearing on background checks.
- I was only informed that the criminal case against me was **dismissed after** I appeared in court on the date provided on my citation. This forced court

appearance also caused emotional distress, wasted time, and further disruption to my life.

- Most significantly, only recently did I learn through media reports and public statements that Officer McNamara was **terminated and decertified** for sending racist text messages that revealed racial bias and profiling. I was not notified by SJPd, the prosecutor's office, or any authority as a person arrested by him, despite the relevance to my case.

2. Public & Media Evidence of McNamara Misconduct

Attached as exhibits are publicly available documents and news reports that reveal the circumstances of McNamara's misconduct:

- **Exhibit A** – SJPd's press release acknowledging that the officer (Mark McNamara) had sent "disgusting text messages that demonstrated racial bias," and that McNamara is no longer employed. San Jose Police Department
- **Exhibit B** – KTVU article disclosing that McNamara's texts implicated other officers (LeTemplier, Haggerty), and that he used racial slurs, stating "I hate black people." KTVU FOX 2 San Francisco
- **Exhibit C** – A Santa Clara DA / Mercury News report announcing that multiple criminal cases tied to McNamara will be dismissed because of tainted credibility from the texting scandal. Santa Clara County District Attorney
- **Exhibit D** – KQED article describing how McNamara's texts were released after a shooting incident (involving K'aun Green) and showing his racial language targeting Black people. KQED
- **Exhibit E** – KTVU report of a federal judge ordering both city attorneys and the plaintiff's counsel in the Green shooting case to appear and address how McNamara's racist texts may affect their case. KTVU FOX 2 San Francisco

These exhibits, among others, strongly support a pattern of bias and misconduct that is material to evaluating my claims.

3. Settlement Demand

To resolve this matter without litigation, I request:

- **\$25,000** from the City of San Jose / SJPd
- **\$15,000** from Santa Clara County / Sheriff's Office

This demand is made in consideration of my economic losses, medical harm, emotional distress, reputational damage, and violation of federal civil rights under **42 U.S.C. § 1983**.

4. Evidence Preservation (Litigation Hold Notice)

You are hereby instructed to preserve all records and evidence relevant to my claims, including but not limited to:

- Body-worn camera footage, arrest reports, dispatch and field sobriety records
- Jail booking logs, surveillance footage, restraint chair records
- Internal Affairs files, disciplinary and termination records related to Officer McNamara
- Communications (emails, text logs) involving McNamara and related personnel

Failure to preserve this evidence may constitute spoliation and give rise to further claims.

5. Response Deadline & Next Steps

If I do not receive a substantive response within **30 days** of your receipt of this letter, I will proceed to file claims and litigation in federal court (and/or state court where applicable), seeking full damages, attorney's fees, and costs.

I hope that we can resolve this matter promptly and without wasteful expenditure for either side. Please direct any response or communication to me at the contact information above.

Sincerely,

Travis Justin Sneed



Exhibit A – SJPD Press Release (Nov 3, 2023)

“Earlier this week ... Internal Affairs Investigators discovered that the officer had sent disgusting text messages that demonstrated racial bias. ... that officer is no longer employed ... the former officer is Mark McNamara.” San Jose Police Department

Statement From the Chief Regarding Officer Misconduct

Post Date:11/03/2023 6:10 PM

Earlier this week, through an unrelated Criminal Investigation into one of our officers, Internal Affairs Investigators discovered that the officer had sent disgusting text messages that demonstrated racial bias. Immediately, Internal Affairs initiated a separate proactive administrative investigation. These messages came to light in the last few days and hours and that officer is no longer employed with the City.

The former officer is Mark McNamara. He had been with the department for 6 years and was involved in an officer involved shooting at a La Victoria Taqueria in Downtown San José on March 27, 2022.

These texts were uncovered because of systems I put into place over a year ago, including a personal commitment that only officers who live up to our standards and values wear a San José PD badge.

There is zero tolerance for even a single expression of racial bias at the San José Police Department. The messages were found due to the expansion of our Internal Affairs Unit's efforts to thoroughly investigate all questionable conduct and is why we have made investments in a new early warning system. I made it clear last year when I expanded our investigation systems that we would be proactive and transparent in identifying patterns of policy violations. This is the promised accountability resulting from that work.

During the course of the investigation, it was also determined that a current employee who was on the receiving end of some of the messages engaged in other concerning dialogue with the former officer. That employee was immediately placed on administrative leave pending an internal investigation.

My directive to identify issues early and elevate investigations into employee

misconduct is working. Our relentless commitment to discover and expel any officer who violates the public trust and our Department's values gives me the confidence that this incident is not a sign of a larger issue.

At this time, I am prohibited by law from providing certain additional details, but I am providing this disclosure in real time. I can also say that criminal charges have not been filed nor are anticipated at this time.

As public servants, we hold ourselves to the most rigorous standards and values in our profession. Any serious incident involving a sworn member of this department rightly causes community concern, however, I am committed as your Police Chief that I will rid our ranks of individuals who act in a manner counter to the mission and values of our department.

If any employee's racial bias rears its ugly head, rest assured that I will take immediate action to ensure they are not part of this organization. I am extremely proud of the 99.9% of officers whose achievements and dedication to this community are unmatched and I will not let the actions of a few officers cloud the extraordinary work being done in our city every day.

- Chief of Police Anthony Mata

"I stand with Chief Mata and all the officers of the San Jose Police Department who serve our community. There is no room for racial bias in our City. Our community and workforce deserve better," states City Manager Jennifer Maguire. "In an organization of close to 7,000 full-time equivalent employees, it is paramount that we safeguard our community from any person who does not hold themselves to the highest professional standards and has not adhered to our policies."

"There is nothing more sickening than a person in power abusing their position," said Mayor Matt Mahan "I will sleep better tonight knowing that this individual is no longer carrying a badge and gun. Assuming these allegations are upheld, he should face the full consequences of his actions. Despite this officer's reprehensible conduct, we have the best police department in the nation and to keep it that way, we are going to fire any employee who does not show appropriate respect for every resident. This mutual respect is the foundation of a successful public safety effort — and we are going to work every day to keep building it. I want to thank City Manager Jennifer Maguire, Chief Mata and the department's leadership for uncovering these racist text messages and moving swiftly to hold this individual accountable and

immediately sharing this information with the public in the spirit of full transparency."

From	To	Body	Status	Source	Start Time:	Name	Participants	Account	Timestamp: Time
+1 [REDACTED]	+1 [REDACTED] Mead (owner)	Yo dog	Read	Native Messages	3/28/2022 7:36:10 PM(UTC-7)	[REDACTED]	+1 [REDACTED] [REDACTED] [REDACTED]	+1 [REDACTED]	3/28/2022 7:36:10 PM(UTC-7)
+1 [REDACTED] Mead	+1 [REDACTED] [REDACTED]	What's up dude	Sent	Native Messages	3/28/2022 7:36:10 PM(UTC-7)	[REDACTED]	+1 [REDACTED] Mead (owner) [REDACTED] [REDACTED]	+1 [REDACTED]	3/28/2022 7:50:48 PM(UTC-7)
+1 [REDACTED] [REDACTED]	+1 [REDACTED] Mead (owner)	How you doing homie	Read	Native Messages	3/28/2022 7:36:10 PM(UTC-7)	[REDACTED]	+1 [REDACTED] [REDACTED] [REDACTED]	+1 [REDACTED]	3/28/2022 8:20:09 PM(UTC-7)
+1 [REDACTED] Mead	+1 [REDACTED] [REDACTED]	Oh I'm good to go	Sent	Native Messages	3/28/2022 7:36:10 PM(UTC-7)	[REDACTED]	+1 [REDACTED] [REDACTED] [REDACTED]	+1 [REDACTED]	3/28/2022 8:34:54 PM(UTC-7)
+1 [REDACTED] Mead	+1 [REDACTED] [REDACTED]	Just out here clappin fools	Sent	Native Messages	3/28/2022 7:36:10 PM(UTC-7)	[REDACTED]	+1 [REDACTED] [REDACTED] [REDACTED]	+1 [REDACTED]	3/28/2022 8:35:04 PM(UTC-7)
+1 [REDACTED] [REDACTED]	+1 [REDACTED] Mead (owner)	Lol this bitch	Read	Native Messages	3/28/2022 7:36:10 PM(UTC-7)	[REDACTED]	+1 [REDACTED] [REDACTED] [REDACTED]	+1 [REDACTED]	3/28/2022 8:35:12 PM(UTC-7)

From	To	Direction	Body	Status	Message Type	Folder	Source	Timestamp-Time
+1 [REDACTED] [REDACTED]	+1 [REDACTED] Mead (owner) - Read: 6/21/2023 2:14:49 PM(UTC-7)	Incoming	You had to go testify n-shit?	Read	iMessage	Inbox	Native Messages	6/21/2023 2:14:49 PM(UTC-7)
+1 [REDACTED] Mead	+1 [REDACTED] - Delivered:6/21/2023 2:14:51 PM(UTC-7)	Outgoing	They were trying to walk me into traps to make it look like I did something wrong	Sent	iMessage	Sent	Native Messages	6/21/2023 2:14:51 PM(UTC-7)
+1 [REDACTED] Mead	+1 [REDACTED] - Delivered:6/21/2023 2:14:57 PM(UTC-7)	Outgoing	Yeahhh	Sent	iMessage	Sent	Native Messages	6/21/2023 2:14:57 PM(UTC-7)
+1 [REDACTED] Mead	+1 [REDACTED] - Delivered:6/21/2023 2:15:10 PM(UTC-7)	Outgoing	These civil lawyers are such parasites	Sent	iMessage	Sent	Native Messages	6/21/2023 2:15:09 PM(UTC-7)

From	To	Direction	Body	Status	Message Type	Folder	Source	Timestamp-Time
+1 [REDACTED]	+1 [REDACTED] Mead (owner) - Read: 6/21/2023 2:52:37 PM(UTC-7)	Incoming	That's so fucked up.	Read	iMessage	Inbox	Native Messages	6/21/2023 2:17:04 PM(UTC-7)
+1 [REDACTED]	+1 [REDACTED] Mead (owner) - Read: 6/21/2023 2:52:37 PM(UTC-7)	Incoming	Just pay the fucker and leave you alone. Man hearing that makes me hate the job even more	Read	iMessage	Inbox	Native Messages	6/21/2023 2:17:20 PM(UTC-7)
+1 [REDACTED] Mead	+1 [REDACTED] Delivered:6/23/2023 3:11:02 PM(UTC-7)	Outgoing	I finally had to tell this city attorney what's what. He keeps texting me asking shit. I'm like dude, I don't give a shit about this case. I'm white, he's black, he's gonna win. AND I DONT CARE. It's like bitch whatever they decide has no bearing on me what so ever. It's basically kangaroo court.	Sent	iMessage	Sent	Native Messages	6/23/2023 3:11:00 PM(UTC-7)
+1 [REDACTED]	+1 [REDACTED] Mead (owner) - Read: 6/23/2023 3:13:19 PM(UTC-7)	Incoming	Oh shit son haha what he have to say to that?	Read	iMessage	Inbox	Native Messages	6/23/2023 3:13:18 PM(UTC-7)

From	To	Direction	Body	Status	Message Type	Folder	Source	Timestamp-Time
+1 [REDACTED] Mead	+1 [REDACTED] - Delivered:6/23/2023 3:13:28 PM(UTC-7)	Outgoing	The other day this nigs lawyer is like mr McNamara, you know we can still find you guilty of excessive force right? I'm like, hmmm yeah then shat happens?? Nothing?? Cool. Cuz I'm pretty sure the district attorney would have charged me if I used excessive force, but she didn't, because I didn't use excessive force. Think I give a fuck what y'all nigs think? !??!! I'll shoot you too!!!!!! AHHHHHH!!!!!!	Sent	iMessage	Sent	Native Messages	6/23/2023 3:13:27 PM(UTC-7)
+1 [REDACTED] Mead	+1 [REDACTED] - Delivered:6/23/2023 3:15:01 PM(UTC-7)	Outgoing	He was basically just like, yeah I know it seems like a waste of time	Sent	iMessage	Sent	Native Messages	6/23/2023 3:15:00 PM(UTC-7)
+1 [REDACTED] Mead	+1 [REDACTED] - Delivered:6/23/2023 3:17:18 PM(UTC-7)	Outgoing	He was getting mad because during the hearing he kept asking me hypothetical questions, and I'm like do you think we could just focus on the facts of the incident? And he's like "IM RUNNING THIS, not you". I was like oh my B, then I would answer his questions by saying something like "in the imaginary scenario that you just came up with which has no relation to the actual incident..." Then I'd answer his question lol	Sent	iMessage	Sent	Native Messages	6/23/2023 3:17:17 PM(UTC-7)

From	To	Direction	Body	Status	Message Type	Folder	Source	Timestamp-Time
+1 [REDACTED]	+1 [REDACTED] Mead (owner) - Read: 6/23/2023 3:18:45 PM(UTC-7)	Incoming	Hahahah yikes... next time they talk to you about charging... you know what to do dude	Read	iMessage	Inbox	Native Messages	6/23/2023 3:18:37 PM(UTC-7)
+1 [REDACTED]	+1 [REDACTED] Mead (owner) - Read: 6/23/2023 3:18:48 PM(UTC-7)	Incoming	Grab that snake and yell "charge this!!!!!"	Read	iMessage	Inbox	Native Messages	6/23/2023 3:18:48 PM(UTC-7)
+1 [REDACTED] Mead	+1 [REDACTED] Delivered:6/23/2023 3:22:55 PM(UTC-7)	Outgoing	There was like 65 African lookin mother fuckers there too. All just mean mugging me and taking notes. They should all be bowing to me and brining me gifts since I saved a fellow nigga by making him rich as fuck. Otherwise he woulda lived a life of poverty and crime	Sent	iMessage	Sent	Native Messages	6/23/2023 3:22:54 PM(UTC-7)
+1 [REDACTED]	+1 [REDACTED] Mead (owner) - Read: 6/23/2023 3:35:14 PM(UTC-7)	Incoming	I just don't understand....	Read	iMessage	Inbox	Native Messages	6/23/2023 3:33:59 PM(UTC-7)

From	To	Direction	Body	Status	Message Type	Folder	Source	Timestamp-Time
+1 [REDACTED] [REDACTED] Mead	+1 [REDACTED] Mead (owner) - Read: 6/23/2023 3:35:14 PM(UTC-7)	Incoming	Why don't black people have any sense in their head?	Read	iMessage	Inbox	Native Messages	6/23/2023 3:34:12 PM(UTC-7)
+1 [REDACTED] Mead	+1 [REDACTED] - Delivered: 7/19/2023 10:29:51 AM(UTC-7)	Outgoing	Had more court today from blatin that fool. This nigga is asking for 10 million dollars	Sent	iMessage	Sent	Native Messages	7/19/2023 10:29:49 AM(UTC-7)
+1 [REDACTED] [REDACTED]	+1 [REDACTED] Mead (owner) - Read: 7/19/2023 11:40:05 AM(UTC-7)	Incoming	Ayyv yoooi! My man tryna ball out	Read	iMessage	Inbox	Native Messages	7/19/2023 11:33:44 AM(UTC-7)
+1 [REDACTED] Mead	+1 [REDACTED] - Delivered: 7/19/2023 1:10:42 PM(UTC-7)	Outgoing	Dude would probably blow it all in like a year	Sent	iMessage	Sent	Native Messages	7/19/2023 1:10:42 PM(UTC-7)

From	To	Direction	Body	Status	Message Type	Folder	Source	Timestamp-Time
+1 [REDACTED] Mead	+1 [REDACTED] - Delivered:7/19/2023 1:10:49 PM(UTC-7)	Outgoing	I hate black people	Sent	iMessage	Sent	Native Messages	7/19/2023 1:10:49 PM(UTC-7)
+1 [REDACTED] Mead	+1 [REDACTED] - Delivered:7/19/2023 1:10:52 PM(UTC-7)	Outgoing	AHHH!!!!	Sent	iMessage	Sent	Native Messages	7/19/2023 1:10:52 PM(UTC-7)

Exhibit B – “San Jose police documents reveal identities of 2 other officers involved in racist text scandal” (KTVU)

“The racist text scandal prompted the resignation of former San Jose police officer Mark McNamara ... McNamara used the N-word dozens of times and stated clearly in at least one message ‘I hate black people.’” KTVU FOX 2 San Francisco

SAN JOSE, Calif. - KTVU has learned the identities of two other police officers involved in a racist text scandal that prompted the resignation of former San Jose police officer Mark McNamara, who shot a Black man on the steps of a taqueria and who is now the target of an excessive force lawsuit.

SJPD officer Brandon LeTemplier, who is on paid administrative leave, and William "Billy" Haggerty, who worked for SJPD from 2017 to 2020, were both senders and recipients of text messages exchanged with McNamara, according to an unredacted copy of documents reviewed by KTVU.

KTVU has decided to identify both officers as LeTemplier is still employed by the San Jose Police Department and both he and Haggerty could still find employment at other agencies. Haggerty has bounced around three police departments in six years. Neither are on any police decertification list at this point.

Attempts to reach LeTemplier and Haggerty by phone have not been successful.

Their police unions also did not respond for comment, and neither did spokespeople at their respective police departments.

"If people had contact with these officers, they need to know whether that contact was done with any type of underlying racial bias or animus," said Angel Alexander, whose law firm, Lawyers for

the People, is suing McNamara after he shot and wounded her client, K'aun Green. "If you have hatred for the community that you're serving, it's a public safety issue."

San Jose police released a sampling of the text messages at the time of McNamara's departure from the department in November, so it's unclear if there are more messages sent by LeTemplier and Haggerty that have not been disclosed.

Exhibit C – “Santa Clara DA to dismiss cases tied to ex-San Jose cop” (Mercury News / DA)

“The Santa Clara County District Attorney’s Office plans to dismiss five criminal cases after determining that a former San Jose cop ... had tainted the credibility of the police investigations.” Santa Clara County District Attorney

Mercury News: Exclusive: Santa Clara DA to dismiss cases tied to ex-San Jose cop in racist text scandal

February 14, 2024

SAN JOSE — The Santa Clara County District Attorney’s Office plans to dismiss five criminal cases after determining that a former San Jose cop embroiled in a racist texting scandal had tainted the credibility of the police investigations.

In letters sent this week to the county Public Defender’s Office and several defense attorneys, the agency wrote that the dismissals stem from a review of 54 arrests, charges and convictions involving Mark McNamara, who resigned in November after an internal San Jose Police Department investigation revealed that he was behind “a series of virulently racist text messages.”

“We think this is extraordinarily important,” District Attorney Jeff Rosen said in an interview Tuesday. “Fairness is at the heart of the criminal justice system. Racism affects the community’s confidence that every arrest and conviction was fair.”

**Exhibit D – “College Student Shot ... after release of racist text messages”
(KQED)**

“San Jose police released text messages targeting Black people ... McNamara appears to refer to the incident, writing ... ‘I hate black people.’” KQED

A man shot by a San José police officer last year renewed calls for a criminal investigation into the shooting after the police department released text messages expressing anti-Black racism allegedly sent by the officer.

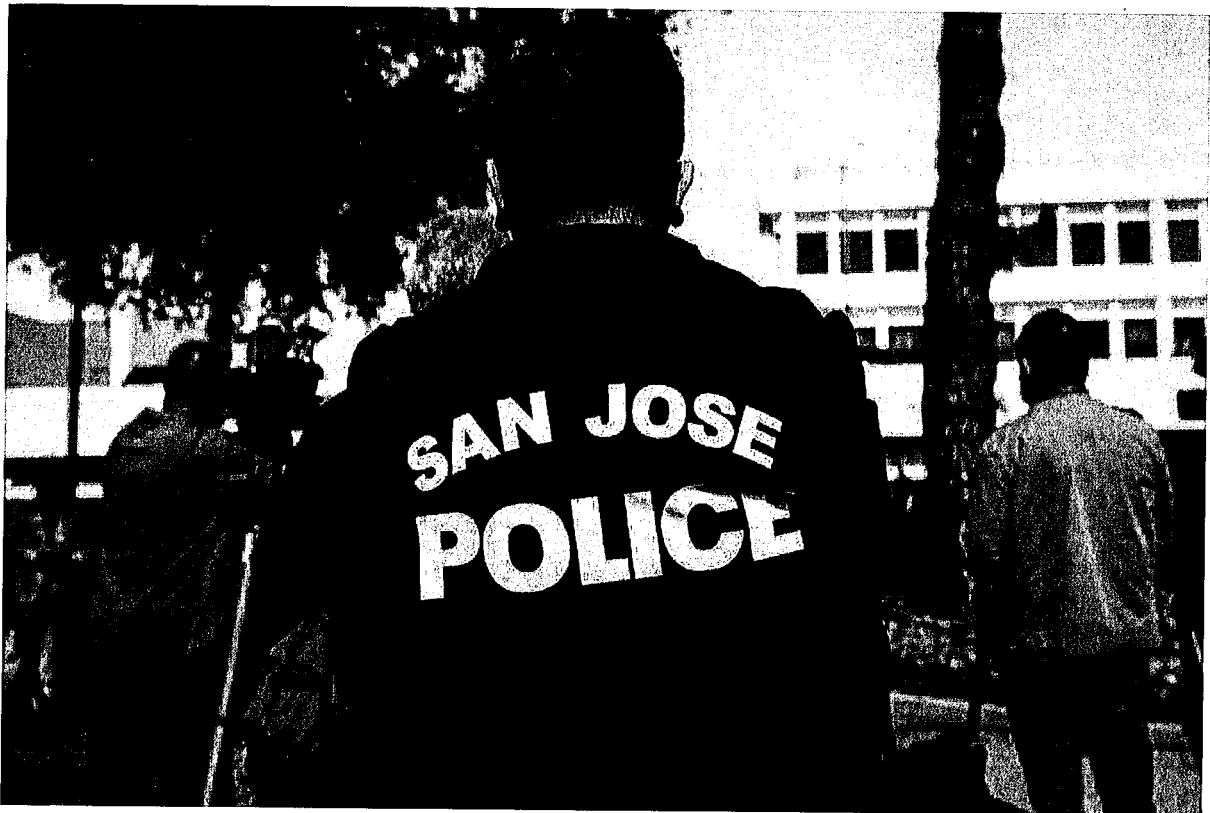
Oakland resident K’aun Green, who is Black, was shot four times by Mark McNamara in March 2022 after Green disarmed a man inside La Victoria Taqueria in San José. Green, a college football player, was not charged with a crime. He has sued the city and McNamara for civil rights violations.

McNamara, who joined the department in 2017, resigned Nov. 1 after being notified of an investigation into his texts, which were released Friday by the San José Police Department. He has not been charged for shooting Green.

‘It scares me to know how much hate a person can have in their heart and to know that no matter what I did, I was still gonna be shot.’ K’aun Green, Oakland resident

On Sunday, Sean Webby, public communications officer at the Santa Clara County Office of the District Attorney, said the office is reviewing its initial investigation. On Monday, the Santa Clara County Public Defender Office said it was in the process of scheduling talks with the district attorney about how McNamara’s text messages might impact criminal cases that relied on his police work.

“Given the racist nature of his text messages, we have to assume it is an attitude which he carries deep within his practice,” said Deputy Public Defender Charlie Hendrickson, speaking on behalf of the office.



A person wears a San José Police jacket during a press conference outside the San José Police Department in San José on March 17, 2021. *(Randy Vazquez/MediaNews Group/The Mercury News via Getty Images)*

According to Green's attorneys, McNamara, who identifies himself as white in the text messages, claimed in a deposition that he feared for his life when he saw Green holding a gun. Green, 22, said the text messages paint a different picture.

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“It scares me to know how much hate a person can have in their heart and to know that no matter what I did, I was still gonna be shot,” he said. “I went in there to help. I came out looking for help, seeking help from officers — people that are supposed to help me — only to be shot and almost killed.”

The 10 pages of messages sent between McNamara and other unnamed officers include some sent in the hours after the shooting. McNamara appears to reference the incident, writing, “N— wanted to carry a gun in the wild west.” A subsequent text said, “Not on my watch haha.”

The names and phone numbers of the people McNamara texted were partially redacted in messages shared by the department. Following a June meeting with Green’s attorneys, some of whom are Black, McNamara again used the N-word when referring to Green.

+1 [REDACTED] [REDACTED] Delivered:6/23/2023 3:22:55 PM(UTC-7)	Outgoing	There was like 65 African lookin mother fuckers there too. All just mean mugging me and taking notes. They should all be bowing to me and brining me gifts since I saved a fellow [REDACTED] by making him rich as fuck. Otherwise he woulda lived a life of poverty and crime	Sent
+1 [REDACTED] [REDACTED] Delivered:7/19/2023 1:10:49 PM(UTC-7)	Outgoing	I hate black people	Sent

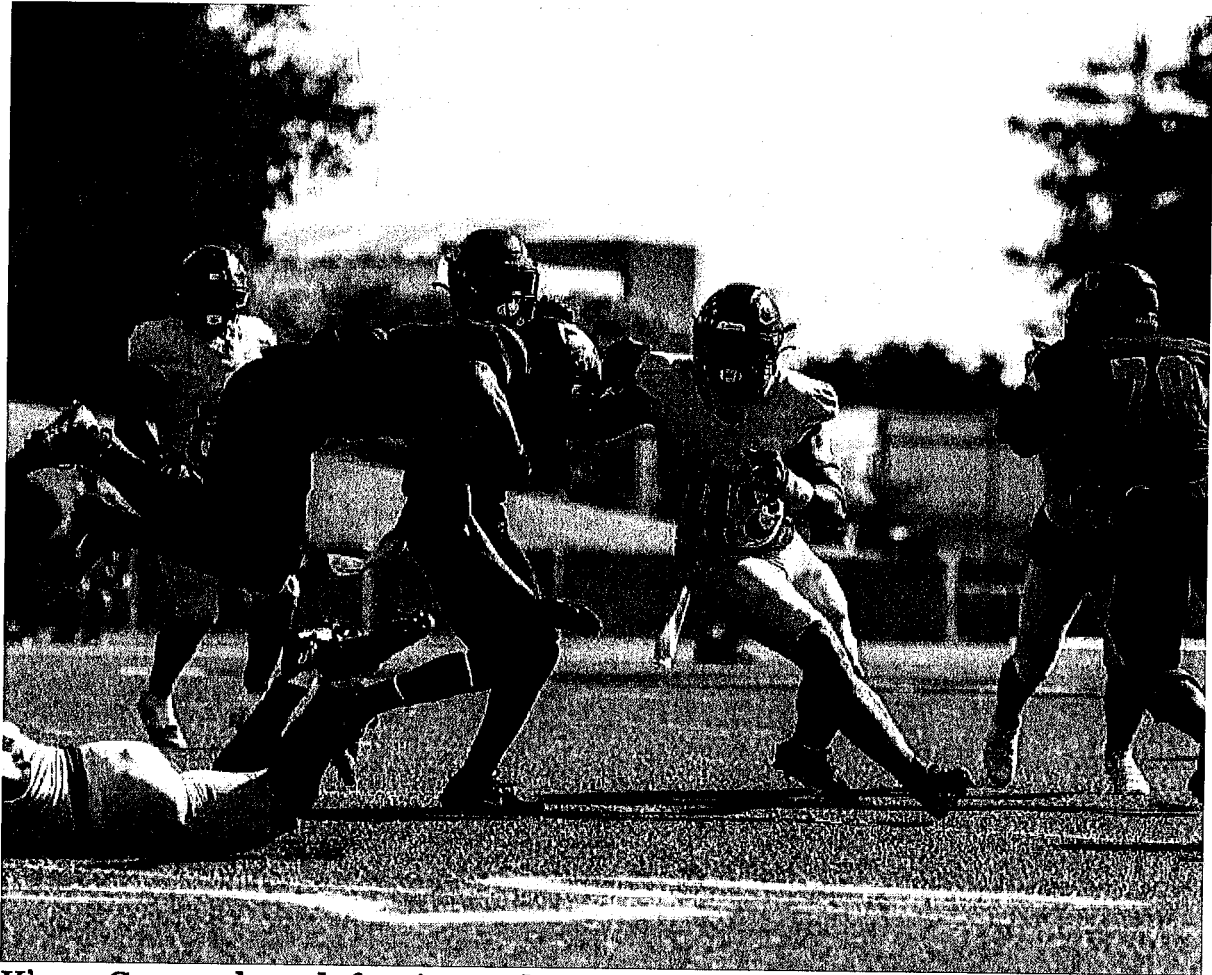
On Friday, the San José Police Department released ten pages of text messages involving Officer McNamara, many including racist statements targeting Black people. McNamara has since resigned from the police department. *(Courtesy of Pointer & Buelna, LLP)*

“There was like 65 African lookin mother fuckers there too. All just mean mugging me and taking notes,” he wrote. “They should all be bowing to me and brining [sic] me gifts since I saved a fellow n— by making him rich as fuck. Otherwise he woulda [sic] lived a life of poverty and crime.”

He followed up a few weeks later with, “I hate black people.”

The text messages are just the latest in a string of scandals involving Bay Area police sharing racist texts with colleagues. Earlier this year, an FBI probe into wrongdoing by Antioch and Pittsburg police officers led to the release of hundreds of racist text messages. Since then, the Contra Costa District Attorney has recommended dismissing at least 30 criminal cases involving police work by the implicated officers.

According to San José police, the messages were discovered during an internal affairs investigation into McNamara for an unrelated matter.

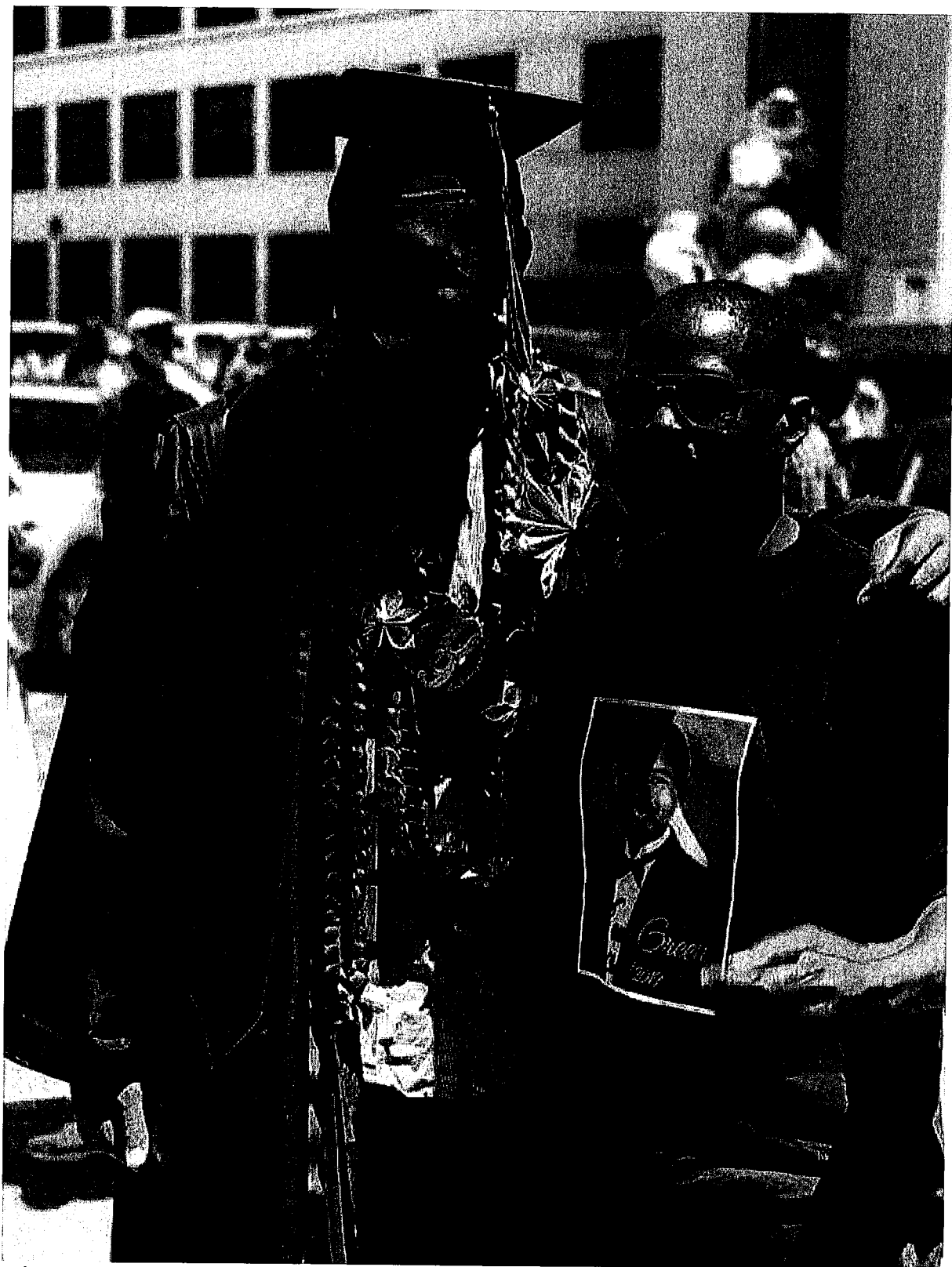


K'aun Green plays defensive end on the City College of San Francisco football team. At a press conference on Sunday, he said he has lingering pain in his knee, arm and abdomen from the shooting. Still, he hopes to one day play in the NFL. *(Courtesy of Pointer & Buelna, LLP)*

Currently a sophomore at the City College of San Francisco, Green said the shooting has left him shaken. He said videos on social media of police harming Black Americans had already made him weary of law enforcement.

"Now it's way worse," he said. "I recently just got pulled over before one of my football games, and I was literally shaking. I had to call my mother."

He said playing football, despite lingering pain in his knee and abdomen from the shooting, helps him stay grounded and keeps depression at bay. At Sunday's press conference, Green's attorneys, calling on the California Commission on Peace Officer Standards and Training to revoke McNamara's peace officer certification, criticized the department for not firing McNamara.



K'aun Green graduated from Oakland's McCymonds High School in

2019. In 2022, he was shot and injured by San José Police while attempting to de-escalate a fight in a San José Taqueria. (*Courtesy of Pointer & Buelna, LLP*)

“You have allowed an avowed racist cop an opportunity to go and seek employment in another community just to terrorize another person on another day,” Adante Pointer said.

Green said the messages are indicative of a much bigger problem for the department, which placed four officers on leave in 2020 for making racist Facebook posts. Angel Alexander, an attorney for Green, called for the names of other officers involved in the exchanges to be made public.

“These [texts] were not a monologue,” she said. “These were a dialogue between multiple members of the San José Police Department.”

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In a statement, the police department said one officer who received messages from McNamara has been put on administrative leave.

Exhibit E – “Judge orders ... discuss racist texts” (KTVU)

“A federal judge is ordering the lawyers ... and San Jose city attorneys to appear in court to discuss how the officer’s racist texts will affect a civil case ... in light of newly revealed police racist text scandal involving former Officer Mark McNamara.” KTVU FOX 2 San Francisco

SAN JOSE, Calif. - A federal judge is ordering the lawyers representing a football player shot by a San Jose police officer and San Jose city attorneys appear in court to sort through how the officer’s racist texts will affect a civil case against the police department.

U.S. District Court Judge Nathaniel Cousins told K’aun Green’s attorneys and the San Jose city attorney to gather Wednesday in his courtroom to discuss how to proceed in light of a newly revealed police racist text scandal involving former Officer Mark McNamara.

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On Friday, the police chief of San Jose made public a slew of racist texts McNamara allegedly sent and were directed at the 21-year-old football player and his legal team, most of whom are Black.

Those texts, some of which the chief released to the public, show McNamara using the N-word and saying he “hates black (sic) people” in several exchanges with one current and one former SJPd employee.

Why McNamara was being investigated has not been disclosed.

The judge also wants to know if McNamara will find a new attorney or represent himself as the city of San Jose will likely no longer represent him, according to a court filing. An email to the San Jose city attorney’s office on Monday was not immediately returned.

To date, Thomas Gray, a senior deputy city attorney, has been defending the city of San Jose, and therefore, McNamara, in the case.

Efforts to reach McNamara have not been successful. He resigned on Friday, hours before the chief released his texts.

Meanwhile, the Santa Clara County District Attorney's Office on Monday said prosecutors are "reviewing the evidence" as it pertains to any criminal cases that McNamara would have been involved in. He was hired in 2017.

The Santa Clara County Public Defender did not return requests for comment.

But Karyn Sinunu-Towery, Interim San Jose Independent Police Auditor, told KTVU on Monday that she is pleased Police Chief Anthony Mata "didn't waste any time. He has no tolerance for bad officers."

She said as an auditor, her team is allowed to be present and ask questions during police investigations, but is not able to make anything more public.

Green's lawyers, who held a news conference on Sunday, say the texts – and the racial motivation behind them – are highly relevant as they pertain to what happened on March 27, 2022, at La Victoria Taqueria in downtown San Jose and Green's subsequent federal lawsuit against the city and police department.

McNamara was the only officer to fire his gun and shoot Green.



K'aun Green and his lawyer speak to reporters November 5, 2023 for the first time since the racist text scandal dropped.

Police officials have long maintained McNamara shot Green because he saw a gun in his hand and was worried that he might have been involved in a homicide around the block about a half hour earlier – which it turned out, he was not.

In a video deposition, McNamara testified that upon seeing Green with a gun in his hand, his "first instinct was that somebody is going to get shot and I need to go and stop that from happening. In my mind, the best thing to do was to go over there and see what was going on because of how immediate, that I believed the threat was. There was no time to wait. There was no time to make a plan. The level of urgency was through the roof."

Meanwhile, Green has steadfastly maintained that he was not in the wrong that night; in fact, he acted heroically.

Video shows Green wrestled a gun away from another drunk man inside the taqueria and was exiting the shop with the confiscated weapon just as McNamara shot him four times.

But now, Green's attorney, Adante Pointer, is sure there was a racial element to McNamara shooting his client.

In addition to excessive force, Pointer called for criminal charges to be filed against McNamara including attempted murder and hate crime.

"Racism not only survives within the San Jose Police Department, but thrives," Pointer said.

Pointer's team is relying on the expert testimony of use-of-force expert Adam Bercovici, a 30-year veteran of the Los Angeles Police Department who lives in Bend, Ore., who said that McNamara's use of deadly force "did not abide by accepted police standards and trainings."

Specifically, Bercovici said that McNamara ignored established police protocol, made no attempt to get cover, created a "crossfire situation" when he walked up the stairs of the restaurant and then was "surprised" when the restaurant door opened and Green walked out, placing him directly in a "kill zone."

"That this surprise, created by substandard tactics, created a scenario where he could not assess the threat, and as a result, shot Green, who was responding to commands to raise his hands," Bercovici wrote, according to the Oct. 27 court filings. "Through his actions, McNamara dug himself into a tactical hole which, in my opinion, made him so terrified that he could not recognize that Green was complying with the commands given to him."



Scene on Sunday at La Victoria Taqueria on East San Carlos Street less than a block away from the San Jose State University campus.

Bercovici called McNamara's tactical behavior that night "reckless, dangerous and completely substandard."

A forensic video expert, Parris Ward, watched the surveillance and body camera videos of that evening, and concluded that Green dropped the gun simultaneously while being shot.

In Bercovici's opinion, McNamara should have established a better tactical position to give clear and calm orders, and waited for direction from his supervisor.

But in this case, Bercovici also criticized the supervisor in charge that night, Sgt. Christopher Bielecki, whom he said failed to establish proper command and control.

In fact, Bercovici said that Bielecki's "deficient" orders in not having a plan when officers approached La Victoria were "an enabling factor" in McNamara's behavior.

"I spent 16 years training subordinate supervisors," Bervcovici wrote. "His assertion that there would be no plan when approaching a call involving a gun is incredulous."

Bercovici said that in his three decades of experience, he could have used deadly force plenty of times, but instead, he realized that using a "well-thought-out plan could prevent a fatal force encounter." These plans should often include "time and distance," and de-escalating the situation with words, not bullets.

Meanwhile, the city of San Jose retained Barbara Riggs, a former Los Angeles Police Academy sergeant and use-of-force expert.

In court filings, she disagreed with Bercovici's opinions, writing that it's not fair to use 20/20 hindsight to second-guess what an officer was thinking in the moment.

Rather, she said, an officer can only judge a situation by the facts reasonably known at the time.

In her opinion, McNamara's actions were "sound."

For instance, Riggs said it was reasonable at the time for McNamara to believe that Green heard him when he said drop the gun, even though Green later testified that he didn't.

Riggs also said that the situation was much more fluid than Bercovici described. Many people were telling police that someone had a gun inside La Vic and they were yelling and screaming for police to come help.

It also was perfectly reasonable for McNamara to have thought that Green could have been involved in the prior homicide at the time – even though it turned out later to not be true, Riggs wrote.

Pointing out other active shooting situations where police stood by and did nothing, Riggs said that it wouldn't have been appropriate for McNamara to wait for Green to have fired the gun in his hand before doing something.

"Mr. Bercovici seems to be suggesting that the officers must wait until a shooting occurs before acting," Riggs wrote. "This tactic would certainly undermine public trust."

Waiting outside La Vic would have left the occupants of the taqueria to fend for themselves," she wrote.

She also noted that going up the stairs was appropriate because due to the architecture of the restaurant, "no matter how he went up the stairs, he would have been directly in front of the door."

Riggs also defended the sergeant's actions, saying that it's unreasonable that Bielecki would be able to come up with a plan in "three seconds."

The trial is currently set for April 2024.



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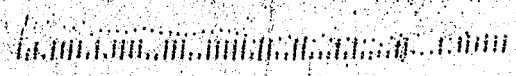
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