

DISCIPLINE RECOMMENDATION

To: Chief Lisa Davis, Austin Police Department
From: Director Gail McCant, Austin Police Oversight
Date: March 3, 2026
Subject: 2024-1128 Discipline Recommendation

Dear Chief Davis:

On November 7, 2024, Assistant Chief Eric Fitzgerald signed an internal complaint directing the Austin Police Department Internal Affairs Division (IAD) to conduct an Administrative Inquiry to determine whether any violations of Department policy, Civil Service Rules, or State law were committed by APD officers Andy Yu #6841, Javier Rodriguez #8951, Katherine Alzola #9045, and Detective Joseph Kephart #7313 in connection with a critical incident.

Disposition by APD Chain of Command

The Administrative Inquiry was placed on hold pending litigation in the Travis County District Court, which was resolved on February 5, 2026, when charges against all officers were declined with a No Bill.

On February 17, 2026, APO was notified by IAD that the investigative case file had been forwarded to each officer's chain of command for disposition. As of the date of this memo, no Notice of Sustained Allegation (NOSA) or Control Sheet was available for APO review.

The Administrative Inquiry involved the investigative review of the following General Order:

- APD Policy 202 Firearm Discharge Situations

APO Disposition Recommendation: Exoneration of all officers

Upon reviewing the investigative file, I believe IAD conducted a straightforward and unbiased investigation that collected and analyzed the pertinent information related to the incident.

The investigation confirms that Police Officer Andy Yu #6841, Officer Javier Rodriguez #8951, Officer Katherine Alzola #9045, and Detective Joseph Kephart #7313 were involved in the use of deadly force, including the discharge of their firearms. Before contacting the suspect, the officers developed a tactical plan to surveil and apprehend the robbery suspect involved in this incident. The officers were at the location searching for the suspect, who had been involved in multiple felony offenses involving a handgun. While on the scene, the officers confronted the suspect, who then fled on foot. During the pursuit, the suspect produced a handgun and fired at the pursuing officers. The officers returned fire, striking the suspect. While the suspect was on the ground, he continued to raise his handgun toward the officers, prompting them to continue firing until the threat was neutralized. The officers' actions appeared to be justified.

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The Administrative and Special Investigations Unit investigation revealed that Detective Kephart used deadly force against the suspect by discharging his firearm three (3) times toward the suspect. During the IAD interview, Detective Kephart told IAD, *“... I kind of see the gun start turning towards me. So that point, I begin to draw my firearm. He ends up getting two hands on the gun, and he's pointing it right at me. And we're, like, 10 to 15 feet away from each other, and he's, like, actively targeting me. And at that moment, that's when I made the decision to use, deadly force just to protect myself from him shooting at me.”*

The Administrative and Special Investigations Unit investigation revealed that Officer Rodriguez used deadly force against the suspect by discharging his firearm approximately twenty-one (21) times toward the suspect. During the IAD interview, Officer Rodriguez stated he saw the suspect running from Officer Yu. He continued by stating, *“At the time that I saw him rounding the corner, I saw him digging into his waistband with his right hand and then approximately 1 to 1.5 seconds later, turn around with a silver handgun in his hand,”* and, *“he rotated towards Detective Kephart while in the foot pursuit and then extended his arm pointing the firearm at Detective Kephart.”* *“I believed it was immediately necessary to save Detective Kephart's life.”*

The Administrative and Special Investigations Unit investigation revealed that Officer Alzola used deadly force against the suspect by discharging her firearm six (6) times toward the suspect. During the IAD interview, Officer Alzola stated she observed the suspect holding a silver handgun, pointing toward Detective Kephart. She stated, *“I believed he was going to shoot Kephart, and at that time, in fact, I thought he did shoot Kephart,”* and *“at that point, I believed he was a threat, and I had to stop the threat. I believed he was either going to continue firing at Kephart or rob somebody else or take somebody hostage if they were walking by at that point.”*

The Administrative and Special Investigations Unit investigation revealed that Officer Yu used deadly force against the suspect by discharging his firearm three (3) times toward the suspect. Officer Yu first observed the suspect and began the foot pursuit. During the IAD interview, he stated that he observed the suspect holding a silver handgun, pointing at Detective Kephart. He stated, *“I needed to end the, the threat and, I shot three times.”* IA asked Officer Yu why he made the decision to shoot and Officer Yu responded *“Again, all the, things I brought up that he had done that morning, evading, double carjacking, suicidal with guns, cutting off ankle monitor, now evading from me, hearing the shots and me still seeing that he had a weapon on him, I believed that he was going to cause harm to somebody else or the other officers.”*

I believe the actions of each officer were within policy, as deadly force was used to stop a suspect armed with a handgun and firing toward the officers. The officers instructed the suspect to drop the gun; however, he continued to flee and point the firearm at them, creating a direct risk to the officers. Body-worn camera (BWC) footage shows the suspect's noncompliance with the officers commands prior to the use of deadly force. The suspect could have complied with commands to indicate that he was not a threat to their safety.

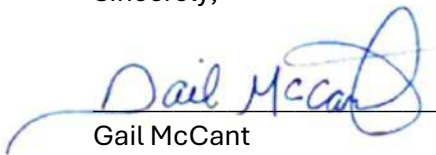
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I also believe the officers did not have the opportunity to initiate additional de-escalation tactics, as the armed suspect immediately became a threat to them.

Based on the above factors, I recommend a finding of Exoneration for each officer's policy violation review.

In compliance with Section 2-15-5(B) of the City Code, I request the Chief to "provide a detailed public, written explanation for not following a recommendation of the Office of Police Oversight."

Sincerely,



Gail McCant
Director
Austin Police Oversight

