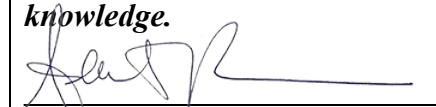




GOVERNMENT TORT CLAIM FORM

Name: First, Middle, Last Vincent Bryant				Race:	Date of Birth: 12/15/1969
Address 1901 Harrison St., #1140	City Oakland	State CA	Zip 94612	Home Phone: (510) 929-5400	Work Phone:

Name: First, Middle, Last Adante Pointer, Pointer & Buelna, LLP	Relationship to claimant: Attorney
Address: 1901 Harrison St., #1140, Oakland, CA 94612	Phone: (510) 929-5400
Narrative of Incident: See Attachment "A"	Relationship to claimant: Attorney
Involved Government Employees: Yet-to-be-identified Berkeley Officers	Injury to Claimant: Yes, see attachment "A"
Approximate Location of Incident: UC BERKELEY TANG CENTER 2190 SHATTUCK, BERKELEY, CA 94704	Date of Incident: 01/02/2021
<p><i>I have read and understood this statement, which I have made of my own free will, and the facts contained therein are true and correct to the best of my knowledge.</i></p>  <p>Adante D. Pointer <i>Attorney</i></p> <p>Date: <u>2/23/21</u></p>	

ATTACHMENT “A”

Claimant objects to your Claim Form because it requires information, which constitutes an invasion of the Claimant’s privacy. Moreover, the information is not required to be provided by the Claimant under California Government Code Section 910. For example, California Government Code Section 910 does not require that the Claimants provide their home and work numbers, driver’s license number, date of birth, auto insurance name and policy number, a diagram of the location of the incident, any statements by the Claimants as to their reasons “for believing the City is liable for your damages, “or a description” of all damages which you believe you have incurred as a result of the incident.” For the purposes of this document “CLAIMANT” means the individual claimant, claimants plural, and all plaintiffs and parties in interest represented by POINTER & BUELNA, LLP. Therefore, Claimant submits the following information in support of his/her Claim pursuant to Government Code Section 910:

CLAIMANT’S NAME: VINCENT BRYANT

ADDRESS TO WHICH ALL NOTICES ARE TO BE SENT: POINTER & BUELNA, LLP–
LAWYERS FOR THE PEOPLE, 1901 HARRISON ST., SUITE 1140, OAKLAND, CA 94612

CLAIMANT TELEPHONE NUMBER: C/O POINTER & BUELNA, LLP – (510) 929-5400

PLEASE NOTE: COUNSEL REPRESENTS CLAIMANT AND ALL CONTACT SHOULD BE MADE WITH HIS ATTORNEY ONLY.

DATE AND TIME OF INCIDENT: On or about January 02, 2021

LOCATION OF INCIDENT: At or near UC BERKELEY TANG CENTER- 2190
SHATTUCK, BERKELEY, CA 94704

THE FOLLOWING PROVIDES A GENERAL DESCRIPTION OF THE INDEBTEDNESS, OBLIGATION, INJURY, DAMAGES OR LOSS INCURRED SO FAR AS IT MAY BE KNOWN AT THE TIME OF PRESENTATION OF THE CLAIM” AND “THE NAME OR NAMES OF THE PUBLIC EMPLOYEE OR EMPLOYEES CAUSING THE INJURY, DAMAGES, OR LOSS, IF KNOWN: [Per Government Code Section 910]. For the purposes of this claim, “AGENCY” is defined by and refers to the municipal, county, or state entity, which governs the Berkeley Police Department

DESCRIPTION OF INCIDENT:

On the evening of January 21, 2021, Claimant Mr. Vincent Bryant, went to Walgreens located on Shattuck in Berkeley, CA to return a few items he had previously purchased. He had the items and the receipt with him in order to process the return and receive his refund. He intended to use the money he expected Walgreens to refund him in order to pay for some food.



Once inside the Walgreens, Mr. Bryant shopped for food items and settled on a few things. The total cost of the food items cost less than the items he intended to return and the cash he had on hand. When he approached the cashier stand to check out, he was surprised that the cashier demanded he pay for the new items first before they would process his return and/or refund. The two men argued back and forth about the cashier's illogical and unreasonable position. Mr. Bryant left some cash to cover the food along with the items he was seeking to return and the receipt for those items on the counter, and walked towards the door. The cashier blocked his path and refused to let Mr. Bryant leave claiming he was stealing the food items. Nevertheless, Mr. Bryant managed to get by the cashier and walked out of the Walgreens with the food items.

Mr. Bryant walked towards the nearby UC Berkeley campus to find a place to relax and eat his food. To that end, he entered the courtyard of UC Berkeley's Tang Center. Unbeknownst to Mr. Bryant, the Walgreens cashier had called the police and reported that Mr. Bryant had stolen the items and threatened him with a bike chain. The cashier also advised police that he believed Mr. Bryant was suffering from a mental disturbance and "5150".

Police spotted Mr. Bryant and nearly a dozen Berkeley officers converged upon the Tang Center armed with pistols, assault rifles and less lethal weapons. On arrival, it was obvious that Mr. Bryant was suffering a mental health crisis since he was making incoherent and illogical statements consistent with his mental health condition.

Mr. Bryant stood holding a bicycle chain but was distanced at least 20-30 feet from all officers totally surrounded and enclosed in the courtyard making him no danger to the public and offering no real threat to officers from that distance.



Rather than having a single officer establish a rapport with Bryant, per their departmental and officer training, several different officers called out and conversed with Bryant escalating the situation and causing confusion.

Several minutes passed and Mr. Bryant stood generally in the same location talking and yelling incoherently, and mostly faced away from officers, but not charging or attempting to attack officers which afforded officers substantial time and distance to employ de-escalation tactics and tools.

During the entirety of the interaction, Mr. Bryant remained in the Tang Center courtyard. He told the assembled officers that he had a former interaction with Berkeley Police and did not trust them and was fearful they would harm him. Meanwhile more and more Berkeley Police officers arrived on scene and formed a complete perimeter around him and blocked off all access to any escape.

Mr. Bryant remained holding the bike chain in his hand and told the officers to not get close to him. The officers had been trained to deescalate situations like this where a person is experiencing a mental health crisis, armed with a potential weapon but physically isolated from harming others. The officers are trained to maximize time and distance so as to maintain officer safety by not getting close to the person thereby unnecessarily endangering themselves and forcing a confrontation. Mr. Bryant did not present an imminent threat or harm to the officers as he continued to pace within a small area and did not advance on the officers with the bike chain.





One female officer continued to try to speak with Mr. Bryant and started to establish a rapport, but inexplicably it appeared she was told by other officers to stop engaging in verbal de-escalation and retreat from her position despite the fact that Mr. Bryant simply remained standing and pacing in the same location.

Officers should have simply continued to try to de-escalate and establish a rapport with Mr. Bryant in order to resolve the situation without any unnecessary violence in accordance with officers' training and the law. Many such "stand off" situations often take hours of verbal negotiation to end peaceably, but it appeared that Berkeley officers got impatient, frustrated and wanted to force a violent confrontation.

Indeed, a small group of officers snuck up and had formed behind a wall 20-30 feet away from Mr. Bryant. Suddenly this group of officers burst out from behind the wall, rushed Mr. Bryant screaming "drop the chain" and firing nonlethal rubber bullets and actual bullets simultaneously while charging at Mr. Bryant in a plain violation of their training.



California permits an officer to use deadly force only when *necessary* in limited situations such as a defense of human life or against an imminent threat of death or serious bodily injury to the officer or to another person. Cal. Penal Code Section 835 (a). Here neither situations were present.

Furthermore, California officers are trained that time and distance are the most important tools to maintain while attempting to de-escalate a potentially lethal situation. Officers are also trained not to surprise and/or force violent confrontations with the mentally ill because it will cause the subject to react aggressively.



Instead of maintaining their distance and continuing to employ verbal de-escalation tactics, officers rushed Mr. Bryant while shooting him with lethal and nonlethal weapons which effectively defeated the point of using a nonlethal weapon to resolve the situation. Non-lethal weapons such as the one used against Mr. Bryant are effective from up to 50 yards away. Officers should have stood at the building wall, not rushed, shot the nonlethal weapon from a distance, provided verbal orders and given Mr. Bryant an opportunity to comply.

Although this situation could have clearly resolved without any violence at all or any use of deadly force, the officer that chose to fire her weapon shot Mr. Bryant in the face causing major injury to his jaw. Fortunately, Mr. Bryant survived the attempt on his life. However, he has had to undergo surgery and a painful rehabilitation in order to regain the use of his mouth. He is permanently disfigured.





DESCRIPTION OF CLAIM:

Claimant alleges that the conduct of individual employees, agents, and/or servants of AGENCY constitute State statutory violations, which might include but are not limited to assault, battery, false imprisonment, false arrest, negligence, negligent hiring, and intentional infliction of emotional distress, and negligent infliction of emotional distress.

Claimant alleges those individual employees, agents and/or servants of AGENCY are responsible for Claimant's injuries, and acts and/or omissions committed within the course or scope of employment under the theory of respondent superior. Respondent superior liability includes but is not limited to, negligent training, supervision, control and/or discipline.

Individual employees, agents, and/or servants of the AGENCY, include but are not limited to, the chief of police, sheriff, or an individual of comparable title, in charge of law enforcement for AGENCY, and DOES 1-100, and/or each of them, individually and/or while acting in concert with one another.

Claimant alleges the appropriate offenses listed below.

Claimant alleges that assault included, but was not limited to, conduct causing Claimant to reasonably fear a harmful offensive touching upon his person.

Claimant alleges that battery included, but was not limited to, conduct resulting in a harmful offensive touching upon his person in a manner foreseeable likely to cause injury.

Claimant alleges that false imprisonment included, but was not limited to, acts or omissions causing claimant to be confined or restricted to an area without means of escape while Claimant was aware of the confinement.

Claimant alleges that false arrest included, but not limited to, acts that placed claimant under wrongful arrest without a warrant, actually caused Claimant harm and the arresting person(s) were a substantial factor in causing that harm.

Claimant alleges that negligence included, but was not limited to, breach of duty upon failing to exercise due care by placing Claimant at risk of serious physical injury, detention and/or arrest.

Claimant alleges that negligent hiring included, but was not limited to, breach of duty upon failing to exercise due care by hiring individuals likely to cause physical injury to citizens while acting under color of law in an official capacity.

Claimant alleges that negligent infliction of emotional distress included, but was not limited to, the failure to use reasonable care to avoid causing emotional distress to another individual. The negligent conduct resulted in Claimant's physical and emotional injuries.

Claimant alleges that intentional infliction of emotional distress included, but was not limited to, outrageous acts or omissions with the intent to causing emotional distress to another individual. The intentional conduct resulted in Claimant's physical and emotional injuries.

Claimant alleges violation of California Civil Code Section 52.1, for actions by law enforcement personnel, whether or not acting under color of law, which interfere by threats, intimidation, or coercion, or attempts to interfere by threats, intimidation, or coercion, with the exercise or enjoyment by any individual or individuals of rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of this state.

Claimant will allege other causes of action subject to continuing discovery.

DESCRIBE INJURY OR DAMAGE:

Claimant has, or may have in the future, claims for general damages, including, but not limited to, claims for pain, suffering and emotional distress in amounts to be determined according to proof.

Claimant may have and/or may continue to have in the future, claims for special damages, including, but not limited to, claims for medical and related expenses, lost wages, damage to career, damage to educational pursuits, damage to property and/or other special damages in amounts to be determined according to proof.

Claimant may have, and/or may continue to have in the future, damages for permanent mental injuries, permanent mental scarring and/or other psychological disabilities in an amount according to proof.

NAME OF PUBLIC EMPLOYEE(S) BELIEVED TO HAVE CAUSED INJURY OR DAMAGE:

Claimant does not know the name(s) of the involved Berkeley Police Officers.

DEMAND FOR PRESERVATION OF EVIDENCE:

Claimant does hereby demand that AGENCY including, but not limited to, the appropriate city or county law enforcement agency, its employees, servants and/or attorneys, maintain and preserve all evidence, documents and tangible materials which relate in any manner whatsoever to the subject matter of this Claim, including until the completion of any and all civil and/or criminal litigation arising from the events which are the subject matter of this Claim. This demand for preservation of evidence includes, but is not limited to, a demand that all public safety entities preserve all tapes, logs and/or other tangible materials of any kind until the completion of any and all civil and criminal litigation arising from the subject matter of this claim.



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AMOUNT OF CLAIM:

This claim is in excess of \$25,000. Jurisdiction is designated, as “unlimited” and jurisdiction would be in the Alameda County Superior Court of the State of California.

DATED: 2/23/2021 2:09 PM

Regards,

Adanté D. Pointer

POINTER & BUELNA, LLP
LAWYERS FOR THE PEOPLE