

McCOY GOVERNMENT TORT CLAIM AGAINST THE CITY OF VALLEJO  
ATTACHMENT "A"

2/28/19

Claimants object 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 Claimants under California Government Code Section 910. For example, California Government Code Section 910 does not require that the Claimant's 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 "CLAIMANTS" means the individual claimant, claimants plural, and all plaintiffs and parties in interest represented by the LAW OFFICES OF JOHN BURRIS. Therefore, Claimants submit the following information in support of their Claim pursuant to Government Code Section 910:

CLAIMANTS' NAMES: Kori McCoy; Marc McCoy; Louis McCoy; Shawnmell Mitchell; Barbara Dorsey, co-successors-in-interest to Decedent Willie McCoy; Estate of Decedent Willie McCoy

CLAIMANTS' ADDRESS: 7677 Oakport Street, Suite 1120, Oakland, California 94621

CLAIMANTS' TELEPHONE NUMBER: C/O LAW OFFICES OF JOHN L. BURRIS, ESQ.  
(510) 839-5200

ADDRESS TO WHICH ALL NOTICES ARE TO BE SENT: LAW OFFICES OF JOHN L. BURRIS, Airport Corporate Centre, 7677 Oakport Street, Suite 1120, Oakland, CA 94621

PLEASE NOTE: COUNSEL REPRESENTS CLAIMANTS AND ALL CONTACT SHOULD BE MADE WITH THEIR ATTORNEY ONLY.

DATE AND TIME OF INCIDENT: February 9, 2019, at approximately 10:30 p.m.

LOCATION OF INCIDENT: Taco Bell, 974 Admiral Callaghan Lane, Vallejo, California.

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 City of Vallejo, California.

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DESCRIPTION OF INCIDENT:

On February 9, 2019, at approximately 10:30 p.m., a yet to be identified person found Decedent Willie McCoy slumped over the steering wheel of his car, unconscious. Mr. McCoy's car was located in the Taco Bell drive through, located at 974 Admiral Callaghan Lane, in Vallejo, California.

Police were called and Vallejo Police Department Officers were dispatched to the scene for a welfare check. Multiple, yet-to-be-identified, City of Vallejo Police Department Officers arrived, including one or more officers who were not wearing uniforms identifying them as police officers.

When Officers arrived on scene they found Mr. McCoy's car located on private property and they did not suspect Mr. McCoy of having committed any crime or infraction.

According to a Vallejo Police Department press release, the responding Officers found Mr. McCoy's car in drive with the doors locked with a handgun in view. However, the Department's claim that the car was locked is clearly belied by photographs of the car, which show that the passenger side window was missing and only had a thin piece of plastic covering it. Nothing but the thin piece of plastic prevented the Officers from opening and/or unlocking the car door to remove the unconscious man and/or gun.

Inexplicably, at least six Vallejo Police Officers surrounded the **front** of the car despite their claim that Mr. McCoy's car was still in drive. The Officers stood outside of the car and attempted to arouse Mr. McCoy from his unconscious state. When Mr. McCoy began to finally regain conscious the Officers failed to permit him to orient himself. Instead, the half dozen or so Officers immediately began screaming at him to raise his hands. The Officer failed to give Mr. McCoy time to comply with their commands and as soon as he moved they unleashed a barrage of gunfire on the young man.

The six person firing squad shot Mr. McCoy approximately 25 times. The Officers' bullets struck Mr. McCoy in the head, ear, neck, chest, arms, shoulders, hands, and back.

The entire operation was bungled from start to finish as the Officers failed to: 1) develop a plan of action to ensure the safety of all person involved; 2) make any attempt to unlock the car from the missing passenger side window and remove Mr. McCoy or the gun from the car; 3) retreat to a position of safety; 4) summon the SWAT team or critical incident team; or 5) summon supervisory staff to the scene in order to devise, manage and/or direct a sound plan of action.

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DESCRIPTION OF CLAIM:

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

Claimants also allege State statutory violations, which include but are not limited to wrongful death, assault, battery, negligence, negligent hiring, and intentional infliction of emotional distress.

Claimants allege 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 respondeat superior. Respondeat 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.

Claimants allege the appropriate offenses listed below.

Claimants allege that wrongful death included but was not limited to, conduct causing Decedent to suffer conscious pain and suffering, fatal injuries and/or death.

Claimants allege the assault included, but was not limited to, conduct causing Decedent to reasonably fear a harmful offensive touching upon Decedent's person.

Claimants allege the battery included, but was not limited to, conduct resulting in a harmful offensive touching upon Decedent's person in a manner foreseeable likely to cause injury.

Claimants allege 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.

Claimants allege 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.

Claimants allege 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 Decedent's emotional, mental and physical injuries.

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Claimants allege 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.

Claimants allege violation of California Civil Code Section 51.7, for acts of violence, or intimidation by threat of violence, committed against Decedents' person because of his race, color, and/or ancestry.

Claimants intend to pursue civil penalties pursuant to California Civil Code Sections 52(a) and 52 (b).

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

**DESCRIBE INJURY OR DAMAGE:**

Claimants have, 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.

Claimants 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.

Claimants 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.

Claimants may have, and/or may continue to have in the future damages for the loss of companionship, guidance, protection, comfort, companionship and consortium.

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

See description of the incident, above.

**DEMAND FOR PRESERVATION OF EVIDENCE:**

Claimants do 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

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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.

**AMOUNT OF CLAIM:**

This claim is in excess of \$25,000. Jurisdiction is designated as "unlimited" and jurisdiction would be in the Superior Court of the State of California for the City of Solano.

Sincerely,

/s/

Adante D. Pointer,  
Attorney at Law

**THE LAW OFFICE OF JOHN L. BURRIS**