



POINTER & BUELNA
LAWYERS FOR THE PEOPLE™

August 12, 2024

ATTN: Claims Division
Controller's Office
1390 Market Street, 7th Fl.
San Francisco, CA 94102-5402

RE: Christiana Porter
[REDACTED]
Date of Incident: 07/29/2024

Amended Request for Endorsed Copy Verifying Administrative Claim Received

Dear Clerk,

This is to inform you that Pointer & Buelna, LLP – Lawyers for the People represent Christiana Porter, who was physically assaulted by San Francisco Police Officer, Josh McFall, on July 29, 2024, near 3801 Geary Blvd, San Francisco, CA 94118.

We have attached a copy of a completed claim form, which includes a detailed addendum. We have sent you two copies of the form. We request that you send us back one endorsed copy verifying the time and date that our claim was received.

We have also attached California Public Records Requests for the relevant documents and a Notice of Preservation of Evidence.

If you have any questions, please, contact us immediately.

Regards,

Adante Pointer
POINTER & BUELNA, LLP
LAWYERS FOR THE PEOPLE



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ATTN: Claims Division
Controller's Office
1390 Market Street, 7th Fl.
San Francisco, CA 94102-5402

RE: Christiana Porter
[REDACTED]
Date of Incident: 07/29/2024

Amended Preservation of Evidence

This is to inform you that Pointer & Buelna, LLP – Lawyers for the People represent Christiana Porter, who was physically assaulted by San Francisco Police Officer, Josh McFall, on July 29, 2024, near 3801 Geary Blvd, San Francisco, CA 94118.

Please be advised that this letter constitutes a written, formal demand to you, your department and/or agency that you or said department and/ or agency shall preserve, protect, gather, secure, save or otherwise refrain from disposing of any relevant documents or other tangible evidence. This includes a demand to PRESERVE ALL BODY WORN CAMERAS, SURVEILLANCE VIDEOS AND/OR PHYSICAL EVIDENCE RELATED TO THIS INCIDENT. This includes but is not limited to the following: the full names of the involved officers, any and all video footage, body-mounted camera footage, patrol car dash cam footage, blood samples, physical evidence, tests, notes, handwritten notes, records, reports, tapes, any and all memorandums, messages, tape recordings, photographs of the crime scene, journals, logs, tape transcripts, computer aided dispatch records, Ampex radio tape broadcasts, investigations, examinations, any and all property seized from the crime scene, reports and statements taken from witnesses regarding the incident, and any and all documents prepared, and any other written material concerning this incident. Chief, you, and your department are also hereby put on notice that your department and/or agency may be held civilly or criminally liable for the destruction and/ or loss of any of the above- referenced items of evidence.

If you have any questions or comments regarding this formal demand for the preservation of the evidence, please do not hesitate to contact the undersigned.

Regards,

Adante Pointer
POINTER & BUELNA, LLP
LAWYERS FOR THE PEOPLE



POINTER & BUELNA

LAWYERS FOR THE PEOPLE

ATTN: Claims Division
Controller's Office
1390 Market Street, 7th Fl.
San Francisco, CA 94102-5402

RE

Date of Incident: 07/29/2024

Amended California Public Records Request

This is to inform you that Pointer & Buelna, LLP – Lawyers for the People represent Christiana Porter, who was physically assaulted by San Francisco Police Officer, Josh McFall, on July 29, 2024, near 3801 Geary Blvd, San Francisco, CA 94118.

I am requesting access to records in possession or control of the **CITY and COUNTY OF SAN FRANCISCO AND/OR SAN FRANCISCO POLICE DEPARTMENT** for the purposes of inspection and copying pursuant to the California Public Records Act, California Government Code § 6250 et seq. ("CPRA"), and Article I, § 3(b) of the California Constitution.

The specific records I seek to inspect and copy are listed below. As used herein, "Record" includes "Public Records" and "Writings" as those terms are defined at Government Code § 6252(e) & (g). Please note that the Public Records Act allows a member of the public to request records by describing their content, rather than asking for specific documents by name; an agency that receives such a request must "search for records based on criteria set forth in the search request." (California First Amendment Coalition v. Superior Court, 67 Cal.App.4th 159, 165-66 (1998).)

I request access to inspect/copies of:

- the full names of the officers involved
- any and all video footage, body-mounted camera footage, patrol car dash cam footage, blood samples, physical evidence, tests, notes, handwritten notes, records, reports, tapes, any and all memorandums, messages, tape recordings, photographs of the crime scene, journals, logs, tape transcripts, Ampex radio tape broadcasts, investigations, examinations,
- any and all property seized from CHRISTIANA PORTER,
- reports and statements taken from witnesses regarding the incident,
- any and all documents prepared, and any other written material concerning this incident.
- At a minimum, we request that you provide the full information from those reports as required by law, including but not limited to the names and addresses of all witnesses and parties to the incident, and the statements provided by such witnesses
- All planning communication from the dept., any before action reports, Police reports generated from the incident itself, any after action report;
- All records that contain the policies, procedures, practices and training that are made available to officers of the Police Department ("Department") concerning investigating and/or making detentions or arrests under Welfare & Institutions Code 5150, attempted assault or theft;



- All investigative reports; photographic, audio, and video evidence; transcripts or recordings of interviews; all materials compiled and presented for review to the district attorney or to any person or body charged with determining whether to file criminal charges against any officer in connection with an incident, or whether the officer's action was consistent with law and agency policy for purposes of discipline or administrative action, or what discipline to impose or corrective action to take; documents setting forth findings or recommended findings; and copies of disciplinary records relating to the incident, including any letters of intent to impose discipline, any documents reflecting modifications of discipline due to the Skelly or grievance process, and letters indicating final imposition of discipline or other documentation reflecting implementation of corrective action. Cal. Penal Code § 832.7 (b)(2)

If you contend that any portion of the records requested is exempt from disclosure by express provisions of law, Government Code § 6253(a) requires segregation and redaction of that material in order that the remainder of the records may be released.

If you contend that any express provision of law exists to exempt from disclosure all or a portion of the records I have requested, Government Code § 6253(c) requires that **you notify me of the reasons for the determination not later than 10 days from your receipt of this request.**

Government Code §§ 6253(d) & 6255(b) require that any response to this request that includes a determination that the request is denied, in whole or in part, must be in writing and include the name and title of the person(s) responsible for the City and County's response.

Government Code § 6253(d) prohibits the use of the 10-day period, or any provisions of the CPRA or any other law, "to delay access for purposes of inspecting public records." In responding to this request, please keep in mind that Article 1, § 3(b)(2) of the California Constitution expressly requires you to broadly construe all provisions that further the public's right of access, and to apply any limitations on access as narrowly as possible.

If I can provide any clarification that will help expedite your attention to my request, please contact me at (510) 929-5400 or Apointer@LawyersFTP.com pursuant to Government Code § 6253.1.

I ask that you notify me of costs before you duplicate the records so that I may decide which records I want copied.

Moreover, pursuant to California Government Code Section 6250, et seq., and 6254(f) and California Penal Code 832.7 we hereby request that your department send us any and all reports concerning the Incident.

If your department chooses to withhold information, it must justify such withholding pursuant to Section 6255. If we are required to bring suit in order to obtain these records, we are entitled to attorney's fees under Section 6259.



POINTER & BUELNA
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We anticipate your prompt attention to this matter.

Very truly yours,




Adante Pointer
POINTER & BUELNA, LLP
LAWYERS FOR THE PEOPLE




POINTER & BUELNA

ATTORNEYS FOR THE PEOPLE

AMENDED GOVERNMENT TORT CLAIM FORM

Name: First, Middle, Last Christiana Porter	Race: African American	
	Home Phone: 	Work Phone:

Name: First, Middle, Last c/o- Adante Pointer, Pointer & Buelna, LLP	Relationship to claimant: Attorney
Address: 155 Filbert St., Ste. 208, Oakland, CA., 94607	Phone: (510) 929-5400
Narrative of Incident: See Attachment "A"	Relationship to claimant: Attorney
Involved Government Employees: Ofc. Josh McFall and other yet to be identified officers	Injury to Claimant: Yes, see attachment "A"
Approximate Location of Incident: Near 3801 Geary Blvd, San Francisco, CA 94118	Date of Incident: 07/29/2024
<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 Pointer Attorney</p> <p>Date: 8/12/24</p>	



ATTACHMENT "A"

Claimants object to your Claim Form because it requires information, which constitutes an invasion of the Claimants' 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 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 and County are 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:

CLAIMANTS NAME(S): CHRISTIANA PORTER

ADDRESS TO WHICH ALL NOTICES ARE TO BE SENT: POINTER & BUELNA, LLP–LAWYERS FOR THE PEOPLE, 155 FILBERT ST., STE. 208, OAKLAND, CA 94612

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

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

DATE AND TIME OF INCIDENT: July 29, 2024

LOCATION OF INCIDENT: Near 3801 Geary Blvd, San Francisco, CA 94118.

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 San Francisco Police Department.

DESCRIPTION OF INCIDENT:

On July 29, 2024, at approximate 7:00 p.m., Ms. Porter left Office Depot located at 3700 Geary Blvd., San Francisco, CA. She was wearing headphones as she walked westbound on Geary Blvd. toward 2nd Ave. At the intersection of Geary Blvd. and 2nd Ave. Ms. Porter initially stopped, looked both ways and then proceeded into the crosswalk to cross 2nd Ave. At the time Ms. Porter entered the crosswalk there were 8 seconds on the signal for pedestrian crossing.



When Ms. Porter reached the middle of the intersection she heard someone honk at her and looked up to see San Francisco Police Department Officer Josh McFall (“Ofc. McFall”) in a police car in the northbound lane of 2nd Ave. Ms. Porter did not hear Ofc. McFall say anything so she continued down Geary Blvd. Unbeknownst to Ms. Porter, Ofc. McFall pulled his police car across the southbound lane of 2nd Ave. almost onto the curb, then entered an eastbound lane of Geary Blvd. in the opposite direction of traffic.

When Ms. Porter approximately halfway down the block, Ofc. McFall exited the police car and walked directly in Ms. Porter’s path. In response, Ms. Porter took off her headphones and asked him why she was being stopped. Ofc. McFall did not respond to Ms. Porter’s question. Instead he asked her what she was doing, where she was going, and why she was going there. Concerned by Ofc. McFall’s conduct, Ms. Porter took out her cell phone to record the encounter. Ofc. McFall then approached Ms. Porter and pulled out his mace. Ms. Porter, believing that the mace was a taser, she asked for Ofc. Porter name and badge number. Ofc. McFall told Ms. Porter that she was being detained. Ms. Porter used her cell phone to call her Godfather who lived nearby so that he could come to the scene and witness what was happening.

Ofc. McFall asked Ms. Porter for her identification. Ms. Porter attempted to comply by reaching into her purse, however Ofc. McFall reached for his firearm and told her “stop reaching into your bag. You are under arrest.” Ms. Porter asked why she was being arrested, at which point Ofc. McFall grabbed Ms. Porter and thereafter violently threw her against the wall. At some point, Ofc. McFall summoned back up. Shortly thereafter, several yet-to-be-identified SFPD officers arrived. They surrounded Ms. Porter and assisted Ofc. McFall in handcuffing Ms. Porter. Ms. Porter was screaming and she told the officers that she was the victim of domestic violence and had an open case. Ms. Porter was handcuffed and placed in the back of a patrol car. She was transported to the police station on 6th Ave.

Ofc. McFall failed to make any reasonable efforts to bring Ms. Porter into custody without using excessive force. Instead, Officer McFall aggressively approached Ms. Porter from the moment he stopped her. Additionally, Ofc. McFall displayed no attempts to de-escalate the situation or employ any tactics to calm the situation down and approach Ms. Porter out of a place of concern for public safety. The other officers that showed up at the scene assisted Ofc. McFall in his improper conduct.

As the result of Ofc. McFall and the other yet to be identified officers’ conduct, Ms. Porter suffered substantial injuries to her body, including but not limited to a concussion, separated shoulder, back pain, neck pain, and sciatic nerve damage in her hips. She also suffered injuries to psyche, including a severe worsening and exacerbation of domestic violence related symptoms.

DESCRIPTION OF CLAIM:

Claimants allege 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,



negligence, negligent hiring, and intentional infliction of emotional distress, and negligent infliction of emotional distress.

Claimants allege those individual employees, agents and/or servants of AGENCY are responsible for Claimants' 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.

Claimants allege the appropriate offenses listed below.

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

Claimants allege that battery included, but was not limited to, conduct resulting in a harmful offensive touching upon Claimant'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, detention and/or arrest.

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 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.

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 Claimant's physical and emotional injuries.

Claimants allege a 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 will allege other causes of action subject to continuing discovery.



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DESCRIBE INJURY OR DAMAGE:

Claimants 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.

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.

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

SFPD Ofc. Josh McFall and other yet to be identified officers.

DEMAND FOR PRESERVATION OF EVIDENCE:

Claimants 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.

AMOUNT OF CLAIM:

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

DATED: 8/12/2024 4:03 PM

Regards,

Adante Pointer
Attorney

POINTER & BUELNA, LLP
LAWYERS FOR THE PEOPLE



CERTIFICATE OF SERVICE
(Porter v. City and County of San Francisco)

STATE OF CALIFORNIA, CITY/COUNTY OF SAN FRANCISCO:

I am a citizen of the United States and employed in the county aforesaid; I am over the age of eighteen years, and not a party to the within action; My business address is 155 FILBERT STREET, SUITE 220, OAKLAND, CA 94607. On the date below, I served on the named parties and / or counsel of record:

ATTN: Claims Division Controller's Office Claims Division 1390 Market Street, 7th Fl. San Francisco, CA 94102-5402	
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The following documents in the manner checked below:

TWO COPIES OF ADMINISTRATIVE CLAIM AND COVER LETTER; RECORDS REQUEST; PRESERVATION OF EVIDENCE DEMAND

(VIA MAIL – CCP §§ 1013(a), 2015.5) By placing a true copy thereof enclosed in a sealed envelope(s), addressed as above, and placing each for collection and mailing on that date following ordinary business practices. I am readily familiar with my firm's business practice of collection and processing of correspondence for mailing with the U.S. Postal Service at Oakland, California, with postage thereon fully prepaid, that same day in the ordinary course of business.

(VIA PERSONAL DELIVERY – CCP §§ 1011, 2015.5) By placing a true copy thereof enclosed in a sealed envelope(s), addressed as above, and causing each envelope(s) to be hand delivered on that day by _____, in the ordinary course of my firm's business practice.

(VIA E-MAIL OR ELECTRONIC TRANSMISSION – CCP §§ 1013(e), 2015.5, CRC 2008) Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the document to be sent to the persons at the e-mail address(es) or the facsimile number listed above. I am readily familiar with my firm's business practice of collection and processing of correspondence via facsimile transmission(s) and any such correspondence would be transmitted in the ordinary course of business. The facsimile transmission(s) was reported as complete and without error, and a copy of the transmission report is attached.



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- (VIA OVERNIGHT MAIL/ COURIER – CCP §§ 1013(c), 2015.5)** By placing a true copy thereof enclosed in a sealed envelope(s), addressed as above, and placing each for collection by overnight mail service or overnight courier service. I am familiar with my firm's business practice of collection and processing of correspondence for overnight mail or overnight courier service, and my correspondence placed for collection for overnight delivery would, in the ordinary course of business, be delivered to an authorized courier or driver authorized by the overnight mail carrier to receive documents, with delivery fees paid or provided for, that same day, for delivery on the following business day.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made. Executed on August 12, 2024 in Oakland, California.



Paulina Dudunakis