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CASE FILE F:

LARRY JAMES KANE

v.

MICHAEL LOWELL BOND and  
THE CITY OF BAYSHORE

CIVIL RIGHTS ACT  
POLICE BRUTALITY

**KANE v. BOND & CITY OF BAYSHORE  
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## **GENERAL INSTRUCTIONS**

This is a civil rights action brought in federal court under 42 U.S.C. § 1983, based on a police officer shooting a young man during the course of a routine traffic accident investigation. The victim of the shooting is suing the police officer for using excessive force, and the city for having policies that condoned the use of force by its officers. He seeks compensatory and punitive damages. The police officer claims he only used reasonably necessary force in self-defense. The city claims the officer was acting outside his authority and against city policies. The events took place in July two years ago, at an apartment complex in a fictional city called Bayshore, Columbia (population 150,000).

### **Potential Witnesses**

Larry Kane -- plaintiff  
Victoria Curtin -- Kane's girlfriend  
Michael Bond -- defendant police officer  
Alexandra Spiro -- eyewitness  
Robert Sullivan -- chief of police  
Dr. Gordon Linton -- doctor who operated on Kane

### **Instructions concerning exhibits**

1. Any party may use a gun, nightstick (or reasonable approximation thereof), or set of keys as an exhibit. No objections may be made on grounds that an exhibit does not precisely match its description in the file. For example, if a toy gun is used, no objections may be made that it is the wrong size, wrong manufacturer, lacks the correct serial number, etc.
2. The hospital records and the bill for services (pages F-55 to F-59) are all true and accurate copies of business records of Monroe County Hospital.

### **Instructions for use as a three-party trial**

1. Plaintiff must call Larry Kane and Victoria Curtin, and may either call Dr. Linton as an expert witness or use the alternative medical stipulation described below. Plaintiff may call other witnesses only with the approval of the court. Plaintiff must cross-examine Michael Bond and Alexandra Spiro. Cross-examination of Robert Sullivan is optional.
2. Defendant Bond must call Michael Bond and Alexandra Spiro as witnesses in his case-in-chief, and may call other witnesses only with the approval of the court. Bond must cross-examine Victoria Curtin and Robert Sullivan. Cross-examinations of Dr. Linton and Larry Kane are optional.
3. Defendant City of Bayshore must call Robert Sullivan as a witness in its case-in-chief, and may call other witnesses only with the approval of the court. The City must cross-examine Larry Kane. Cross-examination of Michael Bond is optional.

### **Instructions for use as a two-party trial**

1. The trial judge granted a motion to dismiss the case against the City of Bayshore on the ground of immunity (do not be concerned with whether this ruling is correct). Bond is the only defendant remaining in the case.
2. Plaintiff must call Larry Kane and Victoria Curtin, and may either call Dr. Linton as an expert witness or use the alternative medical stipulation described below. Plaintiff may call other witnesses only with the approval of the court. Plaintiff may not call Robert Sullivan.
3. Defendant Bond must call Michael Bond and Alexandra Spiro as witnesses in his case-in-chief, and may call other witnesses only with the approval of the court. Bond may not call Robert Sullivan.

### **Alternative medical stipulation**

In lieu of calling Dr. Gordon Linton as a witness, the parties have stipulated to the following:

“Dr. Gordon Linton is the surgeon who operated on Larry Kane at the Monroe County Hospital Emergency Room, July 6, YR-2. Mr. Kane had been hit by two bullets. One hit his right wrist and broke some bones. The other entered his lower back on the right side, and exited from his mid-chest area. Neither bullet did any permanent damage. It is impossible to tell which bullet hit him first. Dr. Linton cleaned the wounds and set the wrist in a plaster case. Mr. Kane spent one week in the hospital. At the time he was admitted, Mr. Kane had a blood-alcohol level of 0.05%, the equivalent of about four beers. At that level, most people would be uninhibited but not seriously intoxicated, and there would have been no significant impairment of physical coordination. In Dr. Linton’s opinion, Mr. Kane would have been in extreme pain for two to three days, then moderate pain for a week, and then mild discomfort in the wrist for a month. Dr. Linton removed Mr. Kane’s case on August 14, YR-2, at which time the wrist appeared to be healing normally and Mr. Kane said he felt fine.”

### **Stipulations**

1. Any criminal offense listed as a misdemeanor is one for which the maximum statutory penalty is one year or less. Any offense listed as a felony is one for which the maximum penalty is more than one year.
2. The original attorneys have withdrawn from this case, citing conflicts of interest.

### **Note on Dates**

All years are designated as follows: YR-0 refers to the present year, YR-1 refers to one year ago, YR-2 (the year in which the events took place) refers to two years ago, etc.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF COLUMBIA

Larry James Kane,            )  
    *Plaintiff*                    )

vs.                                )

Civil No. **153593**

Michael Lowell Bond and    )  
City of Bayshore,            )  
    *Defendants*                    )

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**COMPLAINT**

1. This is an action for damages sustained by a citizen of the United States against a police officer and the Bayshore Police Department based on the use of unnecessary and excessive force.
2. This action is brought pursuant to 42 U.S.C. § 1983 and the Fourth and Fourteenth Amendments to the Constitution of the United States.
3. This court has jurisdiction pursuant to 28 U.S.C. §§ 1331, 1332, and 1343.
4. Plaintiff Larry J. Kane is a resident of Monroe County, state of Columbia, and a citizen of the United States.
5. At all times relevant hereto, defendant Michael Bond was a police officer cadet employed by the Bayshore Police Department, a public agency, and was acting within the scope of his authority as a police officer under color of state law.
6. The defendant City of Bayshore is a municipal corporation in the state of Columbia and operates the Bayshore Police Department. At all times relevant, it employed defendant Bond and had the responsibility for training and supervising him.
7. On July 6, YR-2, at or about 7:30 p.m., at or near the Knightridge Apartments, 2412 Rockport Road, plaintiff was detained by defendant Michael Bond for questioning concerning a traffic accident.
8. Michael Bond intentionally and without provocation, struck plaintiff on the head with a “nightstick” and the butt of a handgun, causing injury.
9. Without warning, Michael Bond intentionally shot plaintiff in the back and wrist, causing serious injury.

10. While plaintiff was in the hospital, defendants arrested him for Resisting Arrest, which charge was subsequently dismissed by the Monroe County Circuit Court.

11. As a result of the conduct described above, plaintiff experienced humiliation, emotional distress, pain and suffering, incurred expenses including legal fees and medical expenses, was physically injured requiring hospitalization, and was otherwise damaged.

12. On information and belief, defendant Michael Bond was acting in accordance with official policies and practices of the Bayshore Police Department which permitted untrained police officer cadets to carry and use guns without adequate training or supervision.

#### FIRST CAUSE OF ACTION

13. At all times relevant to this cause of action, Michael Bond was acting under color of state law and pursuant to his authority as a police officer employed by the City of Bayshore and with knowledge that excessive force by law enforcement personnel was a violation of prevailing constitutional law.

14. Michael Bond intentionally and maliciously caused plaintiff to be deprived of his civil and constitutional rights by using an excessive degree of force that was unreasonable under the circumstances in violation of plaintiff's rights under the Fourth and Fourteenth Amendments to be free from unreasonable seizure.

#### SECOND CAUSE OF ACTION

15. Acting under color of state law, the City of Bayshore through its Police Department, with reckless disregard for plaintiff's rights, created a policy of training inexperienced cadets in the field and allowing them to carry loaded firearms prior to completing police training, which policies were a significant cause of the injuries to Plaintiff and the deprivation of his Fourth and Fourteenth Amendment rights.

#### RELIEF REQUESTED

WHEREFORE, Plaintiff demands relief jointly and severally against all defendants as follows:

- A. Compensatory damages in the amount of \$14,920.
- B. Compensatory damages in the amount of \$500,000 for pain and suffering.
- C. Punitive damages in the amount of \$5,000,000.
- D. Attorneys fees pursuant to 42 U.S.C. §1988.

E. Such other relief as the court deems just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b), Federal Rules of Civil Procedure, plaintiff hereby demands trial by jury on all issues in this action.

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George L. Baker  
Attorney for Plaintiff  
Lerner Law Office  
3131 E. Third St.  
Bayshore, Columbia

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF COLUMBIA

Larry James Kane,	)	
Plaintiff	)	Civil No. 153593
	)	
vs.	)	
	)	
Michael Lowell Bond and	)	<b>ANSWER OF DEFENDANT</b>
City of Bayshore,	)	<b>MICHAEL L. BOND</b>
Defendants	)	

---

Defendant Michael Bond answers Plaintiff's allegations as follows:

1. The allegations in paragraph 1 are denied.
2. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 2.
3. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 3.
4. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 4.
5. With respect to the allegations in paragraph 5, Defendant admits that Bond was a cadet employed by the police department, and denies the rest of the paragraph.
6. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 6.
7. Admitted.
8. The allegations in paragraph 8 are denied.
9. The allegations in paragraph 9 are denied.
10. The allegations in paragraph 10 are denied.
11. The allegations in paragraph 11 are denied.



12. The allegations in paragraph 12 are denied.
13. The allegations in paragraph 13 are denied.
14. The allegations in paragraph 14 are denied.
15. The allegations in paragraph 15 are denied.

First Defense

16. If defendant Michael Lowell Bond did the acts alleged in paragraphs 8 through 12 of the complaint, he did so in self-defense of his person, using no greater force than was reasonable and necessary to protect himself from imminent serious bodily harm.

Second Defense

17. If defendant Michael Lowell Bond did the acts alleged in paragraphs 8 through 12 of the complaint, he did so believing his actions were justified and within his statutory authorization as a police officer of the State of Columbia in the course of an attempt to lawfully apprehend plaintiff.

WHEREFORE, defendants pray that the complaint be dismissed and they recover their costs and expenses incurred herein.

---

Megan S. Minnick  
Attorney for Defendant Bond  
HOUSTON, MINNICK & DOS SANTOS  
100 N. Walnut Street  
Bayshore, Columbia

**CERTIFICATE OF SERVICE**

The undersigned certifies that on September 13, YR-1, she served a copy of this Answer on counsel for plaintiff by first class mail addressed to George L. Baker Lerner Law Office, 3131 E. Third St., Bayshore, Columbia

September 13, YR-1

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Megan S. Minnick  
Attorney for Defendant Bond

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF COLUMBIA

Larry James Kane,            )  
                                  Plaintiff            )

vs.                                )

Michael Lowell Bond and    )  
City of Bayshore,            )  
                                  Defendants            )

Civil No. 153593

**ANSWER OF DEFENDANT  
CITY OF BAYSHORE**

- 
1. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 1.
  2. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 2.
  3. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 3.
  4. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 4.
  5. Defendant admits Bond was a police cadet employed by the city, but denies the remainder of paragraph 5.
  6. Defendant admits paragraph 6.
  7. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 7.
  8. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 8.
  9. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 9.
  10. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 10.
  11. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 11.

12. Defendant denies paragraph 12.
13. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 13.
14. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 14.
15. Defendant denies paragraph 15.

#### FIRST DEFENSE

The complaint fails to state a claim upon which relief can be granted because defendant is a municipality entitled to sovereign immunity.

#### SECOND DEFENSE

If defendant Michael Lowell Bond did the acts alleged in paragraphs 8 through 12 of the complaint, he did so in his personal capacity for personal reasons, and not acting as a police officer, and therefore not acting under color of state law.

#### THIRD DEFENSE

If defendant Michael Lowell Bond did the acts alleged in paragraphs 7 through 12 of the complaint, he did so contrary to the policies and practices of the City of Bayshore Police Department and without authorization.

WHEREFORE, defendant City of Bayshore prays that the complaint be dismissed as to it and they recover their costs and expenses incurred herein.

---

Vivian Tucker  
Bayshore City Attorney's Office  
201 E. 4th Street, Bayshore, Columbia

#### CERTIFICATE OF SERVICE

The undersigned certifies that on September 14, YR-1, she served a copy of this Answer on counsel for plaintiff by first class mail addressed to George L. Baker, Lerner Law Office 3131 E. Third St., Bayshore, Columbia.

September 14, YR-1

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Vivian Tucker  
Columbia Attorney No. 26534

## SUMMARY OF THE LAW OF CIVIL RIGHTS ACTIONS

1. *42 U.S.C. §1983 (The Civil Rights Act of 1871)*

"Every person who, under color of any statute, ordinance, regulation, custom or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States ... to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

2. *Graham v. Connor*, 490 U.S. 386 (1989), is the leading case on section 1983 claims involving allegations of excessive force or police brutality. It held that an excessive force claim in the context of an investigative stop or arrest of a free citizen is properly classified as a fourth amendment claim. Whether the force used was unconstitutionally excessive is a question of objective reasonableness under the specific facts and circumstances of the case. Courts must balance the nature, quality and extent of the intrusion on the plaintiff's right to be free from unreasonable seizures against the governmental interest. The courts should consider the severity of the crime at issue, whether the plaintiff posed an immediate threat to the officers involved or to others, and whether the plaintiff actively resisted arrest or attempted to flee. These circumstances must be judged from the "perspective of the reasonable officer on the scene." The intent or motivation of the particular officer is irrelevant.

3. In *Tennessee v. Garner*, 471 U.S. 1 (1985), the Supreme Court applied a fourth amendment analysis to the shooting of a fleeing suspect. The Court held that it was unreasonable, and therefore actionable under §1983, for an officer to use deadly force to prevent the escape of a fleeing suspect who did not pose an immediate threat to the safety of the officers or others. Deadly force may only be used where there is probable cause to believe the suspect may cause physical harm to the officers or others because he threatens someone with a gun or is believed to have committed a crime involving serious physical injury, threatened serious physical injury, or the use of a deadly weapon.

4. In *City of Canton v. Harris*, 489 U.S. 378 (1989), the Supreme Court held that a municipality is not jointly liable for an officer's civil rights violations on a *respondeat superior* theory. To make a case against a city, the plaintiff normally must show recurring use of excessive force, coupled with "deliberate indifference" to the rights of the municipality's inhabitants. Deliberate indifference can be shown by failure to train officers or refusal to discipline officers who use excessive force.

5. The essential elements of a §1983 action against an individual police officer are:

a. The plaintiff is a citizen of the United States.

b. The plaintiff was deprived of some right, privilege or immunity secured by the Constitution of the United States. The use of excessive force by the police in apprehending a criminal suspect is a violation of the Fourth Amendment right to be free from unreasonable seizures, which is applicable to the states through the Due Process clause of the Fourteenth Amendment. Whether the force used is excessive is an *objective* standard (the subjective intent of the officer is irrelevant). Given the circumstances as they appeared to be, how much force would a reasonable police officer have used, considering:

1. the severity of crime for which the suspect was being arrested.

2. whether plaintiff posed an immediate threat to the police or others.
3. whether plaintiff resisted arrest or tried to flee.

The use of deadly force is reasonable only if the officer has probable cause to believe that serious physical harm to himself or others is imminent. Usually a warning must be given before deadly force is used, if feasible.

- c. Plaintiff was injured.
- d. The deprivation of rights proximately caused the injuries.
- e. Defendant acted under color of state law (within the apparent authority of a statute, ordinance, custom, usage or regulation). Employees and agents of the state are presumed to be acting under color of law if they are engaged in activities within the scope of their apparent authority.
- f. The defendant acted intentionally.

6. The essential elements of a §1983 action against a municipality are slightly different. In addition to proving the elements listed above, plaintiff must prove that the city has either an implicit or explicit policy or practice of depriving persons like plaintiff of their rights. In excessive force cases, city policy has been shown in several ways:

1. The police department has a custom or policy condoning excessive force.
2. The police department has a specific policy, practice or regulation that caused the use of force.
3. Failure to train or discipline officers, demonstrating deliberate indifference to their use of force against citizens.
4. Failure to act on previous reports of excessive force.

Cities are *not* liable under a theory of *respondeat superior*. Plaintiff must prove that a police department policy led to the use of excessive force.

7. It is a defense to a §1983 action that the police officer was acting wholly outside his or her official duties. Under such circumstances, the officer is not operating under color of state law. However, it is not a defense that the officer was acting without specific authorization.

8. It is a defense that the force used was reasonable and necessary under the circumstances, either to protect the officer, protect the public, prevent the escape of a criminal suspect, or apprehend a person when the officer has probable cause to believe they have committed a crime.

9. A helpful summary of the law of police misconduct can be found in Joseph G. Cook and John L. Sobieski's treatise, *CIVIL RIGHTS ACTIONS*, volume 7, chapter F9 (2001).

1 State of Columbia  
2 County of Monroe

3  
4 State of Columbia ) No. Y21902  
5 )  
6 vs. ) Assault, Resisting Arrest  
7 )  
8 Larry J. Kane )  
9 )

10  
11 Before Hon. Velda Hall  
12 Monroe County District Court  
13 July 28, YR-2  
14

15 Appearances: for the State: A.D.A. Nancy May  
16 for Mr. Kane: Robert Hartwell, P.D.  
17 Court Reporter: Dodie Bowman  
18

19 **TRANSCRIPT OF CRIMINAL PROCEEDINGS**  
20

21 Court convened at 2:05 p.m., whereupon the following proceedings were had:  
22 COURT: Call case number Y21902, Larry Kane, charged with assault and  
23 resisting arrest. Is this case ready for trial?

24 MS. MAY: No your honor, this is the defendant who was shot by the police  
25 during a traffic stop. Each side accuses the other of assault.

26 COURT: What do you wish to do, Ms. May?

27 MS. MAY: Your honor, after an investigation of this situation the state does not  
28 feel it can determine who was at fault or who started it nor obtain a conviction  
29 against either the defendant or the officer. Therefore, we move pursuant to  
30 Rule 48 to dismiss the complaint against Kane, and we do not intend to file  
31 charges against officer Bond.

32 COURT: All right, case . . .

33 MR. HARTWELL: May I be heard?

34 COURT: All right.

35 MR. HARTWELL: Your honor, we object to the dismissal. I would point out  
36 that Mr. Kane was shot in the back and hospitalized.

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COURT: I don't believe Rule 48 requires your consent, counsel. Case number Y21902 is dismissed on motion of the state. Formal filing of a written dismissal is dispensed with.

Certified as accurate: \_\_\_\_\_  
Dodie Bowman  
Court Reporter

September 19, YR-2

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Larry James Kane )  
)  
-against- )  
)  
Michael L. Bond and )  
City of Bayshore )

**DEPOSITION OF MICHAEL L. BOND**

Date: November 10, YR-2  
Place: Offices of Stanley Lerner  
3131 E. Third St.  
Bayshore, Columbia  
Time Began: 9:30 a.m.  
Present: George Baker, for plaintiff  
Vivian Tucker, for defendants  
Michael Bond  
Dodie Bowman, stenographer and notary public

MS. BOWMAN: Mr. Bond, do you swear to answer truthfully all questions asked during this deposition?

MR. BOND: Yes.

MR. BAKER: Will you state your full name, address and place of employment?

A: Michael Lowell Bond, 1752 South Walnut Street, Bayshore, Columbia. I work as a patrol officer for the Bayshore Police Department.

Q: How long have you worked there?

A: Since April 16, Yr-2.

Q: What are your duties?

A: I am assigned to a radio car and I patrol Bayshore. I handle routine complaints, make traffic stops, and investigate traffic accidents. From April 16, Yr-2 to October 15, I was a police officer cadet undergoing training in addition to my field assignments.

Q: Please tell me about your personal and family background.

A: I was born January 23, YR-26. I went to Bayshore High School. My mother has passed away, but my father still lives here. I am not married. I was married but I got divorced after only a year. I have one child that I send support to. I worked at a Grand Union Supermarket for two years,



1 doing stock work and patrolling the aisles for people who eat food, and  
2 then got a job as a security guard at Knightridge. I worked there for four  
3 years and finally got a job here. I always wanted to be a police officer.

4 Q: Did you receive any law enforcement training?

5 A: Well, I had on-the-job training as a private security guard . . .

6 Q: No, I mean at the Bayshore Police Department.

7 A: Yes. The Department hires you as a cadet and you receive six months of  
8 training before you become a full patrol officer. For the first two weeks,  
9 you read a training manual that contains a lot of stuff in it on traffic laws  
10 and how to fill out a ticket, and basic procedures like reading suspects  
11 their rights. You have to pass a written multiple-choice test. Then you are  
12 assigned to work with an experienced officer so you learn the routine, go  
13 to court, learn how to take fingerprints, preserve evidence, and so on.  
14 Then after a couple of months they put you out in the field by yourself. It's  
15 like flying solo when you're taking flying lessons.

16 Q: Did you attend the Columbia Police Academy?

17 A: No. With the budget cuts, the Department couldn't afford it. They have  
18 to pay tuition, you know. So the Department instituted the on-the-job  
19 training program instead.

20 Q: Did you receive any training in the use of firearms?

21 A: Yes. We had to put in 20 hours at the pistol range with the instructor. We  
22 had to pass a proficiency test.

23 Q: Did you receive any training specifically in when to use your firearm in a  
24 confrontation with a suspect?

25 A: No live training, but there was a written policy in the training manual  
26 which I read.

27 Q: Do you think the Department adequately prepared you for the  
28 confrontation with Larry Kane on July 6?

29 A: No, but other officers say that nothing prepares you for your first life-and-  
30 death situation.

31 Q: Did you know Larry Kane prior to July 6, YR-2?

32 A: Yes.

33 Q: Will you explain that acquaintance in detail?

34 A: I first encountered Kane on July 4, YR-2. I responded to a call from a  
35 resident of the Knightridge apartments to investigate excessive noise at a  
36 party. I went to apartment 3-B which belongs to Victoria Curtin where a

1 Fourth of July party was in progress. I asked them to please keep the  
2 noise down. Larry Kane followed me out of the apartment, shouting  
3 obscenities. I told him to be quiet or I would arrest him. He picked up a  
4 stick and said, "Just try it, bozo." I pulled my revolver and ordered him to  
5 put down the weapon or I would arrest him as drunk and disorderly. He  
6 said, "Fuck, you," but he put down the stick. Then he got into his car and  
7 drove away.

8 Q: That's where you used to work as a security guard?

9 A: Yes.

10 Q: Was this gun issued by the Bayshore Police Department?

11 A: No, it was my personal gun. Cadet officers are not issued guns by the  
12 Department until they are promoted to patrol officer status.

13 Q: Did the Department know you were carrying your own gun?

14 A: Sure. Everyone carried them.

15 Q: Did you report this incident?

16 A: Not officially because there was no arrest, but I told my supervisor, Lt.  
17 Patrick McCardle about the incident. He criticized my handling of the  
18 incident and said I had to control the situation whenever a suspect had a  
19 weapon because they pose a danger to the public.

20 Q: Did you tell Lt. McCardle that you were carrying a personal firearm?

21 A: Sure -- he knew about it anyway. He didn't say anything to me about not  
22 carrying it. In fact, all the experienced officers tell you to carry an extra  
23 firearm because you're a target whenever you're out in the field in a police  
24 uniform.

25 Q: Were you by yourself on July 4?

26 A: Yes. At that time it was customary for cadets in their third month of  
27 training to go out solo.

28 Q: Is that policy still in effect, to your knowledge?

29 A: No. Chief Sullivan put a new guy in charge of cadets shortly after this  
30 incident and he required that cadet officers be accompanied by an  
31 experienced officer in the field.

32 Q: Okay. Turning to July 6, please describe what happened.

33 A: I went on duty at 4:00 p.m., and was assigned to patrol the area on the  
34 southeast side of Bayshore. Things were uneventful until a little before  
35 7:30 when I got a radio run to investigate a vehicular accident at building  
36 B, Knightridge Apartments. I proceeded to the scene and saw two vehicles

1 had run into each other. It appeared that a YR-4 Ford Mustang had  
2 backed into a Mercedes. I recognized Larry Kane who was arguing with a  
3 woman identified as Alexandra Spiro. As I approached, I also recognized  
4 Victoria Curtin from apartment 3-B. I heard her telling Kane to calm  
5 down, and she had her hand on his arm. I asked him if he was Larry Kane  
6 and he said, "I'm not going to tell you anything." He was very loud and his  
7 face was red and it smelled like he had been drinking. I turned to ask Ms.  
8 Spiro her name and to tell me about the accident when I heard Kane  
9 scream, "Get out of my face." I turned and saw him push Ms. Curtin away.

10 I then told Kane to be quiet or I would hold him for disorderly  
11 conduct. Kane said, "You ain't gonna hold me any goddam place." Some  
12 other tenants had gathered, so I went back to my car and radioed for a  
13 back-up unit. At this time my back was to Kane, but I heard Ms. Curtin  
14 tell him again to be quiet, and he was shouting something like, "I'm not  
15 going to shut up and that kindergarten cop can't arrest me. I know my  
16 rights. I'm going home." I turned around and Kane was getting in his car.  
17 I ran over and told him he was being detained and could not leave until I  
18 had completed my investigation. I was standing beside the door to his car.  
19 He said, "You're not arresting me." I put my hand on the car door. Kane  
20 suddenly opened the door and pushed it into me, knocking me to the  
21 ground. I jumped up and grabbed his arm before he could close the door.  
22 I reached over and snatched his keys out of the ignition and stepped back.  
23 I pulled my nightstick and ordered him out of the car. He jumped at me,  
24 and I swung with the nightstick, hitting him once on the head. It didn't  
25 even phase him. I began to wonder if maybe he was on drugs, like angel  
26 dust.

27 We struggled and Kane pulled the nightstick out of my hand. He  
28 raised it over his head in a clenched fist. I pulled my revolver and pointed  
29 it at him and told him to put it down. He threw it at me, but missed. I  
30 jumped out of the way. Kane rushed at me again, and grabbed me in a  
31 bear hug. I hit him several times on the head with my gun, and then  
32 scrambled free. I put the gun back in its holster. Kane jumped me again  
33 and tried to get my gun. I pulled free but he knocked me down.

34 I got up on one knee, a little stunned. I saw Kane about ten feet away  
35 at the open door of his car. He was reaching under the seat. I thought he  
36 was going for a weapon, and I saw something metal in his left hand, and

1 I drew my revolver and fired six times. I emptied the chamber. I was in  
2 shock. I don't remember firing all six times, just the sound of the gun  
3 clicking after all the bullets were used up. Kane was lying on the ground,  
4 bleeding. A few minutes later, the back-up unit arrived.

5 Q: Please describe exactly the positions of the Mustang and the Mercedes  
6 when you first arrived.

7 A: They were right in the middle --

8 Q: Could you draw a sketch that we can attach to the deposition?

9 A: Sure.

10 MR. BAKER: Can we attach this as exhibit one?

11 MS. TUCKER: Of course.

12 Q: Is this the correct angle of the cars and the direction in which they  
13 pointed?

14 A: To the best of my memory.

15 Q: In other words, both cars appeared to have been backing out of parking  
16 places when they collided?

17 A: Ms. Spiro was backing out. Kane's car was already out.

18 Q: Was Spiro's car the last one in her row?

19 A: I'm not certain, either last or next to last.

20 Q: How could you tell Kane and Spiro were arguing?

21 A: I could hear them yelling and see them pointing at cars and making angry  
22 gestures.

23 Q: How close were you to Kane when you first confronted him?

24 A: Two or three feet away.

25 Q: When Kane pushed Victoria Curtin, did she fall down?

26 A: No.

27 Q: Did she ask for your help?

28 A: No.

29 Q: Can you mark on exhibit one where Kane and Spiro were arguing?

30 A: Sure.

31 Q: When Kane jumped at you the first time, describe exactly what he did.

32 A: He got out of the car fast, put his feet on the ground, and then lunged at  
33 me with his arms out like he was going to grab me around the waist.

34 Q: What did you mean when you said Kane was trying to pull your gun out  
35 of its holster?

36 A: His hand was on the gun and my hand was on his. I could feel him trying

1 to pull upwards when I was pushing downwards.

2 Q: Now, just before you fired your gun, could you mark exhibit one with your  
3 location?

4 A: Okay.

5 Q: Was your back against a parked car?

6 A: No. I was a few feet away.

7 Q: Was anything obstructing you to the left or right?

8 A: No. That's just open parking lot.

9 Q: As far as you know, you followed Police Department practice and custom  
10 in this encounter?

11 A: Yes, sir.

12 Q: At the point at which you first pulled your gun and pointed it at Mr. Kane,  
13 was he under arrest or a suspect in any crime?

14 A: No. Well, maybe trying to leave the scene of an accident.

15 Q: Were you aware that Larry Kane was dating Victoria Curtin?

16 A: Yes.

17 Q: And you knew Victoria, didn't you?

18 A: Yes.

19 Q: What kind of relationship do you have with Victoria Curtin?

20 A: What do you mean?

21 Q: Did you have a social or personal relationship with her?

22 A: Not exactly.

23 Q: What do you mean?

24 A: Well, I liked her. I met her when I worked as the apartment security  
25 guard. She was good-looking. I talked to her sometimes. I asked her out  
26 a couple of times but she said no.

27 Q: Were you jealous of Larry Kane?

28 A: Sure, a little. But that had nothing to do with the shooting.

29 Q: Before you fired your gun, did you give Mr. Kane any warning?

30 A: No. It all happened fast.

31 Q: Are you aware you shot him in the back?

32 A: No.

33 Q: Were you injured in any way?

34 A: No.

35 MR. BAKER: No further questions.

36 MS. TUCKER: Mr. Bond, did you hold any malice toward Mr. Kane?

1 A: No. I didn't like him much, but I wouldn't say I had any strong feelings  
2 about him.

3 Q: Why did you pull the trigger?

4 A: I was afraid for my life. I thought he was going for a gun.

5 Q: Did you think you had any other choice?

6 A: No, there was no alternative.

7 MS. TUCKER: That's all I have.

8

9 WHEREUPON IT WAS STIPULATED THAT READING AND SIGNING BY THE  
10 WITNESS IS HEREBY WAIVED PURSUANT TO RULE 30(e).

11

I certify pursuant to Rule 30(f) that this is a true record of the  
deposition.

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Dodie Bowman  
Notary Public

# CITY OF BAYSHORE



POLICE DEPARTMENT

“TO SERVE AND PROTECT”

---

ROBERT SULLIVAN, CHIEF OF POLICE

(811) 339-1584

## STATEMENT OF ROBERT SULLIVAN

December 19, YR-2

The following statement has been prepared by Robert Sullivan, Chief of Police, City of Bayshore, in consultation with Vivian Tucker, attorney for the City of Bayshore.

My name is Robert C. Sullivan. I am 48 years old, married, with two children in high school. I have lived in Bayshore since YR-11. I have worked for the Bayshore Police Department ever since I arrived here. I started out in YR-26 working for the New York City Police Department, 12th precinct in Manhattan. I was trained at the New York City Police Academy, took night classes in criminal justice at Pace University, attended three summer sessions at the FBI Academy in criminal investigation techniques, and passed my sergeant's exam on the first try in YR-16.

In YR-12, my wife was assaulted and seriously injured by three male juveniles on the street in front of our apartment building. We decided that it was time to leave New York. I sent letters and resumes to all the police departments in medium and small cities that had relatively low crime rates. I got several responses, including one from Bayshore, which was looking for a Chief of Detectives. I accepted the Bayshore job. I was Chief of Detectives from YR-11 to YR-7. I was selected by the police commission to replace Chief Donaldson when he retired in June, YR-7, and I have been in that position ever since.

I was Chief of Police for Bayshore at the time of the altercation between Larry Kane and one of my cadets, Mike Bond. I was in charge of Police Department policy, including the hiring and training of cadets. I report to the civilian police commission which is appointed by the mayor of Bayshore. Our annual budget is set by the Bayshore City Council based upon my recommendation. I have no personal knowledge of any of the events that occurred around the fourth of July weekend, YR-2. I was out of town with my family. I found out about the shooting on July 7. I have never talked to Kane about the incident, and I have no idea who he is.

I understand from the police reports and my interview with Officer Mike Bond that Kane was injured, but that it was as much Kane's own fault as Bond's. I was satisfied at the time that Bond acted in self-defense and the shooting was justified, so I approved Bond to continue working for the police department. Shortly thereafter, he qualified to become a regular patrol officer.

According to our records, Michael Bond was hired as a police officer cadet on April 16, YR-2. I am responsible for the cadet program, although Lt. Patrick McCardle was the immediate supervisor. The program was instituted in YR-3 in response to budget cuts made by the City Council. We used to send rookie police officers to a six-week training program at the state police academy, but it cost us \$8500 per person. Under the two-year budget approved by the Council in YR-3, we had to trim almost \$100,000 a year out of our expenses. We could make part of the amount by not purchasing new patrol vehicles for two years, but the remaining amount could only be met by either reducing the number of officers or eliminating the training program. I recommended to the mayor, and he agreed, that we could provide adequate training here in Bayshore, so that eliminating the training program was preferable to reducing the size of the police force.

To make up for the absence of a formal training program, I instituted a new policy that gave preference in hiring new officers to applicants with prior law enforcement or security experience, and then put them on a six-month on-the-job training program as a cadet. Bond was one of the applicants we hired because he said he had experience in private security work. I do not recall who he worked for. I have no specific memory of running a background check on him, but it is my practice to run such a check on every person we hire to verify prior employment and see if he has a criminal record. There is nothing in Bond's personnel file to indicate a prior criminal record or a problem with verifying his prior employment.

In lieu of sending new cadets to the academy, we provide on-the-job training by assigning them to experienced police officers for six months. They spend most of their time working with senior patrol officers, because that is where they will start out. We make sure they spend at least a little time with the detective squad, so that they can be trained in crime scene and evidence preservation. During this time cadets are in uniform, and are issued all standard police department gear except a service revolver. They have to complete twenty hours of firearm instruction before the end of their six-month training in order to be hired permanently as a patrol officer. It has always been official policy that no officer may carry a personal firearm or any weapon that is not issued by the Department. However, it is well known that many officers violate the policy and carry a back-up gun. If we find out about it, we enter a disciplinary warning in their file, which can result in loss of seniority points and can delay promotion. I had no specific knowledge prior to the shooting incident that Bond was carrying a personal firearm, and he was not given permission to do so. After this incident, I strengthened the policy against personal weapons, and instituted a mandatory two-day suspension without pay for any officer caught with a personal firearm while on duty.

As I had envisioned the cadet program, our trainee officers would always be teamed with experienced officers in the field. Apparently Lt. McCardle decided to send the cadets into the field in relatively safe areas by themselves occasionally to give them confidence they could handle the job. These "solo days" were his idea and I never approved them, although they had apparently been going on for several months without incident under McCardle's supervision. Bond was unsupervised on the day of the incident. After the shooting, I fired McCardle, took over direct supervision of the training program myself, and have eliminated the "solo days". If an experienced officer had been accompanying Bond on July 6, this whole



regrettable incident might not have happened. Bond could have watched someone defuse a tense situation and learned from it. McCardle has left town, and I do not know his current whereabouts.

On the day of the shooting, it was official Police Department policy that cadet officers were not to carry weapons, were to go into the field only when accompanied by a senior officer, and were not to become involved in citizen confrontations without the approval of a supervisor. Bond violated these policies and therefore was acting outside the scope of his official duties when he confronted and shot Larry Kane.

I have read the foregoing statement, and it is true and accurate to the best of my recollection.

Signed: \_\_\_\_\_  
Robert C. Sullivan  
Chief of Police

# CITY OF BAYSHORE



POLICE DEPARTMENT

“TO SERVE AND PROTECT”

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ROBERT SULLIVAN, CHIEF OF POLICE

(811) 339-1584

**TO ALL OFFICERS:**

**As of this day, no personal firearms of any kind are to be worn or carried by officers in the field. Violation of this policy will result in immediate two-day suspension without pay. Officers on special assignments may continue to seek permission to carry non-standard firearms on a case-by-case basis.**

**July 10, YR-2**

**Robert Sullivan  
Chief of Police**

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Larry James Kane )  
)  
-against- )  
)  
Michael L. Bond and )  
The City of Bayshore )

**DEPOSITION OF LARRY J. KANE**

Date: November 10, YR-2  
Place: Offices of Stanley Lerner  
3131 E. Third St.  
Bayshore, Columbia  
Time Began: 11:00 a.m.  
Present: George Baker, for plaintiff  
Vivian Tucker, for defendants  
Larry James Kane  
Dodie Bowman, stenographer and Notary Public

MS. BOWMAN: Mr. Kane, do you swear to answer truthfully all questions asked during this deposition?

MR. KANE: I do.

MS. TUCKER: State your name and address please.

A: Larry Kane, 1711 Miller Drive, Bayshore.

Q: What is your date of birth?

A: February 16, YR-27.

Q: When did you decide to bring suit against the city?

A: As I was recovering in the hospital. I talked to a lawyer after I got out.

Q: Why did you decide to bring a lawsuit?

A: Because that son of a bitch trigger-happy cop shot me for no reason.

Q: Tell me about yourself, like where you live, if you're married, and so forth.

A: I live by myself in an apartment. I'm single. I moved here three years ago after college at Pepperdine. I got a job working part-time with a marine biologist collecting sea animals. It brings in enough money to live on. I'm working out in the open and around the ocean.

Q: What were your interests in college?

A: I was a biology major, and I was active in the Pepperdine Environmental Society. I also was involved for awhile in the California Nonviolent Peace

1 Coalition.

2 Q: What's that?

3 A: A group that used nonviolent civil disobedience to fight for environmental

4 issues, like interfering with whale fishing or blocking the entrance to

5 nuclear power plants under construction.

6 Q: In the course of that, did you break any laws like trespassing on private

7 property or interfering with law enforcement officers?

8 A: Yes, it was necessary some times.

9 Q: Were you ever convicted?

10 A: No.

11 Q: Do you generally like the police?

12 A: Not really. I think they are violent and dangerous.

13 Q: Tell me about your current social life. Do you have a girlfriend?

14 A: Sort of. Victoria Curtin and I see each other sometimes. It's not a steady

15 thing.

16 Q: Do you sleep together?

17 A: Sometimes.

18 Q: How often?

19 MR. BAKER: Note an objection.

20 Q: Please answer the question.

21 A: Maybe once a week.

22 Q: Was this relationship ongoing in July?

23 A: Yes. We've been going out for a year or so.

24 Q: Do you have a criminal record?

25 A: I was convicted for malicious mischief three years ago. I paid a \$50 fine.

26 Q: What happened?

27 A: I got drunk and dumped garbage in the front seat of a guy's car.

28 Q: Why?

29 A: He was a bartender at Jason's Pub where I go sometimes, and he'd thrown

30 me out of the bar for being rowdy a couple of days before. I wanted to get

31 even.

32 Q: Let's start with the July fourth incident. In your own words, what

33 happened on July 4, YR-2?

34 A: I was at a party at Vicki Curtin's apartment. She lives in apartment 3-B

35 at the Knightridge Apartments on Rockport Road. It was a Fourth of July

36 party, and there was a lot of drinking going on, and so I guess we were

1 being pretty noisy. Bond, in his police uniform, came in and pulled the  
2 plug on the stereo. Then he said, "All right, kids, the party's over. You've  
3 got to quiet down or I'll run you all in for disorderly conduct." Then he  
4 turned and left. I followed him outside and said we were guests on private  
5 property and we were entitled to have a good time on the fourth of July.  
6 I think he was just mad because he had to work. He turned on me and  
7 said he'd run me in to the station any damn time he pleased. I was a little  
8 drunk and feeling tough, so I said, "Try it any time, bozo." He pulled out  
9 his gun and pointed it at me telling me, "Don't fuck with the cops. Just  
10 get in your car and leave." He said he never wanted to see me at Vickie's  
11 apartment again. I explained that she had invited me, but he didn't look  
12 like he wanted to hear it. I got in my car and drove off. I may have  
13 shouted an obscenity at him as I drove off.

14 Q: What exactly did you say?

15 A: I said, "I'll get you for this, you son of a bitch."

16 Q: What did you mean by that?

17 A: That I would report him, or file a complaint or something. But I never did.

18 Q: Do you know how Bond knew Victoria Curtin?

19 A: Yes. I called Vickie and explained what had happened. She said "I'm not  
20 surprised. That guy's a creep. He used to work here as a security guard  
21 and he was always hanging around, watching me and trying to look in my  
22 windows at night." Then she asked if I wanted to come over on July 6 to  
23 go swimming and eat dinner. I said yes.

24 Q: Please describe in detail what happened on July 6, YR-2.

25 A: I went over to Vickie's about 2:00. We swam and laid out in the sun until  
26 about 5:00. Then we set up a charcoal grill and cooked a steak and ate  
27 dinner. I cooked the steak and Vickie made a salad. I started to leave  
28 about 7:30, after Vickie said she had something to do that evening.

29 Q: Did you and Vickie have sex on that occasion?

30 A: It's none of your business.

31 MR. BAKER: Go ahead and answer, Larry.

32 A: No, we didn't.

33 Q: Were you disappointed or angry when you left?

34 A: I guess maybe a little disappointed, but not angry.

35 Q: What happened next?

36 A: I went outside, got in my car, started it up, and backed out. Then my car

1 stalled, and as I was restarting it, some woman in a Mercedes backed into  
2 me.

3 Q: What kind of car do you have?

4 A: A YR-4 Ford Mustang.

5 Q: What happened next?

6 A: I got out of my car. The woman, named Alexandra Spiro, I think, got out  
7 and came toward me. She accused me of backing into her, but I pointed  
8 out that she was the one who ran into me. We argued about it for a few  
9 minutes. Vickie came out of her apartment and told me to calm down.  
10 About this time, Bond arrived in his big police car, came up to me, and  
11 said, "I'll bet this is your fault. I thought I told you not to come back here."  
12 He kept crowding me, you know, stepping real close, and then I would step  
13 back, and he would crowd in again.

14 Q: Had you been drinking?

15 A: I'd had one beer for dinner.

16 Q: Any other alcohol that day?

17 A: No, not that I remember.

18 Q: Had you taken any drugs that day?

19 A: No.

20 Q: Have you ever taken drugs illegally?

21 A: Sure. I've smoked marijuana, and I tried cocaine a couple of times. I took  
22 amphetamines during exams when I was in college. So what? Everyone  
23 does that sort of thing.

24 Q: What happened after Mr. Bond started crowding you?

25 A: He backed me all the way up to my car. Then he sort of smiled, and  
26 turned to Ms. Spiro and said, "I'm sorry this kid ran into you. He's been  
27 trouble here before." I stepped forward and said, "It wasn't my fault."  
28 Vickie grabbed my arm and said to forget it. I pushed her arm away and  
29 said, "I won't forget it. This is an outrage."

30 Q: How far away was Bond?

31 A: About five feet. He wheeled around and told me to shut up or he'd shut  
32 me up. I was starting to get mad. I told him the police weren't supposed  
33 to take sides, and asked him to call another police car. Bond said he could  
34 arrest me and lock me up if I didn't shut up. Then he walked away. I  
35 asked Vickie to call 9-1-1, but he said I should just calm down and forget  
36 it. I said I was not going to forget it, that this was a free country and we

1 had laws, and that the police couldn't just harass people. I went to sit in  
2 my car.

3 Q: Did you tell anyone what you were doing?

4 A: No. I was mad, and not thinking too clearly.

5 Q: So it could have appeared to Bond that you were trying to leave the scene?

6 A: I don't know.

7 Q: What happened next?

8 A: Bond came over and yelled at me to get out of my car. He ran up and  
9 yanked open my car door, screaming that I was under arrest. He pulled  
10 the door so hard that he fell over backwards. I started to laugh. He  
11 jumped up and he was red in the face. He said, "Get out of the car or I'll  
12 come in and get you." I said, "Hey, let's not get personal about this." He  
13 pushed me toward the passenger seat and pulled the keys out of the  
14 ignition. He pulled out his nightstick, held it out, and told me to get out  
15 of the car. When I did, he hit me on the head with it for no reason. I said,  
16 "If you weren't a cop I'd take that stick away from you and shove it up your  
17 ass." Bond took his badge off, tossed it aside, and said, "Just try it, tough  
18 guy." Then he swung a second time, and I grabbed his arm and pulled the  
19 stick away from him. Then he pulled out his gun and told me to throw  
20 down the stick. I tossed it aside.

21 Q: How were you holding it?

22 A: Down at my side.

23 Q: Did you threaten Bond with it or try to hit him?

24 A: No.

25 Q: Did you raise the nightstick over your head or throw it at him?

26 A: No, I didn't do either of those things.

27 Q: What direction did you toss it?

28 A: I don't remember. I wasn't going to argue with a madman holding a gun.

29 Q: What happened next?

30 A: Bond put the gun back into its holster. No, wait, first, I took a step for-  
31 ward to get clear of the car door in case I had to run. I turned to see where  
32 Vickie was. I was going to ask her again to call 9-1-1. I couldn't tell what  
33 hit me because my back was turned, but I think Bond hit me twice on the  
34 head with his gun butt. I fell to my knees. I was stunned and it's all a  
35 little blurry after this. Bond put the gun back in his holster and stepped  
36 up to me. I raised my arms to protect my head because I thought he was

1 going to hit me again. He reached for his gun. I grabbed him around the  
2 waist, and put my hand over his so he couldn't pull the gun out. I was  
3 sure he was going to kill me. There was a wild, crazy look in his eyes. I  
4 pushed him back.

5 Q: Did he say anything?

6 A: Not that I remember.

7 Q: What did you do next?

8 A: I went over to my car and reached under the seat with my left hand for the  
9 extra set of car keys I keep there. I wanted to get out of there. I thought  
10 I heard a noise, so I turned around quickly. As I turned around, I saw  
11 Bond on one knee aiming his gun at me. I tried to run but hit the car  
12 door. The next thing I remember is waking up in the hospital.

13 Q: Do you remember being shot?

14 A: No.

15 Q: Did you hear a gunshot?

16 A: No.

17 Q: You didn't see Bond shoot you?

18 A: No.

19 Q: As best you can, could you sketch a diagram of what happened, where you  
20 were and where Bond was?

21 A: Okay.

22 MS. TUCKER: Can we include this as exhibit one for this deposition?

23 MR. BAKER: No problem.

24 Q: Mark where the struggle took place, please.

25 A: Right here, sort of. I'm not sure exactly.

26 Q: Before Bond fired his gun, did he say anything?

27 A: Not that I remember?

28 Q: What happened in the hospital?

29 A: They put a cast on my right wrist, the one the bullet had broken, put three  
30 stitches in my head, and had to operate on me to remove a bullet from my  
31 liver. I had tubes coming out of me for drainage for a few days after they  
32 operated. And they gave me medication of some kind.

33 Q: How do you know?

34 A: I could see the cast. The doctor told me about the other stuff. He said I  
35 had been shot in the back.

36 Q: Who was your doctor?



1 A: Dr. Linton.  
2 Q: When was the operation?  
3 A: I guess immediately when I got to the hospital, because it was all over by  
4 the time I woke up. I was in the hospital for a week while they checked on  
5 me, and then I was released. Dr. Linton removed the cast three weeks  
6 later.  
7 Q: Did you and Dr. Linton talk about the incident?  
8 A: Not really. He'd just bustle in and spend two minutes with me, and then  
9 leave.  
10 Q: Are you right or left-handed?  
11 A: Right handed.  
12 Q: How's your wrist?  
13 A: It still hurts and it's real stiff. It doesn't hurt as bad as it did at first. For  
14 the first six weeks or so, it was always painful, sort of a dull throbbing. I  
15 still can't use it much or play sports or anything, but the doctors say it  
16 should be healed by Christmas. When the cast was on, it used to itch all  
17 the time.  
18 Q: How's your abdomen?  
19 A: Okay, I guess. It hurt for a week or so, but that's gone away and I don't  
20 seem to have any real problems with it. You can still see the scar on my  
21 stomach, though.  
22 Q: How about your head?  
23 A: Well, I was pretty embarrassed for awhile because they had to shave the  
24 top of my head to put in stitches, but that's grown back now. I had real  
25 bad headaches for two weeks. But they've gone away. I had a pretty bad  
26 time in the hospital, what with the headaches and my wrist throbbing and  
27 itching. I didn't sleep well -- I kept waking up. The first two days were  
28 really bad because they strapped me down so I wouldn't tear open the  
29 surgery. But I was pretty drugged up those first two days and don't  
30 remember much.  
31 Q: Do you have hospital and doctor's bills?  
32 A: Mr. Baker has them.  
33 MR. BAKER: I'll get you copies. The total was \$11,980.00  
34 Q: Have they been paid by anyone?  
35 A: Only my insurance.  
36 Q: Have you discussed this case with your attorney?

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A: Yes, of course.  
Q: Has he influenced your testimony in any way?  
A: No. I am telling the truth.  
Q: Have you discussed the case with Victoria Curtin?  
A: Yes.  
Q: Have you told her what to say?  
A: No.  
Q: Are you aware of any other witness to this incident?  
A: Well, Vickie said that one of her neighbors told her she had seen part of the incident and agreed that Bond started it for no reason, but I don't know the person's name.  
MS. TUCKER: That's all I have.  
MR. BAKER: Larry, did you start the fight?  
A: No, sir.  
Q: Did you ever attack Michael Bond?  
A: No.  
MR. BAKER: Nothing further.

WHEREUPON IT WAS STIPULATED THAT READING AND SIGNING BY THE WITNESS IS HEREBY WAIVED PURSUANT TO RULE 30(e).

I certify pursuant to Rule 30(f) that this is a true record of the deposition.

\_\_\_\_\_  
Dodie Bowman  
Notary Public

**BAYSHORE POLICE DEPARTMENT  
ARREST HISTORY**

LAST NAME: **KANE**

FIRST NAME: **LARRY**

MIDDLE NAME: **JAMES**

ALIAS: **WILD MAN**

DATE OF BIRTH: **2/16/YR-27**

PLACE OF BIRTH: **SAN DIEGO CA**

ADDRESS: **1711 MILLER DR, BAYSHORE COL**

HAIR: **BRN**      EYES: **BRN**      SEX: **M**      MARKS/SCARS: **SCARS ON LEFT HAND**

HT: **5'11"**      WT: **170**

S.S. NUMBER: **561-82-1011**

OCCUPATION: **MARINE BIOLOGIST**

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DATE	OFFICER	CIT NO.	CHARGE	DISPOSITION
8/6/-5	LONG	B3160	MALICIOUS MISCHIEF	GUILTY - \$50
7/6/-2	BOND	Y2190Z	ASSAULT, TRESPASS	DISMISSED

DATE PRINTED: 11/14/YR-1



STATEMENT OF VICTORIA LEIGH CURTIN

Made to: George Baker, Esq.  
Place: 3131 E. Third Street  
Bayshore, Columbia  
Date: November 3, YR-2

My name is Victoria Leigh Curtin. I am 25 years old. I was born in YR-27 in Atlanta, Georgia, but moved here when I was four years old. I was an economics and business major at Ohio State University, graduating with my B.A. in YR-4. After college, I travelled around Europe for six months and then got a job as an assistant manager at Citibank in New York City. Two years ago my mother became quite ill, so I returned to Bayshore. I got a job a few weeks after I got here as the business manager of the downtown Women's Health Club, an exercise center and figure salon for women. I am in excellent health, have good hearing and eyesight, and a good memory. I currently live at 2412 Rockport Road, the Knightridge Apartments number 3-B, here in Bayshore. I have one older brother, Bruce, who is a pilot in the Navy. My parents have just retired.

On July 4, YR-2, I had a Fourth of July party at my apartment. There were a lot of people there, including Larry Kane. I have known Larry for about a year and a half. I like him but he is not my only male friend. Larry and I have occasionally had sexual relations, but not on a regular basis. My sex life is my own business. I am not promiscuous, but I will say that Larry is not my only sexual partner. The party on the Fourth of July got a little wild. Apparently Michael Bond, a police officer, had to come over and quiet things down. I was in the swimming pool when this happened, so all I know is what I was told. Later that night Larry called and said that Mr. Bond had run him off the property after they had gotten into a tussle. He asked me out for July 6th, but I already had a date that evening. It was my day off, so I invited him over for the afternoon to go swimming.

I am personally acquainted with Michael Bond. He used to work as a security guard at Knightridge Apartments. I had a lot of problems with him when he worked here. I am not the only single woman in the apartments who he has bothered. Some of my friends have had similar experiences. Bond was always hanging around the pool and ogling the women in bathing suits. He came by my apartment sometimes and he called me up about every two weeks to ask me out. I told him I was not interested, but he kept calling me. He also tried to look in my bedroom window. I used to see him outside my apartment at night, close to my windows. I think a man who goes around peeping in windows like that is sick. He also has hassled other men I've gone out with.

On July 6, YR-2, Larry came over about 2:00 p.m. We went swimming and ate dinner. As I recall we grilled a steak, but I am not certain. Larry had consumed four or five beers while we cooked and ate, but was certainly not drunk. This was between 5:00 and 7:30 p.m. Larry left about 7:30 because I had another date at 8:00. I think this made Larry mad. He is sort of possessive, which drives me crazy. It's too bad, because I think I could get serious

about him if he were more mature. We had an argument about our relationship just before he left.

A few minutes later, I heard a crash, and looked out my window. Larry had crashed into another car. I do not know the other person. I went outside. Larry looked really mad and all tense. He was arguing with the other driver. I went up to Larry and told him to calm down and tell me what happened. He said something like, "Look at that mess. That woman backed right into me." About that time Bond arrived. He came up to Larry and accused him of being at fault. Larry said that it was not his fault, but Bond turned his back and walked away. I tried to calm Larry down. He yelled something at Bond, and Bond told him to shut his mouth or he would shut it for him. Larry said something about the police and got into his car. I could tell he was still pretty agitated. I figured it was over, so I started to walk back to my apartment.

I'd only taken three or four steps when I saw Bond run over to Larry's car. I was now about 15 feet from the car. Bond pulled open the door and fell backwards. I could not tell whether Bond pulled the door or Larry pushed it open. But I could definitely see Bond's hand on the door handle. Then they got into a fight. Bond was grabbing at Larry and pulled him out of the car. Then Bond hit Larry with his nightstick a couple of times on the head for no reason. I ran over and screamed at them to stop fighting. Then I ran over to some people who had gathered at the edge of the parking lot and screamed for someone to break up the fight and call the police, that Bond was beating Larry up.

When I looked up again, Bond had his gun out. I heard him call Larry a son of a bitch. Larry took a step forward and then turned away from Bond and leaned forward like he was about to run, but Bond hit him on the head with his gun before Larry could get away. Larry fell down, and Bond put the gun back in its holster. Then they went at it again. I can't remember exactly who did what. I ran to my apartment to call the police. When I was inside I heard what sounded like a lot of gunshots. I ran back out and saw Larry lying next to his car, bleeding. Bond was in his police uniform the whole time. No other police were on the scene until after the shooting was over.

I went with Larry to the hospital. They rushed him into surgery. Larry was in the hospital for two weeks. He had a cast on his right arm and tubes sticking out of his side. Larry told me he had been shot in the wrist and in the back. He complained a lot about headaches and that his wrist hurt when I saw him in the hospital. I've seen him since then, and he still complains that his wrist hurts. He was over at my apartment once that I remember in late August and picked up a beer in his right hand. As he started to drink it he cried out in pain and dropped the beer. He said his wrist still hurt if he moved it the wrong way.

I have read this statement and it is true and accurate.

---

Victoria L. Curtin



## Law Offices of Stanley Lerner

3131 E. Third Street, Bayshore

Phone 811-JUSTICE  
Your Attorneys in the College Mall

---

MEMO TO: Vivian Tucker  
FROM: George Baker  
RE: Victoria Curtin

To save you the trouble of filing a formal discovery motion, I am disclosing pursuant to your request everything I know reflecting on Ms. Curtin's credibility. She has no criminal record and no personal disciplinary record at college. Her sorority was placed on suspension after allegations that some members prepared term papers for others.

It turns out that Ms. Curtin did not just quit Citibank to return here. Her former supervisor at Citibank, Mark Senak, reports that she was asked to resign after an audit showed a \$150,000 shortage in her department. While Senak says that Curtin was not personally responsible, she discovered the shortage and tried to hide it by falsifying a quarterly report. Curtin said at the time that she thought she could discover who embezzled the money and convince them to return it before the audit. She admitted it had been an error of judgment, but she did not want the shortage on her record.

# CITY OF BAYSHORE

## **City Attorney's Office**

Municipal Building  
201 East 4th Street  
Bayshore, Columbia

Vivian Marie Tucker, *City Attorney*  
Riley J. Berman, *Staff Attorney*  
(811) 633-6045

## STATEMENT OF ALEXANDRA SPIRO

Date: September 30, YR-2  
Made to: Vivian Tucker, Attorney, City of Bayshore  
Place: Municipal Building, room 301  
201 East 4th Street, Bayshore

I am giving this statement of my own free will in response to a request from Vivian Tucker, an attorney representing the City of Bayshore in litigation concerning a police shooting incident that I witnessed. The shooting took place on July 6, YR-2, at approximately 7:30 pm, in the parking lot of my apartment building at the Knightridge Apartments, 2412 Rockport Road, Bayshore.

I am 34 years old, born June 9, YR-36. I am an X-ray technician at Monroe County Hospital. I am single, and live in apartment 15-B, Knightridge Apartments, Bayshore. When I graduated from high school, I went to one year of college and didn't like it, so I enlisted in the Navy. I served as a medical technician for six years. I was stationed in San Diego, Guam, and Naples. In YR-11, I was arrested by military police for possession of marijuana. Because it was my third offense, I was given 30 days in the brig and a medical discharge. I moved to Bayshore and got a job in the radiology department at Monroe County Hospital. I have worked there continuously since then, and have had no further problems with drugs. While working at the hospital, I completed the medical technician program at Monroe Community and Technical College, and am now a certified X-ray technician.

I am vaguely acquainted with Michael Bond. He worked as a security guard at the Knightridge Apartments for several years. He always seemed pleasant, professional, and even-tempered. He always talked to me when he saw me. I do not recall him ever being violent or angry. I heard several residents of the apartment complex express similar surprise at this shooting incident, because they also remembered him as a nice, even-tempered guy. He has run errands for me, and let service people into my apartment when I was working. He also has helped me move furniture on a couple of occasions.

On July 6, YR-2, I left the house at 7:30 to run an errand. I backed my Mercedes out of its parking place at the very end of the lot. As I was looking over my shoulder, I saw a Ford Mustang back out of a parking place across the lot very quickly. He backed about twenty feet, then slammed on the brakes. His car skidded backwards into mine. I got out to look, and the damage was very minor. The driver of the other car ran over to me and started yelling that it was my fault. I had never seen him before, but I now know him to be Larry Kane. Mr. Kane

was upset and appeared slightly intoxicated. I let him yell, and then suggested that we let our insurance companies settle it.

A few minutes after the accident, Michael Bond showed up. He went up to Mr. Kane and asked him something. I think he asked to see his driver's license. Mr. Kane responded that he wasn't going to tell Bond anything. So, Mr. Bond came over to me and I explained what happened, showed him the damage, and told him it was no big deal. A young woman, whom I understand to be Victoria Curtin, went over to Mr. Kane and I heard her tell him to be quiet and calm down. Mr. Kane pushed her away, almost knocking her down. I had walked over and was standing by the door of my car. Mr. Kane and Ms. Curtin were by the front end of his car. Mr. Kane did not look normal. His face was red and his muscles were tense and his movements were very fast and jerky. He was agitated. I did not get close enough to see his eyes so I cannot be sure, but he looked like he might be having a drug reaction, probably to cocaine. I saw a lot of that in the Navy.

Mr. Kane then got into his car and shut the door. Bond walked over and I heard him ask Kane to step out of his car. He said something about arresting Kane, but I didn't hear it all. He was about a foot from the car, and his hands were at his side. Bond did not appear angry to me. Kane then pushed open the car door, and it hit Bond and knocked him down. Bond stood up and pulled out his nightstick. He told Kane to get out of the car. I moved to get well out of the way. I walked to my car. I looked back, and Kane and Bond were struggling together. I did not see who started it. Kane got the nightstick away from Bond and raised it over his head as if to hit Bond. Bond pulled his gun, pointed it at Kane, and told him to drop it. Kane threw the nightstick off to one side. I decided to get in my car for protection in case they started shooting. I got in and looked out through the back window and saw that Kane and Bond were wrestling again, but at least Bond had put his gun away. I decided to move my car back into its parking place and out of the way of the fight. I have no idea why moving my car seemed important at that moment.

I turned away and reached for the ignition and heard the sounds of gunshots. I did not see what caused it, because I ducked. I then looked out and saw Bond standing up with the gun in his hand. I couldn't see Kane, so I got out. I saw him lying next to his car, bleeding heavily from the abdomen. He was unconscious but alive. Kane did not have a weapon in his hands as far as I could tell.

A few minutes later, more police arrived. They put Kane in a police car and took him to the hospital.

In my opinion, Kane had several opportunities to stop the struggle. All he had to do was stop struggling and trying to get away. If he had just done what Bond wanted, or if he had just stood quietly with his arms at his side, none of this would have happened.

I have read this statement carefully and it is true and accurate.

Alexandra Spiro





Monroe County Hospital

**Emergency Care Department  
684-3597**

September 30, YR-2

Mr. George Baker, Esq.  
3131 East Third Street  
Bayshore, Columbia

Dear Mr. Baker:

This letter is in response to your telephone inquiry of last week regarding Larry Kane. I received Mr. Kane's release today allowing me to disclose his medical information.

I am the surgeon who attended Mr. Kane when he was brought to the Monroe County Hospital Emergency Room on July 6, YR-2. I am on the staff at Monroe County Hospital.

I performed an exploratory laparotomy and cleaned and set a wound to his right wrist. Kane had been hit by two bullets, one hit the right wrist breaking some bones, and the other entered his lower back on the right side and exited from the front. It is impossible to tell which bullet hit first. Neither did any permanent damage. Mr. Kane had a blood alcohol level of .05 percent, the equivalent of 3 to 4 glasses of wine or twelve-ounce beers. At that level he would be uninhibited but not yet seriously drunk. In my opinion, Mr. Kane would have been in extreme pain for two or three days, moderate pain for a week, and only occasional mild pain in the wrist from ten days to a month after that.

I saw Mr. Kane only three times briefly after the operation; twice in the hospital to verify that he was making satisfactory progress, and once to remove the cast in mid-August. We did not discuss the shooting incident.

The complete medical record is attached. Call me if I can be of further assistance.

Sincerely,

Gordon P. Linton, M.D.

NAME: Kane, Larry  
DATE ADMITTED: 7-6-YR-2  
PHYSICIAN: Gordon Linton

Patient #: 561-28-1101

#### ADMISSION REPORT

This approximately 25-year-old male was admitted to the ER following a shooting. Examination in the ER revealed a missile wound with point of entry and point of exit at about the level of the ninth rib and lateral lower chest wall. There was also a missile wound involving the right wrist. X-rays revealed some lead fragments along the course of the missile tract overlying the liver. There was no evidence of entry into the pleural space on the x-rays. X-rays of the wrist revealed a fracture in the site of the styloid process of the radius.

PAST HISTORY AND REVIEW OF SYSTEMS: Taken under emergency conditions. The patient was unconscious on admission.

PHYSICAL EXAMINATION: HEENT: Laceration on the head.

NECK: Supple.

CHEST AND ABDOMEN: There are two wounds involving the lateral aspect of the right lower chest at the level of the 9th rib; one is in the posterior axillary line and one is in the anterior axillary line, slightly more medial than the anterior axillary line. The anterior one is the larger one, and is assumed for that reason to be the point of exit. There is a recent abrasion in the midline between the xyphoid and the umbilicus.

ALCOHOL BLOOD CONTENT: .05 percent.

GENITALIA AND RECTAL: Unremarkable.

LOW EXTREMITIES: Unremarkable.

ADMITTING DIAGNOSIS: Gunshot wound, right lower chest wall with laceration of the liver. Gunshot wound involving the right wrist. Lacerations on the scalp.

Gordon P. Linton, M.D.

Dictated: 7/7/YR-2

Entered: 7/7/YR-2 ktb

THIS COPY PRINTED: 10/16/YR-1

NAME: Kane, Larry  
ADMITTED: 7-6-YR-2  
DISCHARGED: 7-22-YR-2  
PHYSICIAN: Gordon Linton

Patient #: 561-28-1101

## DISCHARGE REPORT

**PRESENT ILLNESS:** This 25-year-old male was admitted via the ER following a gunshot wound. X-rays revealed fracture of the 7th and 8th rib anteriorly with metallic and bone fragments within the hepatic substance adjacent to the rib fracture sites. X-rays of the right wrist revealed a fracture which involved the articulate surfaces of the radius at the wrist joint. Lacerations on the head.

**PHYSICAL EXAMINATION:** Revealed a well-developed, well-nourished male appearing the stated age. Positive physical findings revealed a missile injury with the apparent entrance site in the posterior axillary line at the level of the 9th rib with an apparent exit site in the anterior axillary line at the level of the 9th rib. Lungs were clear and well expanded. The abdomen revealed some guarding in the right upper quadrant, otherwise was unremarkable. Extremities were within normal limits, with the exception of the right wrist where there was a missile injury involving the area of the styloid process of the radius. There was a heavy odor of alcohol on his breath. The patient was unconscious.

**ACCESSORY CLINICAL FINDINGS:** On admission the hematocrit was 41, urinalysis revealed 2+ sugar; on July 7, serum electrolytes were within normal limits on several occasions. Hematocrit on July 9 was 29 and on July 11, 35. Drainage from the lower chest wall wound on July 10th revealed no growth in 48 hours. On July 18, white blood cell count was within normal limits, as was the urinalysis and the hematocrit was 36.5%. Chest x-rays on several occasions were negative.

**COURSE IN HOSPITAL:** The patient was taken immediately to the operating room from the ER where an exploratory laparotomy was done through upper paramedian incision. There was a laceration involving the lateral surface of the right lobe of the liver at the level of the 8th or 9th rib. No active bleeding was noted from it. As it was inaccessible for suturing it was elected to drain the area with two Penrose drains at a lateral stab wound. This was done and the entry and exit site of the chest wall were debrided and drained. The postoperative course was uneventful. The patient was initially treated with Achromycin and Bupronex for three days, and later changed to Keflex. At the time of discharge he was given Keftabs. All wounds healed and were clean at the time of discharge. The patient was afebrile for three days prior to discharge.

At the time of the exploratory laparotomy the right wrist was debrided and the wound drained and placed in appropriate cast. This was dressed at periodic intervals and will be followed by removal of the cast, four weeks from the time of the original injury. The lacerations of the scalp were stitched closed.

FINAL DIAGNOSIS: Gunshot wound of the lower chest wall and upper abdomen with laceration of the liver. Gunshot wound of the right wrist with comminuted fracture of the articulate surface of the radius. Superficial laceration of head.

OPERATION: Exploratory laparotomy with drainage of liver and debridement of wound and repair of left wrist gunshot wound. Stitches in scalp.

DISCHARGE MEDICATION: Keftabs 250 mg. every 6 hours for 7 days.

Gordon P. Linton, M.D.

DICTATED: 7/22/YR-2

ENTERED: 7/22/YR-2 sfn

THIS COPY PRINTED: 10/16/YR-1



# Monroe County Hospital

## STATEMENT

**PATIENT'S NAME AND ADDRESS**

LARRY JAMES KANE  
1711 MILLER DR  
BAYSHORE, COL

**ACCOUNT NUMBER**

32 1966423 GS

**INSURANCE INFORMATION**

BC/BS 133-98-9911

**DATE ADMITTED**

07/06/YR-2

**DATE DISCHARGED**

07/20/YR-2

POSTING DATE	PHYSICIAN	DESCRIPTION	TOTAL CHARGES
07 06		EMERGENCY ROOM	590.00
07 06	LINTON	PROF SERVICES	4000.00
07 06		OPERATING ROOM	3200.00
07 06	LESTER	X-RAY SERVICES	920.00
		PROF SERVICES	350.00
07 06	LAB	CLINICAL LAB SERVICES	460.00
07 07	LINTON	HOSP VISIT	45.00
07 08	LINTON	HOSP VISIT	45.00
07 08		PHARMACY	220.00
07 10	LINTON	HOSP VISIT	45.00
07 14	LINTON	HOSP VISIT	45.00
07 20		14 DAYS SEMIPRIVATE ROOM	4900.00
08 11	LINTON	OFFICE VISIT	100.00
08 29		BC/BS INS PAYMENT	11,936.00 CREDIT
		BALANCE DUE	2984.00

## JURY INSTRUCTIONS

### Preliminary Instructions

Members of the jury, this is a civil lawsuit brought by Larry Kane against Michael Bond and the City of Bayshore. It is based on a federal civil rights law that says any public servant who deprives a citizen of his or her constitutional rights may be sued for damages. Plaintiff alleges that the defendant exceeded his authority as a police officer and used excessive force against him. Defendants assert that the force used by Michael Bond was reasonably necessary under the circumstances.

Your function in this trial is to decide, after considering all the evidence presented, what happened -- what the facts are -- and you are to apply the facts you find to the instructions of law I give you. You should use your common sense in considering the evidence, and you may draw reasonable inferences from the evidence.

My function as Judge is to preside over the trial: to rule on points of law and to instruct you on the law. It is our responsibility to see that this case is decided in accord with the facts and the law.

To begin the case the lawyers will make opening statements in which they tell you what they expect the evidence to be. This should help you to understand the evidence as it is presented through the witnesses later and make you aware of conflicts and differences that may arise in the testimony. After opening statements, you will hear and see the evidence. It will come from witnesses and from exhibits. The Plaintiff will present his evidence first, and then the Defendants will present their side of the story. After all the evidence has been presented, the lawyers make their closing arguments. What the lawyers say is not evidence.

During the trial there may be objections and I may rule on the admissibility of evidence. You must not consider any evidence that is stricken or that you are told to disregard.

There will be occasional recesses during the trial. During these recesses you must not discuss the case with anyone, including your fellow jurors.

Please keep an open mind as the evidence is presented. Remember that your job is to reach your verdict only after you have heard and considered all the evidence, the instructions of law, and the final arguments of the lawyers.

All people in this trial are fictional, and the events take place in an imaginary city called Bayshore, in the state of Columbia.

## Concluding Instructions and Charge to the Jury

Members of the Jury, it is now my duty as judge to instruct you in the law that applies to this case. It is your duty as jurors to follow these instructions and to apply the rules of law to the facts as you find them from the evidence.

The evidence which you are to consider in this case consists of the testimony of the witnesses and the exhibits. Statements, arguments and opinions of counsel are not evidence in the case. However, if the attorneys stipulate as to the existence of a fact, you must accept the stipulation as evidence and regard that fact as proved.

You must disregard any evidence to which an objection was sustained by the court and any evidence ordered stricken by the court.

Although you are to consider only the evidence in the case in reaching a verdict, you must bring to the consideration of the evidence your everyday common sense and judgment as reasonable men and women. Thus, you are not limited solely to what you see and hear as the witnesses testify. You may draw reasonable inferences from the evidence which you feel are justified in the light of common experience, keeping in mind that such inferences should not be based on speculation or guess.

A verdict may never be influenced by sympathy, prejudice or public opinion. Your decision should be the product of sincere judgment and sound discretion in accordance with these rules of law.

The plaintiff has the burden to prove that he was injured, that the defendant deprived him of a constitutional right under color of state law, and that such act was a proximate cause of his injuries.

The defendant has the burden of proving, as an affirmative defense, that he had a reasonable belief that the force he used was necessary and lawful.

In a civil case, whenever a party must prove something, they must prove it is true by a preponderance of the evidence. The term "preponderance of the evidence" means such evidence as, when weighed with that opposed to it, has more convincing force, and from which it appears that the greater probability of truth lies therein.

A proximate cause of injury is a cause which, in natural and continuous sequence, is a significant factor in producing the injury, and without which the injury would not have occurred.

The plaintiff, Larry Kane, seeks to establish that the defendant Michael Bond violated his civil rights. To prove his case, plaintiff must prove the following propositions by a preponderance of the evidence:

1. That Plaintiff is a citizen of the United States.
2. That the defendant deprived plaintiff of his constitutional right to be free from unreasonable seizures by using excessive force in apprehending him. In considering whether excessive force was used, you may consider the following factors:
  - a. the severity of the crime
  - b. whether plaintiff posed an immediate threat
  - c. whether plaintiff resisted or tried to flee
  - d. what a reasonable police officer would have done
3. That Plaintiff was injured as a proximate result of defendant's conduct.
4. That Defendant acted under the apparent authority of a state statute, ordinance, custom, usage or regulation, within the scope of his official duties.
5. That Defendant acted intentionally

If the evidence convinces you that the defendants deprived plaintiff of his civil rights, you should return a verdict for the plaintiff.

[Optional instruction for three-party trial]. The plaintiff, Larry Kane, also seeks to establish that the defendant City of Bayshore violated his civil rights. To prove his case, plaintiff must prove the following propositions by a preponderance of the evidence:

1. That Plaintiff is a citizen of the United States.
2. That the City deprived plaintiff of his constitutional right to be free from unreasonable seizures by establishing, maintaining, or condoning a pattern, practice or policy of deliberate indifference to the rights of inhabitants similarly situated to plaintiff.
3. That Plaintiff was injured as a proximate result of conduct by a police officer that resulted from the pattern or practice of the defendant municipality.

The defendant Michael Bond claims that any force he used was justified. To prove his case, the defendant Michael Bond must establish by a preponderance of the evidence that the force used was necessary for self-defense or part of his lawful duties. Any person who reasonably believes he is under attack may use such force in self-defense as reasonably appears necessary under the circumstances, but may not use excessive force.

A police officer is lawfully entitled to use force to apprehend a person if the officer has probable cause to believe the person has committed a crime, is an imminent threat to the safety of any person, or is attempting to resist arrest or flee from custody, but an officer may not use excessive force.

If the evidence convinces you that Bond's actions were justified, you should return a verdict for the defendants.



In this case, defendant Bond used deadly force, which is permitted only if he had probable cause to believe that serious physical harm to himself or others was imminent and gave a warning to plaintiff if feasible.

[Optional instruction for three-party trial]. The defendant City of Bayshore claims that the acts of Michael Bond were wholly outside his official duties and therefore were not done under color of state law. To prove its case, the defendant City of Bayshore must establish by a preponderance of the evidence that the conduct of Michael Bond was outside the scope of his authority and that at the time of the conduct complained of, Bond was acting as a private citizen and not as a police officer. If the evidence convinces you of this fact, you should return a verdict in favor of the City of Bayshore.

If you find for the plaintiff, you must award Larry Kane damages in an amount that will reasonably compensate him for all injuries or harms proximately caused by the acts of the defendants. The award shall include the reasonable value of medical and hospital care and reasonable compensation for any pain, discomfort, fears, anxiety, and other mental or emotional distress suffered by the plaintiff. No definite standard is prescribed by law by which to fix reasonable compensation for pain and suffering, nor are the arguments of counsel evidence of the proper amount. You should use your own calm and reasonable judgment to fix the damage award in light of the evidence.

If you find for the plaintiff, you may consider whether you should award additional damages against the defendant Bond for the sake of example and punishment. You are not required to award these punitive damages; it is entirely up to you. You may award punitive damages only if you find by a preponderance of the evidence that the defendant deliberately deprived plaintiff of his civil rights, or was guilty of actual malice. Actual malice means the defendant's motives were primarily to harass, annoy or injure plaintiff. The law provides no fixed standard as to the amount of punitive damages, but leaves that to the sound discretion of the jury.

Your verdict must be unanimous.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF COLUMBIA  
CIVIL DIVISION

Larry James Kane,	)	
Plaintiff	)	Civil Action
	)	File Number 153593
vs.	)	
	)	
Michael Lowell Bond and	)	<b>VERDICT</b>
The City of Bayshore	)	
Defendants	)	

---

We the jurors of the Eastern District of Columbia find:

\_\_\_\_\_ for the defendants.

\_\_\_\_\_ for the plaintiff in the amount of:

a. Actual damages: \_\_\_\_\_

b. Punitive damages (if any): \_\_\_\_\_

Signed: \_\_\_\_\_  
Jury foreperson

[alternate verdict form]

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF COLUMBIA  
CIVIL DIVISION

Larry James Kane  
Plaintiff

vs.

Civil Action  
Number 153593

Michael Lowell Bond  
Defendant

**VERDICT**

and

The City of Bayshore  
Defendant

---

We the jurors of the Eastern District of Columbia find:

\_\_\_\_\_ for the defendants.

\_\_\_\_\_ for the plaintiff.

\_\_\_ against defendant Bond.

\_\_\_ against defendant City of Bayshore.

a. Actual damages: \_\_\_\_\_

b. Punitive damages (if any): \_\_\_\_\_

Signed: \_\_\_\_\_  
Jury foreperson