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**(Exempt from Filing Fees Pursuant  
to Gov. Code, § 6103(a))**

**FILED**  
**KERN COUNTY SUPERIOR COURT**  
08/27/2021  
BY Evans, Gricelda  
DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF KERN

**THE PEOPLE OF THE STATE OF  
CALIFORNIA, EX REL. ROB BONTA,  
ATTORNEY GENERAL OF THE STATE  
OF CALIFORNIA,**

Case No. BCV-21-101928

Plaintiff,

**STIPULATION FOR ENTRY OF FINAL  
JUDGMENT AND PERMANENT  
INJUNCTION**

v.

**CITY OF BAKERSFIELD and  
THE BAKERSFIELD POLICE  
DEPARTMENT,**

Defendants.

1 Plaintiff, the People of the State of California, by and through its attorney, Rob Bonta,  
2 Attorney General of the State of California (the "Attorney General"), and by Supervising Deputy  
3 Attorney General Nancy A. Beninati, and Defendants City of Bakersfield and the Bakersfield  
4 Police Department, stipulate as follows:

5 1. This Court has jurisdiction of the subject matter hereof and the parties to this  
6 Stipulation for Entry of Final Judgment and Permanent Injunction ("Stipulation").

7 2. The Stipulated Judgment ("Judgment"), a true and correct copy of which is  
8 attached hereto as Exhibit 1, may be entered by any judge of the Kern County Superior Court.

9 3. The Attorney General's Office may submit the Judgment to any judge of the Kern  
10 County Superior Court for approval and signature, based on this stipulation, during the court's ex  
11 parte calendar or on any other ex parte basis, without notice to or any appearance by the  
12 defendants, which notice and right to appear the defendants hereby waive.

13 4. The parties hereby waive their right to move for a new trial or otherwise seek to  
14 set aside the Judgment through any collateral attack, and further waive their right to appeal from  
15 the Judgment, except the parties agree that this Court shall retain jurisdiction for the purposes of  
16 enforcing said Judgment.

17 5. The parties jointly represent that they have worked cooperatively to come to an  
18 agreement as set forth in the Judgment.

19 6. The parties have stipulated and consented to the entry of the Judgment without the  
20 taking of proof and without trial or adjudication of any fact or law herein, without the Judgment  
21 constituting evidence of or an admission by the defendants regarding any issue of law or fact  
22 alleged in the complaint on file herein, and without the defendants admitting any liability  
23 regarding allegations of violations that occurred prior to the entry of the Judgment.

24 7. The defendants will accept service of any Notice of Entry of Judgment entered in  
25 this action by delivery of such notice to their counsel of record or the Bakersfield City Attorney,  
26 and agree that service of the Notice of Entry of Judgment will be deemed personal service upon  
27 them for all purposes.

28 ///


1           8.       The individuals signing below represent that they have been authorized by the  
2 parties they represent to sign this Stipulation.

3           9.       This Stipulation may be executed in counterparts, and the parties agree that an  
4 electronic signature shall be deemed to be, and shall have the full force and effect as, an original  
5 signature.

6       PLAINTIFF THE STATE OF CALIFORNIA

ROB BONTA  
Attorney General of California


9       DATED: August 23, 2021

  
\_\_\_\_\_  
Nancy A. Beninati  
Supervising Deputy Attorney General  
*Attorneys for Plaintiff, The People of the*  
State of California

15       DEFENDANTS CITY OF BAKERSFIELD and  
16 THE BAKERSFIELD POLICE DEPARTMENT

CITY OF BAKERSFIELD AND THE  
BAKERSFIELD POLICE DEPARTMENT

19       DATED: August <sup>19</sup>, 2021

  
\_\_\_\_\_  
Virginia Gennaro,  
Bakersfield City Attorney,  
*Attorneys for Defendants, City of*  
Bakersfield and The Bakersfield Police  
Department

# EXHIBIT 1

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*Attorneys for Plaintiff, The People of the  
State of California*

**Exempt from Fees  
(Gov. Code, § 6103(a))**

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF KERN

**THE PEOPLE OF THE STATE OF  
CALIFORNIA, EX REL. ROB BONTA,  
ATTORNEY GENERAL OF THE STATE  
OF CALIFORNIA,**  
  
Plaintiff,  
  
v.  
  
**CITY OF BAKERSFIELD and  
THE BAKERSFIELD POLICE  
DEPARTMENT,**  
  
Defendants.

Case No. BCV-21-101928

**STIPULATED JUDGMENT**

1 **INTRODUCTION**

2 The People of the State of California, ex rel. Rob Bonta, Attorney General of the State of  
3 California (Attorney General), filed a Complaint for Injunctive Relief (Complaint) in the Superior  
4 Court of Kern County against the City of Bakersfield (City), and the Bakersfield Police  
5 Department (BPD), pursuant to the authority granted to the State of California under California  
6 Civil Code section 52.3, to seek declaratory and equitable relief to address alleged incidents of  
7 conduct by law enforcement officers that deprive individuals of rights, privileges, or immunities  
8 secured by the state or federal Constitution or state or federal law. The Attorney General, the  
9 City, and BPD (collectively, Parties) are committed to effective, constitutional law enforcement,  
10 and enter into this Stipulated Judgment for the common good of the people of the City of  
11 Bakersfield.

12 The City and BPD generally and specifically deny each and every allegation contained in  
13 the Complaint. The Attorney General, City, and BPD are committed to effective, constitutional  
14 law enforcement that protects individuals’ statutory and constitutional rights, treats individuals  
15 with dignity and respects and promotes public safety in a manner that is responsive to the  
16 community’s priorities and accomplished in a manner that is fiscally responsible. The Parties  
17 herein agree to the entry of judgment without the taking of proof, trial, or the adjudication of any  
18 fact or law, without this Stipulated Judgment constituting evidence of liability of the City or BPD,  
19 or admission by the City or BPD of any issue of fact or law alleged in the People’s Complaint,  
20 without the City or BPD admitting any liability, and with all Parties waiving their right to appeal.  
21 Each party agrees to bear its own attorney’s fees and costs to date.

22 The purpose of this Stipulated Judgment (“Judgment” or “Agreement”) is to ensure that the  
23 City and BPD protect individuals’ statutory and constitutional rights, treat individuals with  
24 dignity and respect, and promote public safety in a manner that is fiscally responsible and  
25 responsive to community priorities. The Parties recognize that these outcomes require  
26 partnership between BPD and the community it serves, one in which BPD is transparent about its  
27 processes and provides community members with a voice in its functions. This Agreement is  
28 designed to enhance BPD’s relationship with its community through increased transparency and

1 public input, improved oversight and accountability systems, and increased support for officers  
2 through effective law enforcement policies, training, and supervision. The Parties agree that the  
3 Effective Date of this Judgment is the date the Judgment is entered by the court.

4       Upon the conclusion of the Attorney General’s investigation of the BPD, the City and BPD  
5 acknowledge that they are dedicated to constant evolution and improvement. The BPD  
6 acknowledges that it can always benefit from additional and continual reform in a manner that is  
7 sustainable over time. The Attorney General acknowledges that BPD has taken action to improve  
8 its law enforcement services and accountability, including, but not limited to: outfitting its  
9 officers with body-worn cameras; expanding its Quality Assurance Unit which has created many  
10 oversight systems to include random audits and inspections; purchasing and implementing public  
11 safety management software; hiring consultants to review policies and practices; developing a  
12 formal sergeant and lieutenant field training officer (FTO) program; increasing the complement  
13 of lieutenants and captains; implementing Text to 911; introducing principled policing and  
14 procedural justice training courses; providing employee wellness training; and volunteering to  
15 collect data under the Racial and Identity Profiling Act one year earlier than the mandatory  
16 collection date.

17 THE COURT, HAVING CONSIDERED THE MATTER, AND GOOD CAUSE APPEARING:

18       **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:**

19       This court has jurisdiction over the allegations and subject matter of the People’s Complaint  
20 filed in this action and the Parties to this action; venue is proper in this county; and the court has  
21 jurisdiction to enter this Stipulated Judgment as stipulated here as follows:

22       **I. USE OF FORCE**

23       1. BPD agrees to revise its use of force policies and practices to reflect its commitment to  
24 upholding the rights secured or protected by the Constitution of the State of California and the  
25 United States Constitution, and federal and state laws, protecting human life and the dignity of  
26 every individual, and maintaining public safety. As specified below, BPD agrees to review and  
27 revise its use of force policies to include focusing on the concepts of sanctity of life, necessity,  
28 proportionality, and de-escalation; require officers to intervene; and define an imminent threat

1 justifying lethal force that is consistent with Penal Code section 835a, subdivision (e)(2). BPD's  
2 use of force policies, and other related policies, must remain consistent with Penal Code section  
3 835a and Government Code section 7286, which (1) limits authorization of the use of lethal force  
4 to situations where the officer reasonably believes, based on the totality of the circumstances, it is  
5 necessary to defend against an imminent threat of death or serious bodily injury (Pen. Code, §  
6 835a); and (2) direct law enforcement agencies to maintain a use of force policy that requires the  
7 use of de-escalation techniques, crisis intervention tactics, and other alternatives to force when  
8 feasible. To that end, BPD's use of force policies will incorporate these concepts and  
9 requirements in the following ways:

10 **A. Use of Force Policies and Principles**

11 2. BPD will continue to review and revise its policies and associated training materials, to  
12 ensure compliance with the requirements of this Agreement and enacted California law, including  
13 Penal Code section 835a and Government Code section 7286.

14 3. BPD agrees to maintain, and where necessary review and revise, its use of force policies  
15 as follows to:

- 16 a. clearly define and describe when force is and is not authorized;
- 17 b. clearly define and describe the purpose of authorized and prohibited force options as  
18 well as define and describe the tools and techniques permitted and prohibited for all  
19 force options;
- 20 c. better describe the applicable legal standard for use of deadly and non-deadly force;
- 21 d. have its use of force policy be guided by the principle of the sanctity of human life;
- 22 e. limit the use of deadly force to situations where the officer reasonably believes it is  
23 necessary, not just reasonable, to defend against an imminent threat of death or serious  
24 bodily injury if the officer reasonably believes that the person will cause death or  
25 serious bodily injury (Pen. Code, § 835a) (“deadly force” herein and throughout this  
26 Stipulated Judgment means any use of force that creates a substantial risk of causing  
27 death or serious bodily injury; deadly force includes, but is not limited to, the  
28 discharge of a firearm);



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- f. require that officers, whenever feasible, undertake efforts to utilize de-escalation tactics or employ less-lethal options before using deadly force (“feasible” herein and throughout this Stipulated Judgment means reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective, without increasing risk to the officer or another person);
- g. require that officers use force only to effect a lawful arrest, detention, or search, to overcome resistance or to prevent escape, to prevent the commission of a public offense, in defense of others or in self-defense, or to gain compliance with an order that is based in the law;
- h. affirm the importance of proportionality (as defined below);
- i. consistent with state law, prohibit chokeholds, carotid restraints, and other maneuvers that are designed to, or may foreseeably result in, cutting off blood or oxygen to a subject’s head;
- j. require employees to avoid restraining a subject face down whenever possible, or to do so only for a very short time, and then place a restrained subject in the recovery position as soon as possible following a use of force so as to reduce the risk of positional asphyxia and/or effects associated with excited delirium syndrome;
- k. require, where feasible, that suspects who must be transported in a recumbent position be transported by rescue ambulance personnel and accompanied by an officer;
- l. prohibit discharging a firearm at moving vehicles, unless the operator or occupant of a moving vehicle poses an imminent threat of death or serious bodily injury to the public or an officer and the officer is unable to move out of the way;
- m. prohibit discharging a firearm from a moving vehicle absent exigent circumstances;
- n. prohibit force against subjects who only verbally confront officers;
- o. prohibit force against subjects who are handcuffed or otherwise restrained, unless the subject is actively resisting and poses a direct and immediate threat to officers and/or themselves;

- 1 p. prohibit the use of electronic control weapons (ECW's) in "drive stun" mode, unless  
2 reasonably necessary to avoid the use of any force that could increase injury to the  
3 suspect, the officers, or others, with those instances being fully documented and  
4 justified in the use of force reports;
- 5 q. prohibit the use of ECW's on handcuffed individuals and children who appear to be  
6 under the age of 14;
- 7 r. prohibit the use of ECW's on the following individuals, unless officers can provide  
8 justification of articulable facts necessitating the use of the ECW on any of the  
9 following: (a) pregnant females; (b) elderly persons; (c) individuals who have been  
10 recently sprayed with alcohol-based pepper spray or who are otherwise in close  
11 proximity to combustible materials; (d) individuals whose position or activity may  
12 result in collateral injury (e.g., falls from height, operating motor vehicles, possibility  
13 of drowning in water, etc.); (e) a youth who appears to be between the age of 14 and  
14 17; and (f) an individual whom the officer has reason to believe may have a disability;
- 15 s. require that any employee who observes another employee use force that exceeds the  
16 degree of force permitted by law and/or policy shall promptly intervene and then  
17 report their observations to a supervisor;
- 18 t. where feasible, ensure its officers effectively employ cover, distance, time, tone, and  
19 available resources to de-escalate and minimize the need for force;
- 20 u. provide that the conduct of both the officer and the subject leading up to the use of  
21 deadly force must be included in the evaluation of the decision to use force (Pen.  
22 Code, § 835a, subds. (a)(2) and (e)(3));
- 23 v. prohibit the use of deadly force against a person who is only a danger to him or herself  
24 and does not pose a direct and immediate threat to officers or civilians (Pen. Code, §  
25 835a, subd. (c)(2));
- 26 w. require officers to use de-escalation techniques, crisis intervention tactics, and other  
27 alternatives to force when feasible (Gov. Code, § 7286, subd. (b)(1));
- 28 x. stress the sanctity of life throughout the policy;

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y. Address necessity as follows

- i. Define when force is necessary and require that officers use force only when reasonable and necessary to achieve a lawful objective;
- ii. Emphasize that the use of force is not a routine part of policing;
- iii. Require that officers use force in an unbiased manner, consistent with the anti-bias-based policing policy of BPD; and
- iv. Expressly require that officers use lethal force as a last resort and, before using such force, require, when feasible, exhaustion of all other means reasonably available under the circumstances, including de-escalation techniques and strategies, such as tactical repositioning;

z. Address proportionality as follows

- i. Explicitly require officers only to use a type of force that is proportionate to the threat and not excessive in light of the lawful objectives involved;
- ii. Provide specific guidance on what type of force is appropriate for the level of threat presented by the individual, and require officers to only use the amount of force that is both objectively reasonable under the totality of the circumstances, and necessary to effectuate arrest or achieve a lawful objective;
- iii. Provide express guidance on proportionality, to ensure officers understand the relationship that should exist between the law enforcement objective they are attempting to achieve, the threat presented, and the force required in a particular situation; the guidance may include adopting a spectrum, chart, or matrix, that can take the form of a graphical representation; and
- iv. Prohibit specific types of force that are inconsistent with the concepts of proportionality and necessity, such as retaliatory force;

aa. Address de-escalation as follows

- i. Make it an affirmative duty to de-escalate, before using force, requiring that officers shall employ de-escalation techniques and strategies whenever feasible, as required in Government Code section 7286(b)(1);

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- ii. Provide clear guidelines for the use of de-escalation techniques and strategies, such as using tactical repositioning and strategic communication skills, switching staff, modulating the tone employed, taking cover, or calling upon other resources, such as crisis intervention-trained officers, non-law enforcement agencies, or assistance from family members or friends, when and where appropriate;
- iii. Require officers to provide, when feasible, verbal warnings to individuals before using force, whether lethal or non-lethal, and require officers to (1) document, in any incident or use of force report, whether the individual had an opportunity to comply after the warning was issued and before an officer used force, and, (2) if no verbal warning was given, why one was not feasible; and
- iv. Require officers, when feasible, to employ cover, concealment, distance, time, and tactics to minimize the need for lethal force;

bb. Address the duty to intervene as follows

- i. Make it an affirmative duty for officers/employees to intervene, when in a position to do so, if they know or have reason to know that another officer/employee is about to use, or is using, unreasonable, unnecessary, or excessive force or is otherwise violating BPD’s use of force policy;
- ii. Require officers, following an incident involving the use of unreasonable, unnecessary, or excessive force, to promptly report to a supervisor the use of force and the efforts made to intervene;
- iii. Provide for possible discipline of any officer who so fails to intervene; and
- iv. Hold supervisors and managers accountable for prohibiting retaliation against any officer who so intervenes;

cc. Address an imminent threat as follows

- i. Continue to provide clear guidelines on what conditions may constitute an imminent threat justifying lethal force, consistent with California’s deadly















































































































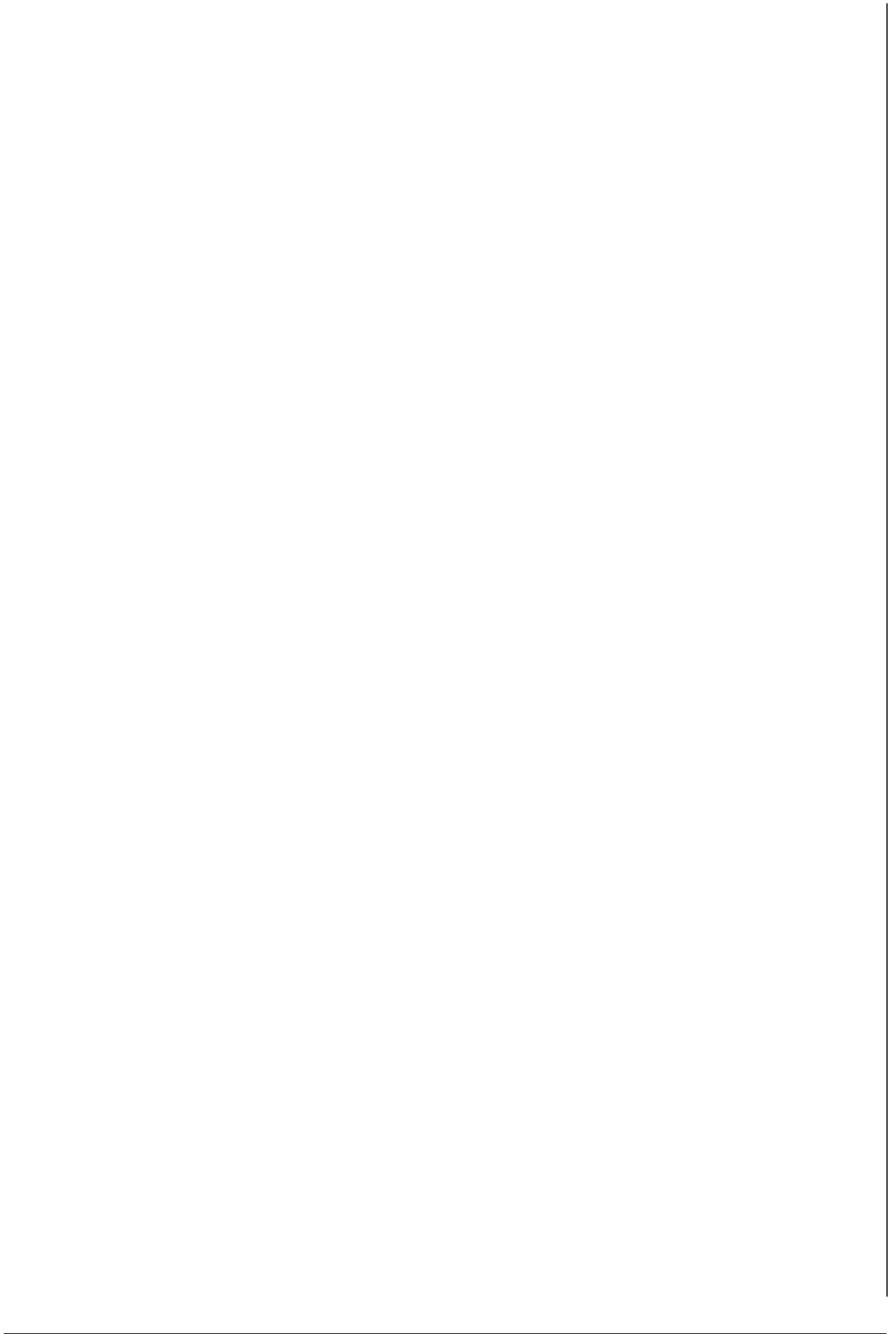












Signed: 8/27/2021 10:54 AM

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Thomas S. Clark