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BISHOP PAIUTE TRIBE

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

BISHOP PAIUTE TRIBE	)	Case No.:
Plaintiff,	)	
vs.	)	COMPLAINT FOR DECLARATORY
INYO COUNTY; WILLIAM LUTZE, Inyo	)	AND INJUNCTIVE RELIEF
County Sheriff; THOMAS HARDY, Inyo	)	
County District Attorney.	)	
	)	
Defendants.	)	

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**INTRODUCTION**

1. This action is for declaratory and injunctive relief by the Bishop Paiute Tribe ("Tribe"), a federally recognized Indian Tribe, against Inyo County, the Inyo County's Sheriff and District Attorney, for the arrest and prosecution of a Bishop tribal law enforcement officer for performing his duties on the Tribe's Reservation. The Tribe seeks an order declaring that

1 Defendants are interfering with the Tribe's inherent sovereign authority to take action, defined  
2 by federal law, against non-Indians perpetrators on tribal lands. Federal law establishes that  
3 tribes have inherent authority over non-Indians on tribal lands to stop, restrain, detain, investigate  
4 violations of tribal, state and federal laws, and deliver or transport the non-Indian to the proper  
5 authorities. *Duro v. Reina*, 495 U.S. 676 (1990), *Ortiz-Barraza v. United States*, 512 F.2d 1176  
6 (9<sup>th</sup> Cir. 1975). Defendants have arrested, and criminally charged, Daniel Johnson, a duly  
7 authorized Bishop tribal law enforcement officer, while he was executing federal prescribed  
8 police duties against a non-Indian, *on the Tribe's Federal Reservation*.

10 2. Officer Johnson was arrested on January 6, 2015, and is being charged with: (1) False  
11 Imprisonment; (3) Impersonating a Public Officer; (3) Assault with a Stun-Gun; and (4) Battery  
12 (misdemeanor.) (Exhibits 1 and 2) Defendants' actions stem from a December 24, 2014  
13 incident that occurred on the Reservation, while Officer Johnson restrained and detained a non-  
14 Indian offender for violations of a Tribal and State Domestic Violence Protection Order, and  
15 subsequently delivering the suspect to an Inyo County sheriff's officer. At all times, Officer  
16 Johnson was effectuating his official duties.

19 3. Following the arrest and charging of Officer Johnson, on January 6, 2015 Defendant  
20 Sheriff Lutze sent the Tribe a "Cease and Desist Order" threatening future arrest and criminal  
21 prosecutions against the Tribe's police officers individually or collectively for discharging their  
22 official duties. (Exhibit 3)

24 4. Defendants' threat of arrest and prosecution of the Tribe's police officers directly  
25 interferes with the Tribe's ability, and obligation, to maintain peace and security on its  
26 Reservation. The arrest and prosecution of Officer Johnson, has been well publicized and is  
27 causing confusion and misunderstanding among non-Indians visiting and/or living on the  
28

1 Reservation, leaving some to believe that they are free to act lawlessly, and without  
2 consequence, because the Tribe is without authority to take actions against them.

3 5. Defendants are violating established federal case law that holds that while tribes may  
4 not “try and punish” non-Indians, they have inherent authority to restrain non-Indians determined  
5 to be undesirable, detain them and turn them over to the proper authorities or to exclude the non-  
6 Indian from tribal lands. Without this Court’s intervention and granting of the Tribe’s relief, the  
7 Tribe’s ability to ensure public safety on its Reservation is and will continue to be threatened,  
8 and exposes the public and the Tribe’s law enforcement officers to unnecessary risk.  
9

### 10 **JURISDICTION**

11 6. This Court’s jurisdiction is based upon the following:

12 (a) 28 U.S.C. §1331, in that the Tribe’s claims arise under the Constitution and  
13 the laws of the United States;

14 (b) 28 U.S.C §1362 in that the Tribe is a federally recognized Tribe which asserts  
15 that defendants’ actions violate the Constitution and the laws of the United States;

16 (c) 28. U.S.C. §2201 and §2202, in that the Tribe seeks a declaration that it has  
17 the right and authority to restrain, detain, investigate violations of tribal, state, and federal laws  
18 by non-Indians on its Reservation, and to turn over or transport such non-Indians to the proper  
19 authorities, and injunctive relief preventing Defendants from future interference with the Tribe’s  
20 police authority over non-Indians on its Reservation.  
21

### 22 **VENUE**

23 7. Venue is proper in the Eastern District Court of California pursuant to 28 U.S.C.  
24 §1391(e) in that the Defendants and the Tribe reside in this District.

### 25 **PARTIES**

26 8. Plaintiff, the Bishop Paiute Tribe, is a federally recognized Indian Tribe. The Tribe’s  
27 Reservation is located in the Eastern Sierra and the County of Inyo. Its Reservation consists of  
28 875 acres of land located adjacent to the town of Bishop, California. The Tribe exercises powers

1 of self-government through its governing body, the Tribal Council, which consists of five (5)  
2 officers duly elected from the general tribal membership.

3 9. Defendant Inyo County is a political subdivision of the State of California and  
4 oversees public administration and the enforcement of state laws for a geographical area located  
5 on the eastern side of the Sierra Nevada Mountains of California. Inyo County sets the salary for  
6 the County Sheriff and District Attorney and has supervisory authority over their conduct and  
7 use of public funds.

8 10. Defendant, William ("Bill") Lutze is the duly elected Sheriff of Inyo County and a  
9 County Officer. Defendant Lutze is responsible for providing law enforcement within the County  
10 and oversees the Sheriff's Department and its officers. Defendant Lutze authorized the arrest  
11 warrant for Officer Johnson and authored, and transmitted, the "Cease and Desist Order" sent to  
12 the Tribe on January 5, 2015.

13 11. Defendant, Thomas Hardy, is the duly elected District Attorney of Inyo County and  
14 a County Officer. Defendant is responsible for all criminal prosecution within the County and  
15 oversees the District Attorney's Office and Assistant District Attorneys. Defendant filed the  
16 felony complaint against Officer Johnson and is currently the District Attorney prosecuting the  
17 case.

18  
19 **SUMMARY OF FACTS**  
20

21 12. The Tribe's Reservation consists of 875 acres and supports a population of 1796. In  
22 addition to home of Tribal Administration, the Reservation is home to the area's Indian health  
23 clinic, a tribal pre-school, the Tribal-TANF office, a tribal elder's facility, community center, and  
24 other tribal resource centers. Tribal enterprises on the Reservation includes a small to moderate  
25 sized gaming facility, min-mart gas station, and tribal lands leased to federal, state and tribal  
26 agencies. Through these forms of enterprises the Tribe has numerous non-Indians coming on to  
27 the Reservation for services and entertainment. The Tribe's gaming facility alone had 450,814  
28 patrons visit the Reservation.

13. The Tribe established a Tribal Police Department in 2009 with financial assistance through a federal Department of Justice Community Oriented Policing Services (COPS) grant. The Mission of the Police Department is:

TO ENSURE THE SAFETY OF OUR TRIBAL MEMBERS, THEIR FAMILIES, THEIR GUESTS AND OUR COMMUNITY NEIGHBORS. WE WILL STRIVE TO PREVENT CRIME, PRESERVE THE PEACE, AND PROTECT OUR LANDS AND HERITAGE. WITHOUT FAVOR OF PREJUDICE WORK COOPERATIVELY WITH OTHER PUBLIC SAFETY AGENCIES TO PROVIDE A SAFE COMMUNITY AND STRIVE TO ENHANCE OUR QUALITY OF LIFE. WE WILL, THROUGH FAIR AND IMPARTIAL LAW ENFORCEMENT, ENSURE THE RIGHTS OF ALL PEOPLE AS PROVIDED BY THE CONSTITUTION OF THE UNITED STATES OF AMERICA AND THE INDIAN CIVIL RIGHTS ACT. (Exhibit 4)

14. The Tribal Police Department began small but has evolved over time since the establishment of the Bishop Paiute Tribal Court and adoption of tribal laws to address public safety needs of the community. In December 2012, the Tribal Police Department acquired a professional, Law Enforcement Report Writing Software Program that allowed them to start collecting, more accurate, data. This data is used to show that the Tribal Police Department is an active force on the Reservation. In 2012, Tribal Police had approximately 500 responses. The combined responses for 2013 and 2014 was 469 with 340 resulting in reports. (Exhibit 5) Many of these responses were in conjunction with the Inyo County Sheriff's Department and Probation Department, as well as, off-Reservation responses to emergencies, such as in traffic control for fires in the town of Bishop and brush fire near the town of Big Pine.

15. Enforcement of tribal law is within the sole jurisdiction of the Tribe's Police Department. The Tribe's laws are all civil and it does not currently exercise criminal jurisdiction. Among others, the Tribe has enacted a: Nuisance Ordinance NO. 2000-03; Trespass Ordinance NO. 2000-2; and Tribal Public Safety Ordinance NO. 2009-01. (Exhibit 6, 7, and 8).

1 The Tribal Public Safety Ordinance, Section 201, authorizes the Tribal Court to issue, and  
2 thereafter enforce, “protective orders for the purposes of preventing violent or threatening acts,  
3 harassment, or sexual violence involving Tribal community members.” In addition, Section 202  
4 provides that the Tribal Court may give full faith and credit to valid protective orders issued by a  
5 state or tribal court and enforce such orders “as if it were order of the of tribe.” Such full faith  
6 and credit of state protective orders and the enforcement of such orders is also authorized under  
7 federal law at 18 U.S.C. §§2265 and 2266.  
8

9 16. The Tribe employs three Officers and a Chief of Police, who is a tribal member.  
10 Tribal officer qualifications require at least two years of law enforcement experience and a  
11 certification of completion from a Police Officer Standards & Training<sup>1</sup> (POST) state or federal  
12 training institution or agency. (Exhibit 9). In addition Officers are required to have knowledge  
13 of 18 U.S.C § 1662 and 28 U.S.C. § 1360 (common known as “Public Law 280”) and basic  
14 federal Indian law. All applicants are subject to a pre-employment screening that includes  
15 verification of past employment, education, certifications from other agencies, criminal  
16 background check, credit checks, review of prior agency screenings and adjudication and a U.S.  
17 Department of Justice background check. A member of the Inyo County Sheriff’s Department  
18 and Bishop Police Department often sit in on the interviewing panel for the hiring of new tribal  
19 police officers, and did so when Officer Johnson was interviewed for his current position.  
20  
21

22 17. Specific to Officer Johnson, he has over 25 years of security and law enforcement  
23 experience. Officer Johnson is well-versed on Public Law 280 and federal Indian law, having  
24 worked as a tribal law enforcement officer for three tribes prior to joining the Bishop Police  
25 Department. Office Johnson graduated from the San Bernardino Valley College POST certified  
26  
27

28 <sup>1</sup> The requirements for a certified POST training course vary from state to state. In California a POST Regular Basic Course requires 664 hours covering 43 subject areas related to law enforcement.

academy in 1994 while a member of the California Army National Guard. (Exhibit 10) He also completed 13 weeks of the 18-week Arizona POST Police Academy, which prior to attending required he have a background clearance (verification of education, finger printed, polygraphed, and psychological testing.) Officer Johnson has continued training through the Advance Officer Training programs of Orange County and San Bernardino County Sheriffs' Departments and other training facilities and agencies.<sup>2</sup> Officer Johnson holds a "Carry Concealed Weapon" permit from Nevada and Arizona. (Exhibit 11) He also holds a California Security Guard card and permits for an Exposed Firearm and Baton from the Bureau of Security & Investigative Services. (Exhibit 12) Officer Johnson has also completed the San Bernardino County Sheriff's Firearms Instructor course and has acted as a firearm instructor. Officer Johnson has also received four hours of "Taser Use" training from the San Bernardino County Sheriff's Department. (Exhibit 13)

18. Bishop Tribal Police duties include patrolling the Reservation, enforcing tribal ordinances, conducting investigations, preparing reports, testifying in Tribal and State Court when necessary, and other general law enforcement functions.

19. Tribal police are also required to interact with local law enforcement when incidents arise on the Reservation involving criminal acts by persons who need to be arrested and taken into custody, *including non-Indians*. The "Bishop Tribal Police Department, Policy and Procedures," Department General Order, 3.1 Detentions, addresses detention of individuals for investigation and releasing to outside law enforcement. Per the Order 3.1, a tribal officer has the

<sup>2</sup> Riverside Community College Penal Code (P.C.) 832 training on: Arrest and Firearms; Powers of Arrest; and Firearms Familiarization and Safety; Rio Hondo College POST Recertification-Basic Course; Orange County Sheriff-Coroner Department training on: (POST) Basic Course Recertification; Laser Firearm Training; Tactical Firearms Update; San Bernardino County Sheriff's Department POST courses on: Campus Law Enforcement; Basic Driving Training; Hostage Situations; Advanced Subject Contacts; Dealing with Informants; Clandestine Laboratory Safety; Search Warrants; ID, Collections & Preservation of Evidence; Drug Influence Recognition; LERT; Defensive Tactic Instructors Course; PC 832 Firearms; PC 832 Power of Arrest; and Level III Modular Format Training. (Exhibit 14 multiple documents)

1 responsibility when arriving on scene, before outside law enforcement arrives or for the purpose  
2 of conducting an investigation for violations of Tribal Law and Ordinances, to detain the  
3 suspected violator. In addition, 3.1 provides that a tribal officer may need to detain an individual  
4 in order to: secure the scene; prevent the suspect from leaving the scene; and/or for officer or  
5 public safety. In cases of detention, the tribal police officer is to notify the Tribal Chief of Police  
6 and the Sheriff's Department. Non-Indians suspected of violating state law should be, as soon as  
7 possible, turned over to outside law enforcement. (Exhibit 15)  
8

9 20. Department General Order, 3.1 further addresses securing a detained person. A tribal  
10 officer may handcuff the detained person, check for spacing with a minimum of two fingers to  
11 avoid injury and secure the detained person in the custody area of the officer's police vehicle.  
12 This policy ensures officer safety, the safety of the detained person, and the public. The officer is  
13 also instructed to conduct a search of the detained person for weapons. Reasonable force may be  
14 used to detain the person if necessary to: conduct an investigation, while enforcing tribal law, to  
15 overcome resistance or the threat of resistance or prevent an unlawful attack. Finally, any person  
16 detained and that has been determined to have violated California criminal law, shall be turned  
17 over to outside law enforcement as required by policy and existing case law. (Id.)  
18  
19

20 21. On December 24, 2014, Officer Johnson received an on-Reservation call from a  
21 tribal member reporting that his non-Indian ex-wife was violating the member's Tribal and State  
22 Protective Order by being at his home and causing a disturbance. Officer Johnson, while in route  
23 to the tribal member's home, notified the sheriff's dispatch of the tribal member's address and  
24 nature of the call. (Exhibit 16)  
25

26 22. The non-Indian in question is well known to both tribal and local law enforcement.  
27 During a 9-month-period in 2014, tribal police responded to 11 calls involving the suspect.  
28



1 Seven of these calls involved joint responses with the sheriff's department and 2 of the incidents  
2 resulted in her arrest by the sheriff for violation of a State Protective Order. (Id.) Officer  
3 Johnson was the tribal officer involved in 8 of the 11 calls involving the suspect and cited her 4  
4 times for violation of any active Tribal Protective Orders.

5 23. Officer Johnson, with prior experience with suspect, arrived at the scene in a marked  
6 Tribal Police Patrol vehicle and wearing a tribal police uniform. As he approached the suspect in  
7 her vehicle, he identified himself as "Tribal Police." After informing the suspect that she was not  
8 allowed to be at the tribal member's home by order of both the Tribal and State courts, the  
9 suspect became angry, verbally abusive, and insisted that she had a right to be at the home to  
10 visit her son. Officer Johnson informed the suspect that he was going to detain her for actively  
11 violating the state Protective Order and she would be cited for violating the tribal Protective  
12 Order, and for Trespass and Nuisance. (Id.)

13 24. Officer Johnson repeatedly ordered the suspect out of her vehicle but she resisted  
14 and continued to yell that she had the right to see her son. As Officer Johnson tried to remove her  
15 from the vehicle, she began kicking at Officer Johnson making contact with his left inner thigh.  
16 (Id.) At this point, Officer Johnson removed his Taser and placed it in "Drive Stun" mode. In  
17 implementing his duties, Officer Johnson warned the suspect that he would deploy his Taser if  
18 she refused to exit the vehicle. The suspect remained defiant and Officer Johnson applied his  
19 Taser. Having no effect on the suspect, Officer Johnson again warned the suspect that he would  
20 use the Taser if she did not exit the vehicle. The suspect again refused and Officer Johnson again  
21 applied his Taser in "Drive Stun" mode. This exchange occurred one additional time with the  
22 suspect still refusing to obey Officer Johnson. (Id.)

1 25. Moments later, an Inyo County Sheriff's deputy arrived and immediately  
2 encountered several family members who had gathered outside the home and were verbally  
3 abusive toward Officer Johnson. The deputy attempted to calm the situation and have people  
4 return to the house. He was met with resistance from certain family members who were shouting  
5 and acting in a threatening manner. The deputy at this time requested assistance from the Bishop  
6 Police Department due to the fact that he and Officer Johnson were outnumbered and the  
7 hostility of the suspect and family members. (Exhibit 17)  
8

9 27. Officer Johnson finally gained control of the suspect's left arm and was able to  
10 remove her from the vehicle. The deputy assisted by taking hold of the suspect's right arm as  
11 Officer Johnson took the suspect to the ground. While on the ground the deputy placed the  
12 suspect's right arm behind her back and Officer Johnson proceeded to handcuff her. Family  
13 members were again yelling and became hostile toward the deputy and Officer Johnson, and the  
14 deputy feared they would attack them. The deputy pointed his department issued Oleoresin  
15 Capsicum (pepper) spray toward two interfering onlookers, who finally retreated, while Officer  
16 Johnson placed the suspect in his patrol car. (Id.)  
17  
18

19 28. At this time, a County Sheriff's Department Acting Lieutenant and Detective, and a  
20 Bishop City Police Detective arrived at the scene. The deputy proceeded to conduct an  
21 investigation and ran an automated records check through dispatch and determined that the  
22 suspect had an active restraining order against her and was also actively on probation with terms  
23 and conditions not to contact her tribal member ex-husband. Based upon discussions with the  
24 suspect's ex-husband, who did not want to see the suspect arrested, but only to leave his  
25 property, the sheriff officers did not arrest the suspect. The deputy informed the suspect that he  
26  
27  
28

1 would be referring charges to the Inyo County Probation Department. Officer Johnson cited the  
2 suspect with Trespass, Nuisance and violating the tribal and state Protective Orders. (Id.)

3 29. Before leaving the scene the deputy asked the suspect if she was injured as he  
4 noticed a small abrasion on a toe of her left foot. The suspect complained of injury to her  
5 abdominal area, and revealed her stomach to the deputy, who observed a slight redness. Officer  
6 Johnson asked the suspect if she wanted an ambulance to respond, but she refused medical aid.  
7 The suspect was then released without further incident. (Id.)  
8

9 30. The following week, the Sheriff's Department conducted an investigation on the  
10 December 24, 2014 incident and submitted it to the District Attorney's office. On January 5,  
11 2015 a Felony Complaint was filed by Defendant Hardy in the Inyo County Superior Court  
12 charging Officer Johnson with three felonies and one misdemeanor.  
13

14 31. On January 6, 2005, Defendant Lutze issued a "Cease and Desist Order" to the Tribe  
15 ordering all Tribal Police to cease and desist enforcement of California Statutes and possessing  
16 firearms outside of tribal property. The letter accuses tribal officers of exercising "state police  
17 powers under the color of authority of Bishop Paiute tribal law..." and emphasizes that Tribal  
18 Police have no legal authority to enforce any state or federal laws *on or off the reservation* and  
19 have only the rights of "private citizens."  
20

21 32. The Tribe responded to Defendant Lutze's letter/order assuring the Defendant that  
22 its Police Officers would not exercise state police authority (which they already did not exercise)  
23 and only carrying their firearms off Reservation coming to and from work and when their patrol  
24 on Reservation requires them to cross State Hwy 168 and when traveling on U.S. Highway 395.  
25 As for exposing their firearms off reservation, the Tribe would caution its Officers to only  
26 expose their firearms within the legal limits of applicable state law.  
27  
28

33. At this time the criminal case against Officer Johnson is moving forward and he is on desk duty unable to perform his regular duties until the criminal case against him has been resolved.

### **CAUSE OF ACTION**

34. The Tribe realleges each of the allegations set forth in paragraphs 1-33 above and by this reference, incorporates each such allegation herein as if set forth in full.

35. Federal law establishes that tribes, as sovereign governments, have inherent authority to establish their own laws and to enforce those laws on tribal lands. *Williams v. Lee*, 358 U.S. 217 (1959). Tribal inherent authority includes the right to establish a tribal police department and employ tribal law enforcement officers to enforce its laws. *Ortiz-Barraza v. United States*, 512 F.2d 1176 (1975); *Walker v. Rushing*, 898 F.2d 672 (8<sup>th</sup> Cir. 1990); *Cabazon Band of Mission Indians v. Smith*, 34 F. Supp.2d 1195 (Cal. C.D. 1998). However, federal law has defined a tribe's civil and criminal authority over non-Indians.

36. Ruling on a tribe's civil jurisdiction over non-Indians on fee lands within the boundaries of an Indian reservation, the Supreme Court found that there was not jurisdiction with two exceptions: (1) the non-member has entered into consensual relationships with tribe or its members by commercial dealings; or (2) the non-Indian's conduct threatens or directly affects the "political integrity, the economic security, or the health or welfare of the tribe." *Montana v. United States*, 450 U.S. 544, 565-66 (1981). The *Montana* test, as it is commonly referred to, has been expanded to include non-Indian conduct on tribal lands within the reservation. *Nevada v. Hicks*, 533 U.S. 353, 360 (2001)(finding that the tribal court did not have jurisdiction over tribal member's civil rights action over state game wardens who executed a search warrant of the

1 member's residence on tribal trust land. "The ownership status of land, in other words, is only  
2 one factor to consider in determining whether regulations of activities of nonmembers is  
3 'necessary to protect tribal self-government or control internal affairs'"

4  
5 The Supreme Court has also spoke on a tribe's criminal authority over non-Indians. In  
6 *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191 (1978) the Court held a tribe has no criminal  
7 jurisdiction to "try and punish" a non-Indian.<sup>3</sup>

8  
9 37. Within this federal jurisdictional framework, the Supreme Court has held that no  
10 person is free to act without impunity on tribal lands and that:

11 Tribal law enforcement authorities have the power to *restrain* those who disturb public  
12 order on the reservation, and if necessary, to eject them. Where jurisdiction to try and  
13 punish an offender rests outside the tribe, tribal officers may exercise their power to  
14 *detain* the offender and transport him to the proper authorities." *Duro v. Reina*, 495 U.S.  
15 676, 697 (1990) (Emphasis added).

16 38. The Court's holding in *Duro* is consistent with lower federal court and state court  
17 holdings on the authority of tribal law enforcement to restrain and detain non-Indians, to  
18 investigate possible violations of tribal, state, or federal law, and to transport or deliver up such  
19 non-Indian violators to the proper authorities. In *Ortiz-Barraza v. United States*, 512 F. 2d 1176  
20 (9<sup>th</sup> Cir. 1975), the court found that the Papago tribal police officer's stopping, detaining and  
21 searching on the reservation of a non-Indian, which uncovering illegal drugs, within the tribe's  
22 authority and the search and seizure was reasonable. Finding specifically, "The power of the  
23 Papago to exclude non-Indians state and federal violators from the reservation would be

24  
25  
26 <sup>3</sup> The Supreme Court extended this limitation on tribal criminal jurisdiction to non-member Indians in *Duro v.*  
27 *Reina*, 495 U.S. 676 (1990). Congress responded to *Duro* by amending the Indian Civil Rights Act, 25 U.S.C. §  
28 1301(2) and recognized and affirmed the "inherent power of Indian tribes exercise criminal jurisdiction" over non-  
members Indians. *United States v. Lara*, 541 U.S. 193, 198 (2004)

1 meaningless were tribal police not empowered to investigate such violators.” *Ortiz-Barraza v.*  
2 *United States*, 512 F. 2d at 1180.

3 39. The same court found that Tohono O’odham tribal rangers acted as tribal agents, and  
4 not as private citizens, when they stopped and detained, in the back of their ranger vehicle, a  
5 non-Indian on the reservation and discovered 20 illegal aliens in the non-Indian’s van. *United*  
6 *States v. Becerra-Garcia*, 397 F. 3d. 1167, (9<sup>th</sup> Cir. 2005). The 8<sup>th</sup> Circuit has similarly held that  
7 the stopping and transporting of a non-Indian violator of state law (Driving Under the Influence  
8 (DUI)) on the reservation and detaining him over night at the tribal police station was reasonable  
9 under the circumstances and in response to the local law enforcement officer’s request.  
10

11 40. Also instructive is the Supreme Court of Washington case of *State of Washington v.*  
12 *Schmuck*, 850 P. 2d 1332 (1993). Although not controlling, *Schmuck* has been cited with  
13 approval by the Supreme Court in *Strate v. A-1 Contractors*, 520 U.S. 438 (1997). The court in  
14 *Schmuck*, relying in part on *Ortiz-Barraza v. United States*, found that a Suquamish Tribal Police  
15 Officer had the *inherent authority* to stop, restrain, and investigate a non-Indian on the  
16 reservation suspected of violating state (DUI) and tribal law and to detain the non-Indian for  
17 state authorities to charge and prosecute the non-Indian. *State of Washington v. Schmuck*, 850 P.  
18 2d 1332 (1993) The court relied upon the practical and unrealistic outcome if the tribal officers  
19 were not empowered to take such actions against a non-Indian violating state law on the  
20 reservation.  
21  
22  
23

24 In this case, if the Suquamish Indian Tribe did not have the authority to detain, Schmuck  
25 would have been free to drive away with an alcohol level exceeding the limit for legal  
26 intoxication. In the 20 minutes that it took for Trooper Clark to respond, Schmuck could  
27 have easily caused extensive property damage or seriously injured other motorists. He  
28 could have also left the Reservation and eluded capture by the State Patrol.” *State of*  
*Washington v. Schmuck*, 850 P. 2d at 1342

1 The court in *Schmuck* also took note of the New Mexico Court of Appeals holding in *State v.*  
2 *Ryder*, 649 P. 2d 756 (1982) that:

3 To hold that an Indian police officer may stop offenders but upon determining they are  
4 non-Indians must let them go would be to subvert a substantial function of Indian police  
5 authorities and produce a ludicrous state of affairs which would permit non-Indians to act  
6 unlawfully, with impunity on Indian lands.” *State v. Ryder*, 649 P. 2d at 759.

7 42. The Defendants’ arrest and charging of Tribal Officer Johnson for restraining—with  
8 assistance, and in coordination with Defendant’s Lutze’s own officer—a non-Indian violator of  
9 state and tribal law on the Reservation, and detaining her for charging and prosecution by  
10 Defendants, violates federal common law.

11 43. Defendants’ threat of future arrests and charging of the Tribe’s officers for carrying  
12 out their lawful and duly authorized power, is a direct, and immediate interference, with the  
13 Tribe’s sovereign authority to provide public safety on its Reservation.

14  
15 **PRAYER FOR RELIEF**

16 Pursuant to the forgoing, the Tribe prays the Court grant the following relief:

17 44. A declaration that Defendants’ actions of arresting and charging Tribal Officer  
18 Johnson and future threat of criminal prosecution of the Tribe’s police officers, violates federal  
19 common law and directly interferes with the Tribe’s inherent authority to maintain a police  
20 department and protect public safety on its Reservation.

21 45. A declaration that the Tribe’s police officers have the authority on its Reservation to  
22 stop, restrain, investigate violations of tribal, state, and federal law, detain, and transport or  
23 deliver a non-Indian violator to the proper authorities. By carrying out these federally authorized  
24 actions, the Tribe’s duly authorized law enforcement officers are not impersonating a state  
25 officer nor is their restraint, investigation and detention of a non-Indian, in compliance with  
26  
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1 provisions of the Indian Civil Rights Act, an “arrest” for purposes of a state criminal charge of  
2 false imprisonment.

3 46. The Defendants be enjoined from arresting and criminally charging the Tribe’s duly  
4 authorized police officers, acting in compliance with the Indian Civil Rights Act, for carrying out  
5 their duties as clearly delineated under tribal and federal law, or otherwise interfering and  
6 threatening tribal officers while executing their duty.  
7

8 47. Any and all further relief as deemed appropriate by the Court.

9 48. Attorney fees and costs.  
10

11 DATE March 6, 2015

CALIFORNIA INDIAN LEGAL SERVICES


12  
13  
14  
15 By: /s/ Dorothy Alther  
Dorothy Alther

16  
17 /s/ Jasmine Andreas

18 Jasmine Andreas  
19 Attorneys for the Plaintiff  
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# EXHIBIT 1

<b>SUPERIOR COURT OF CALIFORNIA</b> <b>COUNTY OF INYO</b> <b>BISHOP BRANCH</b> <b>301 WEST LINE STREET</b> <b>BISHOP, CALIFORNIA 93614 (760) 872-3038</b>		<b>FOR COURT USE ONLY</b>   
PEOPLE OF THE STATE OF CALIFORNIA vs. RESPONDENT/DEFENDANT: DANIEL JOHNSON		
<b>ARREST WARRANT ISSUED</b>		
		CASE NUMBER: CR-F -15-0057537

RESIDENCE ADDRESS: 289 YANEY #23  
BISHOP, CA 93514

☐ MISDEMEANOR ☒ FELONY

SEX HAIR EYES HT WT RACE CITATION NO  
 M BLN BLU 5ft11in 220

BIRTHDATE: 11/19/71 OPERATORS LICENSE NO: U5052491 CA

THE PEOPLE OF THE STATE OF CALIFORNIA, TO ANY PEACE OFFICER OF THIS STATE:

The above named and described defendant was convicted in this court of the offenses set forth below; OR an order was issued; OR an accusation was filed charging the defendant with the offense set forth below and the above named defendant subsequently failed to obey the order of the court or other requirements of law to wit:

CODE	SECTION	DESCRIPTION	VIOLATION DATE
PC	244.5(B)	ASSAULT W/STUN GUN/T	12/24/2014
PC	236	FALSE IMPRISONMENT	12/24/2014
PC	146A(B)	IMP PUB OFF/INV 94	12/24/2014
PO	242/243(A)	BATTERY-MISD	12/24/2014
PC	1465.8(a)(1)	COURT OPER ASSMNT	12/24/2014
PC	1465.8(a)(1)	COURT OPER ASSMNT	12/24/2014
PC	1465.8(a)(1)	COURT OPER ASSMNT	12/24/2014
PC	1465.8(a)(1)	COURT OPER ASSMNT	12/24/2014

☐ Failed to Appear in Court  
☐ Failed to Pay Fine  
☐ Violated Terms of Probation  
☒ Nationwide Level II (If Checked)

YOU ARE ORDERED TO ARREST THE DEFENDANT FORTHWITH AND BRING HIM BEFORE ME, OR IN THE CASE OF MY ABSENCE OR INABILITY TO ACT, BEFORE THE NEAREST OR MOST ACCESSIBLE JUDGE IN THIS COUNTY.

BAIL: \$25,000.00

☐ NO OR  
☐ NO CITATION  
☐ MANDATORY APPEARANCE REQUIRED  
☐ DEFENDANT IS TO BE ADMITTED TO BAIL  
☐ DEFENDANT MAY BE RELEASED ON SIGNED PROMISE TO APPEAR  
☐ BAIL MAY BE FORFEITED IF CASH


WARRANT RELEASED TO: INYO COUNTY SUPERIOR COURT

WARRANT NUMBER: AW 13814


DATE: JANUARY 5, 2015 AT 12:01 PM

AT BISHOP, INYO COUNTY, CALIFORNIA

For good cause shown, I direct this warrant be served at night.

  
 (SIGNATURE OF JUDGE) BRIAN J.

JUDGE, INYO COUNTY SUPERIOR COURT

  
 (SIGNATURE OF JUDGE)



SET APPEARANCE DATE ON ADMISSION TO BAIL/OR AS SCHEDULED TO ALLOW SUFFICIENT TIME FOR THE COURT TO RECEIVE BOTH WARRANT AND BAIL BEFOREHAND.

# EXHIBIT 2

**FILED**

JAN 05 2015

**Thomas L. Hardy**  
**DISTRICT ATTORNEY, COUNTY OF INYO**

INYO CO. SUPERIOR COURT  
 BY TAMMY L. GRIMM, CLERK  
 DEPUTY

☒ **230 WEST LINE STREET**  
**BISHOP, CALIFORNIA 93514**

☐ **168 NORTH EDWARDS, DRAWER D**  
**INDEPENDENCE, CALIFORNIA 93526**

D.A. #N27362

Attorney for Plaintiff

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF INYO**

THE PEOPLE OF THE STATE OF CALIFORNIA,

No. MBCRF-15-57537

Plaintiff,

**COMPLAINT**  
**FELONY**

vs.

DANIEL JOHNSON,

Defendant

The undersigned, verifying upon information and belief, complains that in the County of Inyo, State of California, the defendant did commit the following crime(s):

**COUNT 1**

On or about the 24th day of December, 2014, said **DANIEL JOHNSON** did commit a **FELONY**, namely, violation of Section 244.5(b) of the Penal Code of the State of California, in that said Defendant did willfully and unlawfully assault ANDRI JOY NAPOLES with a stun gun and less lethal weapon as defined in Penal Code section 12601.

**COUNT 2**

On or about the 24th day of December, 2014, said **DANIEL JOHNSON** did commit a **FELONY**, namely, violation of Section 236 of the Penal Code of the State of California, in that said Defendant did unlawfully violate the personal liberty of ANDRI JOY NAPOLES, said violation being effected by violence, menace, fraud, and deceit.

**COUNT 3**

On or about the 24th day of December, 2014, said **DANIEL JOHNSON** did commit a **FELONY**, namely, violation of Section 146a(b) of the Penal Code of the State of California, in that said Defendant did unlawfully and falsely represent himself or herself to be a public officer, investigator and inspector in a state department and, in that assumed character, did the following: (1) Arrested, detained and threatened to arrest and detain a person and (2) Intimidated a person and (3) Searched a person, building and other property of a person and (4) Obtained money, property and thing of value.

**COUNT 4**

On or about the 24th day of December, 2014, said **DANIEL JOHNSON** did commit a **MISDEMEANOR**, namely, violation of Section 242/243(a) of the Penal Code of the State of California, in that said Defendant did willfully and unlawfully use force and violence upon the person of **ANDRI JOY NAPOLES**, thereby violating Section 242/243(a) of the Penal Code, a Misdemeanor.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 02, 2015 at Bishop, California.

  
THOMAS L. HARDY  
DISTRICT ATTORNEY

**DISCOVERY REQUEST**

Pursuant to Penal Code Section, 1054.5(b), the People are hereby informally requesting that defendant's counsel provide discovery to the People as required by Penal Code Section 1054.3.

# EXHIBIT 3

**OFFICE OF THE**  
**SHERIFF**  
**INYO COUNTY, CA**



**WILLIAM R. LUTZE**  
**SHERIFF**

**JEFF HOLLOWELL**  
**UNDERSHERIFF**

*"A Professional Service Agency"*

**CEASE AND DESIST ORDER**  
*Pursuant to California Penal Code § 830.1*

January 6, 2015

Deston Rogers, Police Chief  
Bishop Paiute Tribal Police Department  
50 TU SU Lane  
Bishop, CA 93514

Dear Chief Rogers:

The Inyo County Sheriff's Office ("Office"), by way of this official correspondence, is notifying the Bishop Paiute Tribal Police Department ("Tribal Police") that its officers are continuously committing serious violations of California criminal statutes and that these actions have seriously endangered the public welfare both within and outside tribal territory. Accordingly, Tribal Police is hereby ordered to

**CEASE AND DESIST ALL LAW ENFORCEMENT OF CALIFORNIA STATUTES**

This Office has repeatedly given notice to Tribal Police that its officers have been illegally exercising state police powers under the color of authority of Bishop Paiute tribal law, notwithstanding applicable federal law. Significantly, this Office is responding to increasing official and public complaints regarding Tribal Police misconduct. This correspondence cannot overly re-emphasize to Tribal Police that its employees are NOT California peace officers and also are NOT federal officers. As such Tribal Police officers do NOT have any legal authority, notwithstanding Bishop Paiute tribal authority, to enforce any state or federal laws within or outside tribal property. Regardless of their motives or intentions, Tribal Police officers have only the same rights as private citizens.

Alarming, Tribal Police officers have been employing unlawful force on subjects during the unlawful exercise of authority. Aside from the obvious danger to the public, such misconduct has severely compromised the officer safety of this Office's personnel as well as case investigations and prosecutions. The following documented instances of illegal exercises of law enforcement authority by Tribal Police include, but are not



Deston Rogers, Chief  
January 6, 2015  
Page 2

limited to:

- *Unlawful operation of emergency vehicles off tribal property*
- *Violations of the California Vehicle Code*
- *Illegal detentions*
- *False arrests*
- *Battery (both felony and misdemeanor)*
- *Illegal home entries*
- *Illegal searches of persons and property*
- *Possession of firearms in public* (per H.R. 218 "Law Enforcement Officers Safety Act", Tribal Police officers are not authorized to possess firearms outside tribal property)

The most serious incident recently occurred on December 24, 2014 during which Tribal Police Officer Daniel Johnson arrested a female for an alleged trespass on tribal land and violation of a state restraining order. Rather than waiting for the imminent arrival of a deputy sheriff, Officer Johnson unnecessarily provoked a violent confrontation with the female subject. During Officer Johnson's attempt to arrest the female, he committed felony battery when he "Tasered" the unarmed female whom he outweighed by over 100 pounds (the female's approximate weight: 120 pounds). Without any justification, he then dragged her out of her vehicle, wrestled her to the ground, handcuffed her, and restrained her inside his Tribal Police vehicle. The female was injured and required medical attention. Consequently, Officer Johnson's actions resulted in his arrest.

As seriously, if not more so, Tribal Police Officer Johnson's illegal and reckless conduct severely jeopardized the safety of the deputy sheriff who had responded to the scene.

This Office has always enjoyed a cooperative professional relationship with Tribal Police which has benefited the community. This Office has also repeatedly extended its assistance to Tribal Police in its efforts to attain peace officer status for its officers which would further benefit the community. For whatever reasons, these efforts have been ignored as have the warnings detailed in this correspondence.

Therefore, this Office orders that Tribal Police immediately (A) cease and desist the unlawful exercise of California peace officer authority both within and outside tribal property and (B) cease and desist possessing firearms outside tribal property (e.g. court appearances) and (C) provide this office with prompt written assurance within ten (10) days that Tribal Police will cease and desist from further acts as explained in this correspondence.

If Tribal Police does not comply with this cease and desist order within this time period, be advised that Tribal Police employees will be subjected to **arrest and criminal prosecution** for applicable charges as well as Penal Code § 538d (Fraudulent Impersonation of a Peace Officer).

In addition, this Office will seek injunctive relief and an order for court costs and attorney's fees. Tribal Police criminal and civil liability, both individually and collectively, could be considerable, not to mention the liability exposure to victims of Tribal Police misconduct.

Nevertheless, this Office strongly believes that Tribal Police, in achieving federal law enforcement certification, would significantly compliment both our agencies' abilities in serving tribal law enforcement interests. This Office reiterates its commitment towards this important goal and extends every resource to Tribal Police in its



Deston Rogers, Chief  
January 6, 2015  
Page 3

efforts towards that goal. This would be a crucial development towards state law enforcement certification as well.

The commencement and significance of this action has received the utmost consideration with the concurrence of all local enforcement authorities and was necessitated by the escalating seriousness of Tribal Police misconduct which cannot be allowed to continue to endanger the public welfare. Protection of the public, including tribal residents, is ultimately the responsibility of the Office of the Sheriff of Inyo County and must be met.

Respectfully,



William R. Lutze, Sheriff

cc: Thomas Hardy, District Attorney, Inyo County  
Chris Carter, Chief, City of Bishop Police Department  
Tim Noyes, Captain, California Highway Patrol  
Jeff Thomson, Chief Probation Officer, Inyo County

# EXHIBIT 4

<b>Bishop Tribal Police Department Policies and Procedures</b>			
DEPARTMENT GENERAL ORDER	ORIGIN: Chief of Police		
SUBJECT: Mission Statement	DATE:05-19-14	1.1	PAGE: 1 of 1

**PURPOSE:**

The purpose of this general order is to define and set forth the general philosophy and goals of the Bishop Tribal Police Department, relative to the operation of law enforcement services under the Tribe's inherent sovereign governmental authority.

**POLICY:**

“IT IS THE MISSION OF THE BISHOP PAIUTE TRIBAL POLICE DEPARTMENT TO ENSURE THE SAFETY OF OUR TRIBAL MEMBERS, THEIR FAMILIES, THEIR GUESTS AND OUR COMMUNITY NEIGHBORS. WE WILL STRIVE TO PREVENT CRIME, PRESERVE THE PEACE, AND PROTECT OUR LANDS AND HERITAGE. WITHOUT FAVOR OF PREJUDICE WORK COOPERATIVELY WITH OTHER PUBLIC SAFETY AGENCIES TO PROVIDE A SAFE COMMUNITY AND STRIVE TO ENHANCE OUR QUALITY OF LIFE. WE WILL, THROUGH FAIR AND IMPARTIAL LAW ENFORCEMENT, ENSURE THE RIGHTS OF ALL PEOPLE AS PROVIDED BY THE CONSTITUTION OF THE UNITED STATES OF AMERICA AND THE INDIAN CIVIL RIGHTS ACT.”

All Bishop Tribal Police Department's policies and procedures shall serve to support the overall mission.

# EXHIBIT 5



**Bishop Paiute  
Tribal Police Department**

**Report for 2012**

**\*The Tribal Police Departments main goal was to hire an additional officer in 2012. That goal was accomplished with the hiring of Officer Carl Big Man in May. Other accomplishments for the year include the establishment of the Tribal Police Department's own radio frequency, stronger communication and working relationships with other Law Enforcement Agencies, purchase of professional Law Enforcement Report Writing Software, and hosting a Law Enforcement Public Law 280 Training and Community Public Law 280 Training.**

**\*Our biggest grant efforts fell short in 2012 after being unsuccessful in being awarded a new CTAS Grant.**

**\*For the year, the Bishop Tribal Police Department had over 500 responses. These calls include security for special meetings, animal control calls and assisting other agencies (for example being called to assist with one of the Big Pine Fires).**

**\*The Inyo County Sheriff's Department had 973 responses to the Reservation and another 48 to the Gas Station and Casino for a total of 1021 calls. Combined with the Tribal Police Department stats, that's a total of over 1500 responses on the Reservation.**

**\*The Tribal Police Department established citations for use of Tribal Ordinance violations and revised the Tribe's Dog Ordinance.**

**\*For Halloween, the Tribal Police Department purchased reflective bags and distributed to tribal youth.**

**\*Trainings/meetings attended in 2012 included California Tribal Police Chiefs Meetings in San Diego, Sacramento and Ukiah, Criminal Jurisdiction in Indian Country, National Native American Law Enforcement Association Annual Meeting and Training, Basic Law Enforcement Crime Scene Photography, Drug Endangered Children, Public Law 280, and, Unified Command Meetings.**

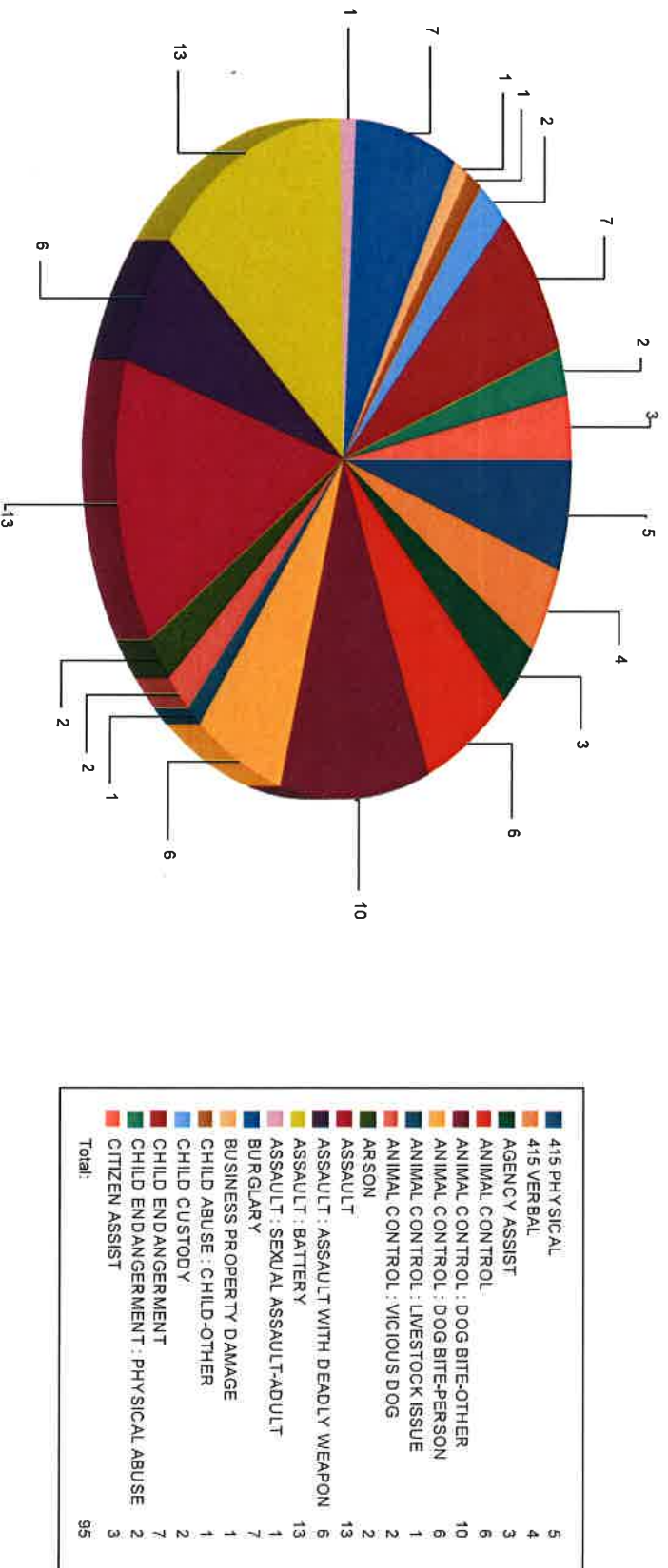
**End Report  
Deston Rogers  
Chief  
Bishop Tribal Police Department**

**Bishop Paiute Tribal Police**

Statistics from Occurred Date: 1/1/2013 12:00:00AM to 12/31/2014 11:59:00PM

Case Report

**Count of Incident Types**



415 PHYSICAL: 5 1%

## Case Report

415 VERBAL: 4 1%

AGENCY ASSIST: 3 1%

ANIMAL CONTROL: 6 1%

ANIMAL CONTROL: DOG BITE-OTHER: 10 2%

ANIMAL CONTROL: DOG BITE-PERSON: 6 1%

ANIMAL CONTROL: LIVESTOCK ISSUE: 1 0%

ANIMAL CONTROL: VICIOUS DOG: 2 0%

ARSON: 2 0%

ASSAULT: 13 3%

ASSAULT: ASSAULT WITH DEADLY WEAPON: 6 1%

ASSAULT: BATTERY: 13 3%

ASSAULT: SEXUAL ASSAULT-ADULT: 1 0%

BURGLARY: 7 2%

BUSINESS PROPERTY DAMAGE: 1 0%

CHILD ABUSE: CHILD-OTHER: 1 0%

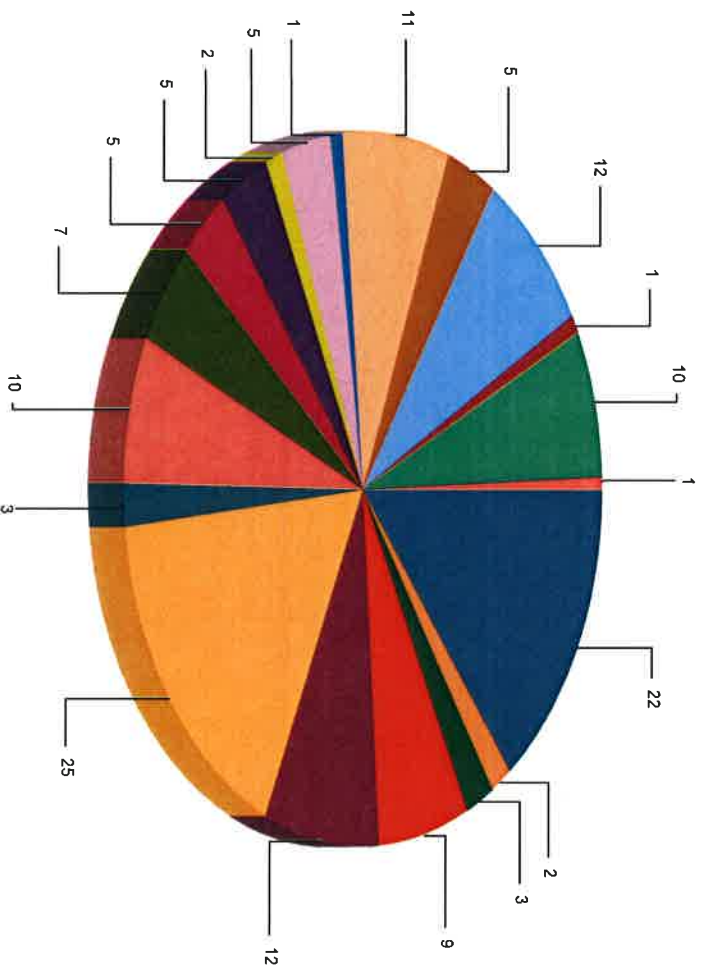
CHILD CUSTODY: 2 0%

CHILD ENDANGERMENT: 7 2%

CHILD ENDANGERMENT: PHYSICAL ABUSE: 2 0%

CITIZEN ASSIST: 3 1%

# Count of Incident Types



CIVIL ISSUE	22
DECEASED	2
DECEASED PERSON	3
DISORDERLY CONDUCT	9
DOMESTIC VIOLENCE-NON-PHYSICAL	12
DOMESTIC VIOLENCE-PHYSICAL	25
DRUGS	3
DRUGS : DRUG PARAPHERNALIA	10
DRUGS : DRUGS FOUND	7
DRUGS : DRUG-SALES	5
DRUGS : POSSESSION	5
FIRE	2
FRAUD	5
FRAUD : COUNTERFEIT BILL	1
HARASSMENT	11
HIT & RUN	5
INTOXICATED PERSON	12
MAYHEM	1
MEDICAL	10
NOISE COMPLAINT	1
Total:	151

CIVIL ISSUE: 22 5%

DECEASED: 2 0%

DECEASED PERSON: 3 1%

DISORDERLY CONDUCT: 9 2%

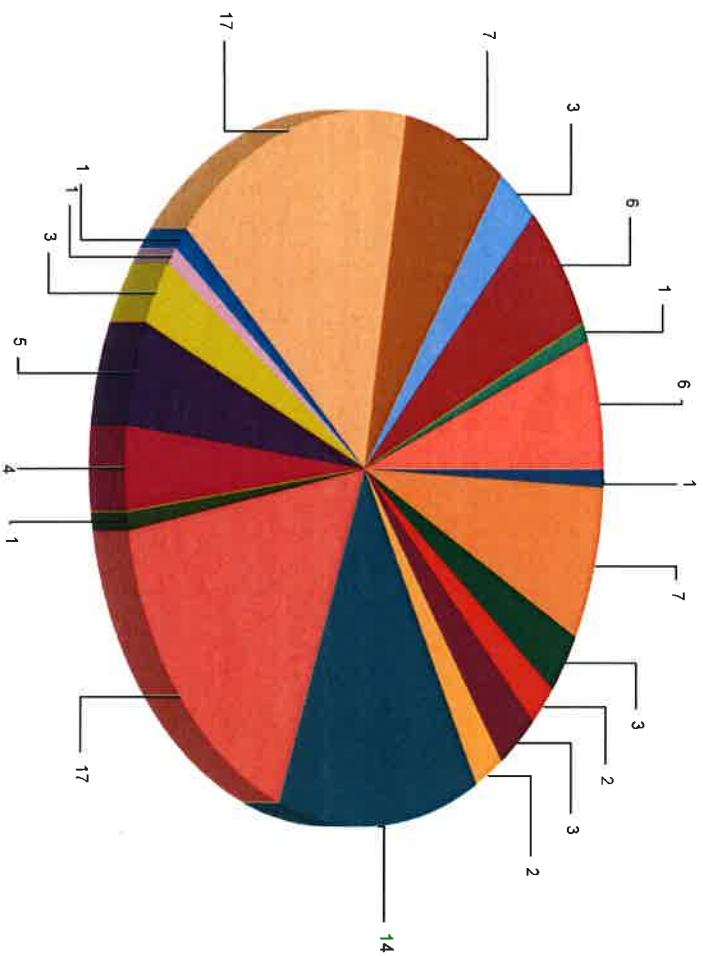


Case Report

DOMESTIC VIOLENCE-NON-PHYSICAL: 12 3%  
DOMESTIC VIOLENCE-PHYSICAL: 25 5%  
DRUGS: 3 1%  
DRUGS : DRUG PARAPHERNALIA: 10 2%  
DRUGS : DRUGS FOUND: 7 2%  
DRUGS : DRUG-SALES: 5 1%  
DRUGS : POSSESSION: 5 1%  
FIRE: 2 0%  
FRAUD: 5 1%  
FRAUD : COUNTERFEIT BILL: 1 0%  
HARASSMENT: 11 2%  
HIT & RUN: 5 1%  
INTOXICATED PERSON: 12 3%  
MAYHEM: 1 0%  
MEDICAL: 10 2%  
NOISE COMPLAINT: 1 0%

Case Report

# Count of Incident Types



NOISE COMPLAINT : ALCOHOL RELATED	1
NUISANCE	7
OBSTRUCTING	3
PAROLE VIOLATION	2
PARTY	3
PRIVATE PROPERTY DAMAGE	2
PROBATION VIOLATION	14
PUBLIC INTOXICATION	17
RESTRAINING ORDER VIOLATION	1
RESTRAINING ORDER VIOLATION : STATE	4
RESTRAINING ORDER VIOLATION : TRIBAL	5
RUNAWAY JUVENILE	3
STATE PAROLE VIOLATION	1
SUICIDAL SUBJECT	1
THEFT	17
THEFT : BY OTHER	7
THEFT : VEHICLE THEFT	3
THREATS	3
TRAFFIC : ACCIDENT-MAJOR	6
TRAFFIC : ACCIDENT-MINOR	1
Total:	104

NOISE COMPLAINT : ALCOHOL RELATED: 1 0%

NUISANCE: 7 2%

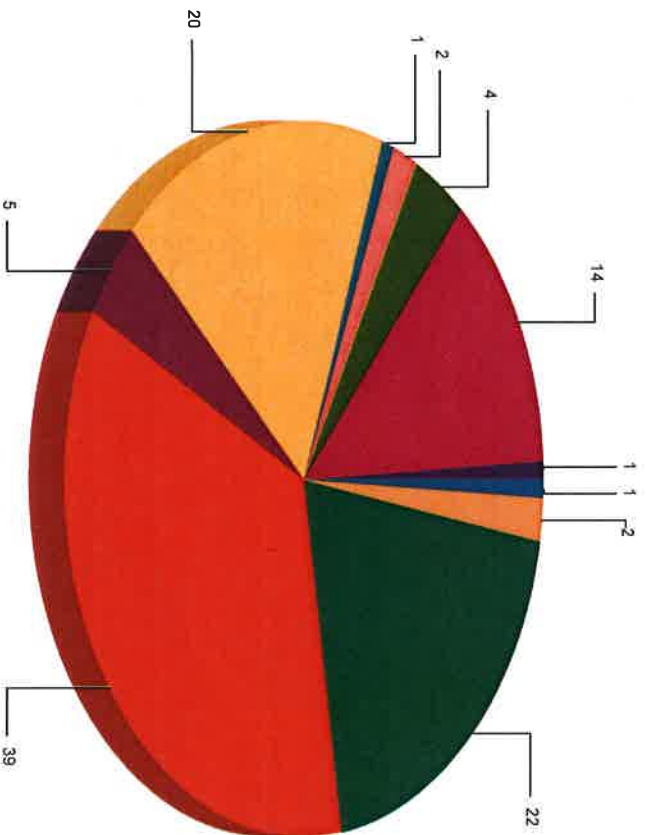
OBSTRUCTING: 3 1%

PAROLE VIOLATION: 2 0%

Case Report

PARTY :	3	1%
PRIVATE PROPERTY DAMAGE :	2	0%
PROBATION VIOLATION :	14	3%
PUBLIC INTOXICATION :	17	4%
RESTRAINING ORDER VIOLATION :	1	0%
RESTRAINING ORDER VIOLATION : STATE :	4	1%
RESTRAINING ORDER VIOLATION : TRIBAL :	5	1%
RUNAWAY JUVENILE :	3	1%
STATE PAROLE VIOLATION :	1	0%
SUICIDAL SUBJECT :	1	0%
THEFT :	17	4%
THEFT : BY OTHER :	7	2%
THEFT : VEHICLE THEFT :	3	1%
THREATS :	6	1%
TRAFFIC : ACCIDENT-MAJOR :	1	0%
TRAFFIC : ACCIDENT-MINOR :	6	1%

# Count of Incident Types



TRAFFIC : DUI-DRUGS	1
TRAFFIC : SPEEDING	2
TRAFFIC : TRESPASSING	22
VANDALISM	39
VERBAL ALTERCATION	5
WARRANTS	20
WARRANTS : WARRANT SERVICE	1
WEAPONS VIOLATION	2
WELFARE CHECK-ADULT	4
WELFARE CHECK-JUVENILE	14
WELFARE CONCERN-PROPERTY	1
Total:	111

TRAFFIC : DUI-DRUGS: 1 0%

TRAFFIC : SPEEDING: 2 0%

TRESPASSING: 22 5%

VANDALISM: 39 8%



Case Report

VERBAL ALTERCATION: 5 1%

WARRANTS: 20 4%

WARRANTS : WARRANT SERVICE: 1 0%

WEAPONS VIOLATION: 2 0%

WELFARE CHECK-ADULT: 4 1%

WELFARE CHECK-JUVENILE: 14 3%

WELFARE CONCERN-PROPERTY: 1 0%

Grand Total: 100.00% Total # of Incident Types Reported: 461

# EXHIBIT 6

**TRIBAL PUBLIC SAFETY ORDINANCE NO. 2009-01**

**TITLE I**

**FINDINGS; DECLARATIONS OF POLICY**

**101. Tribal Council Findings.** The Bishop Tribal Council (the "Tribal Council") is the federally recognized governing body for the Bishop Paiute Tribe (Tribe). After careful review, which has included input from the Tribal community, the Tribal Council has determined that there is an existing threat to the public safety and welfare of the tribal community since there is no Tribal judicial remedy available to enforce State or other Tribal protective orders. In addition, the Tribe does not have in place, judicial remedies to protect the Tribal community and or prevent violent or threatening acts, harassment, or sexual violence against Tribal community members.

It is the finding of the Tribal Council that there needs to be in place a judicial procedure by which the Tribal Court may issue appropriate protective orders in order to address/prevent violent or threatening acts, harassment, or sexual violence.

**102. Declarations of Policy.** It is the policy of this Public Safety Ordinance to promote the general health, safety, and welfare of all residents of the Bishop Paiute Reservation by authorizing through this ordinance the Bishop Tribal Court to issue protective orders for the purpose of preventing violent or threatening acts, harassment, or sexual violence.

It is also the policy of this Public Safety Ordinance to provide for the full faith and credit of other State or Tribal Courts who have issued valid protective orders and for the enforcement by the Bishop Paiute Tribe of such valid protective orders.

**TITLE II**

**201. Bishop Tribal Court Authorization to Issue Protective Orders.** The Bishop Paiute Tribal Court is hereby empowered/authorized to issue and thereafter enforce protective orders for the purposes of preventing violent or threatening acts, harassment, or sexual violence involving Tribal community members.

In addition to those equitable powers vested in the Tribal Court, the Tribal Court is given further grant of authority to order one or more of the following penalties within its discretion in order to obtain compliance of its orders/judgments:

- a. Suspension of selective Tribal services or all Tribal services being provided to the individual who is the subject matter of the Tribal Courts orders/judgments as within the discretion of the Tribal Court.
- b. Suspension of eligibility for participation in Tribal programs.
- c. Suspension of eligibility to receive Tribal per capita payments or the use of such per capita payments as directed by the Tribal Council to satisfy any and all outstanding orders or judgments of the Tribal Court.

Once the individual who is the subject matter of the Tribal Court's orders/ judgments is in compliance with the appropriate Tribal Court order judgment, the Court will order that any and all of the above remedies as set out shall no longer be in effect and the individual will be reinstated if then eligible for either Tribal services, Tribal programs or Tribal per capita payments.

The Bishop Tribal Court is also empowered, authorized and directed to prepare and publish court rules establishing the procedures by which protective orders shall be issued and enforced. Such court rules shall provide at a minimum that the party or parties who are the subject of any and all protective orders are given reasonable notice and opportunity to be heard, sufficient to protect his or her due process rights.

If the protective order is issued ex parte, notice and opportunity to be heard must be provided within the time required by the court rules, within a reasonable time after the protective order is issued, and sufficient time to protect the restrained (effected) party's due process rights.

The term protective order as it relates to the authority of the Bishop Paiute Tribe are limited to protective orders dealing specifically with preventing violent or threatening acts, harassment, or sexual violence.

**202. Full Faith and Credit.** A valid protective order issued by a state or tribal court shall be given full faith and credit by the Bishop Paiute Tribal Court, and enforced as if it were the order of the tribe.

The Bishop Paiute Tribe as the enforcing court determines how the protective order is enforced and determines the penalties and sanctions for violations of the order under Bishop Paiute Tribal law. The term Tribal law includes not only ordinances and written documentation, but also Tribal custom and practice. These remedies include but are not limited to suspension of Tribal services, monetary benefits such as sharing in Tribal per capita payments and eligibility for participation in Tribal programs.

A valid protective order issued by a state or tribal court must meet the following conditions:

The issuing court has jurisdiction over the parties and matter; and



Is currently in effect and identifies the protected party and the respondent; and

The restrained party is given reasonable notice and opportunity to be heard sufficient to protect his or her due process rights.

If the order is ex parte, notice and opportunity to be heard must be provided within the time required by the issuing state or tribal law, within a reasonable time after the order is issued, and sufficient to protect the restrained party's due process rights.

Absence of any of the above criteria is an affirmative defense to an enforcement action under this ordinance.

The term "protective order" includes:

Any injunction, restraining order, or any other order issued by a civil or criminal court for the purpose of preventing violent or threatening acts, harassment, or sexual violence against, or contact or communication with or physical proximity to, another person, including any temporary or final order issued by a civil or criminal court whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil or criminal order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection; and

The term "state" includes:

A state of the United States, the District of Columbia, and a common wealth, territory, or possession of the United States.

The term "tribal court" refers to a tribal court authorized and established by a federally recognized Indian tribe.

**203. Amendments.** This ordinance and the procedures/court rules promulgated hereunder may be amended or rescinded by the Tribal Council at a duly called regular or special meeting.

**204. Effective date.** This ordinance shall be effective upon the date of its approval by the Tribal Council by way of certification.


**CERTIFICATION**

The foregoing ordinance was passed at a duly called meeting of the Bishop Tribal Council held on the 23 day of April, 2009, with a quorum present and voting: 3 Ayes, 0 Nays, 0 Abstaining, and 1 Absent, and the Chairman not voting.

Bishop Tribal Council:

  
\_\_\_\_\_  
Monty Bengochia, Tribal Chairman

Jasmine Andreas

  
\_\_\_\_\_  
Jasmine Andreas

  
\_\_\_\_\_  
Tribal Secretary/Treasurer

# EXHIBIT 7

**BISHOP PAIUTE TRIBE  
TRESPASS ORDINANCE NO. 2000-2**

**101. Findings; Declarations of Policy**

The Bishop Tribal Council (Tribal Council), as the federally recognized governing body of the Bishop Paiute Tribe (Tribe), after careful review, has determined that there is a need for Tribal governmental regulations in the areas dealing with trespass to both Tribal property and individual assignments.

The Tribal Council, pursuant to its inherent sovereignty, exercises its authority in providing for a comprehensive regulation of trespass issues.

**102. Declarations of Policy**

It is the policy of this ordinance to promote the general health, safety and welfare of all residents of the Bishop Paiute Reservation and, in furtherance of the sovereign right of self-governance of the Tribe, the Tribal Council declares its commitment to the establishment and maintenance of rules and regulations covering the subject matter of this ordinance.

**103. Definition of Trespass**

Trespass is defined as every wrongful entry on real property in the occupation or possession of another. This includes both Tribal and individual assignments.

- (1) Entry upon the premises of another, including any Tribal property, in violation of a notice posted on the premises, or in violation of any notice, warning or protest given orally or in writing by any owner or legal occupant; or
- (2) Failure to depart from the premises of another if requested by any owner or legal occupant thereof.
- (3) Any person or entity causing or creating a trespass as herein defined is guilty of a violation of this ordinance.
- (4) Nothing which is done or maintained under the express authority of an ordinance or lawful permit or license issued by the Bishop Tribal Council shall be a trespass.

**104. Authorized Official**

An authorized official means any person or persons designated and empowered by the Bishop Tribal Council to enforce the provisions of this ordinance.

- (1) Citation for Civil Infraction. If an authorized official determines that a trespass has occurred, that official may sign and serve on the persons alleged responsible for a violation of this Ordinance a written citation that contains a notice to appear in Tribal Court, the name and address of the person who is accused, a description of the alleged violation, the time and place where and when the person shall appear in Tribal Court, and such other pertinent information as may be necessary.<sup>1</sup> If the citation includes information whose truthfulness is attested to as required under the general laws of this Tribe, then the complaint, when filed with the Tribal Court by the authorized official, shall be deemed to be a certified complaint.
- (2) Service of Citation. A civil infraction citation for a violation of this Ordinance may be served in any of the following ways:
  - (A) By personal service thereof on the person determined responsible for the violation. a copy of the citation signed by the person shall suffice as proof of service.
  - (B) By mailing the notice by certified mail, return receipt requested, to the responsible person at his or her last known address.
  - (C) By posting the notice in a conspicuous place on the offending property; provided however that service by posting shall only be used when the authorized official cannot determine the last known address of the person.
- (3) Alternative Remedies. At the discretion of an authorized official, or the Tribal Council, the following remedies may be pursued:
  - (A) Action in the Tribal Court for a temporary restraining order and injunctive relief, including an order to abate trespass; or
  - (B) Action in the Tribal Court for the prescribed civil penalty; or
  - (C) Action in the Tribal Court for money damages; or
  - (D) A combination of any or all of the above.
- (4) Emergency Action. If an authorized official determines that a trespass has occurred and may present an imminent and substantial threat to the health, safety, peace or environment of the community, the authorized official may take such actions as may be necessary to protect the interests governed by this Ordinance. Before an authorized official may take emergency action in the form of request for a temporary restraining order or injunction, a citation for violation of this Ordinance must be served on the alleged responsible party(ies) in accordance with Sections 1 and 2.

---

<sup>1</sup> Until a Tribal court is established, the Tribal council shall act as the Tribal Court  
BISHOP TRIBAL TRESPASS ORDINANCE  
ENVIRONMENTAL TRESPASS ORDINANCE

- (5) Order to Abate and Other Remedies. If an action brought under this Ordinance seeks to abate the continued trespassing or other remedy, and the Court finds by a preponderance of the evidence a violation of this Ordinance, the Court shall enter an order directing that the continued trespass be abated, or such other proper remedy as set out in Section 3 above.
- (6) Enforcement of orders to abate. All orders entered by the Court directing that a trespass nuisance be abated shall be carried out by an authorized official. The authorized official shall give notice to the violator and to any person who has trespassed or is threatening to continue trespassing. If the trespassing not voluntarily abated, the authorized official shall cause the trespassing to be abated. The authorized official shall have the authority to authorize any and all action necessary to abate the trespassing in accordance with the court order. In the event abatement of the trespass requires contract services, a fifteen percent (15%) administrative fee shall be added to the contract price of abating the trespass. All abatement costs shall may be collected by the Tribe by all appropriate remedies, including termination of Tribal services.
- (7) Civil Penalty. The violation of any provision of this Ordinance shall be a civil infraction punishable by a fine not exceeding FIVE THOUSAND DOLLARS (\$5,000.00) for each violation. A civil infraction is not a crime and shall not subject a person to criminal punishment. The fines imposed under this section are intended as a remedial measure designed to compensate for the harm caused by the violation of this Ordinance regardless of the fact that the quantum of damage in some cases may be incapable of precise measurement. This section is also designed to provide a means to fund the administration and enforcement of this Ordinance and compensate any individuals injured by the conduct of the violator. In addition, Tribal services and access to the Bishop Paiute Reservation may be terminated pending compliance with this Ordinance by the violator.
- (8) Money Damages for Violation. Any person who violates any provision of this Ordinance shall be strictly liable for all damages resulting from such violation, in addition to any civil fine set out in section 7. The Tribe or individual members of the Tribal community may bring suit in the Tribal Court for damages they have incurred as a result of the trespass. The Court may order money damages, injunctive relief, costs of the suit, and attorney's fees to the prevailing party (see section 3). If liability is established and the Court orders restoration of the area affected, the Court shall make provision to assure that restoration is accomplished within a reasonable time and at the sole expense of the violator.
- (9) Separate Offense. Each day any violation of any provision of this Ordinance shall constitute a separate offense.
- (10) Tribal Immunity. Nothing in this ordinance is a waiver of the sovereign immunity of the Tribe or the Tribal Council or any official, agent or employee of the Tribe while acting in his or her official capacity. The employees and appointees of the Tribe, the members of

the Tribal Council, and the personnel of the Tribal Court are cloaked with the sovereign immunity of the Tribe. No person named above shall be liable for his or her acts or failure to act under this Ordinance.

- (11) Severability. If any provision of this Ordinance or its application to any person, entity or circumstance is held to be invalid, the remainder of the Ordinance shall not be affected.
- (12) Amendments. This Ordinance and the procedures promulgated hereunder may be amended or rescinded by the Tribal Council at a duly called regular or special called meeting.
- (13) Effective Date. This Ordinance shall be effective from the date of its approval by the Tribal Council.

### CERTIFICATION

The foregoing Ordinance was passed at a duly called meeting of the Bishop Tribal Council held on the 18<sup>th</sup> day of September, 2000 with a quorum present and voting 4 AYES, 0 NAYS, 0 ABSTAINING, and 0 ABSENT.

### BISHOP TRIBAL COUNCIL ATTEST:

Monty J. Bengochia  
Monty J. Bengochia, Chairman

Donna Vasquez  
Donna Vasquez, Tribal Council Member

Ronald L. Barr  
Ronald Barr, Tribal Council Member

Doug Vega  
Doug Vega, Vice Chairman

Katrina Stone  
Katrina Stone, Tribal Council Member

Gaylene M. Moose  
Gaylene M. Moose, Tribal Secretary

Date: September 18, 2000

# EXHIBIT 8



## **BISHOP PAIUTE TRIBE**

**Bishop Paiute Reservation**

**Bishop, California**

**NUISANCE ORDINANCE NO. 2000-03**

**Adopted: September 18, 2000**

**Amended: June 24, 2009**

**Amended: July 22, 2010**

## BISHOP PAIUTE TRIBE

### NUISANCE ORDINANCE NO. 2000-03

#### 101. Findings; Declaration of Policy

The Bishop Tribal Council (Tribal Council), as the federally recognized governing body for the Bishop Paiute Tribe (Tribe), after careful review, has determined that there is a need for Tribal government regulations in the areas dealing with both private and public nuisances.

The Tribal Council, pursuant to its inherent sovereignty, exercises its authority in providing for a comprehensive regulation of nuisances issues.

#### 102. Declarations of Policy

It is the policy of this ordinance to promote the general health, safety and welfare of all residents of the Bishop Paiute Reservation and, in furtherance of the sovereign right of self-governance of the Tribe, the Tribal Council declares its commitment to the establishment and maintenance of rules and regulations covering the subject matter of this ordinance.

#### 103. Definition of Nuisance

The definition of nuisance is anything that either:

- (1) Is injurious to health, indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life and property; or
- (2) Unlawful obstructs the free passage or use, in the customary manner, of any navigable lake, river, stream, canal, or basin, or any Tribal park, Tribal square, street or highway.
- (3) Nuisance in general. Any act or condition which, by its nature, character, or location, interferes with the reasonable use and enjoyment of adjacent or nearby properties; which unreasonably annoys, harms, or endangers the safety, health, comfort, or repose of any person; or which has a detrimental effect upon adjacent or nearby property values. Nuisances in general shall include, but not be limited to the following:
  - (a) Erecting or continuing to use any building or structure contrary to the lawful authority, permit, or license issued by the Tribe or any provision of Tribal Law specifically designed to control, limit, or regulate such building or structure.

- (b) All explosives, inflammable liquids, corrosive, reactive, toxic or other dangerous substances, including but not limited to those substances deemed hazardous pursuant to 42 U.S.C. §9601(14) (defining "hazardous substance" under C.E.R.C.L.A., the federal Superfund law) stored in any manner, in any amount other than that permitted by ordinance.
  - (c) Zoning violation. Any violation of the Tribe's zoning ordinance.
  - (d) Building code violation. Any violation of the tribal building code.
  - (e) Fire code violation. Any violation of the tribal fire code.
- (4) Any person or entity causing or creating a nuisance as herein defined is guilty of a violation of this ordinance.
- (5) Nothing which is done or maintained under the express authority of an ordinance or lawful permit or license issued by the Bishop Tribal Council shall be a nuisance.

#### 104. Authorized Official

An authorized official means any person or persons designated and empowered by the Bishop Tribal Council to enforce the provisions of this ordinance.

- (1) Citation for Civil Infraction. If an authorized official determines that there is probable cause that a nuisance exists, that official may sign and serve on the persons alleged responsible for a violation of this Ordinance a written citation that contains a notice to appear in Tribal Court, the name and address of the person who is accused, a description for the alleged violation, the time and place where and when the person shall appear in Tribal Court, and such other pertinent information as may be necessary. The Tribal Court shall set the citation for hearing as soon as possible provided that the person or entity issued the citation is provided notice of the hearing at least 10 days prior to the hearing. Service of notice of hearing is to be performed as provided in 104 (2).
- (2) Service of Citation. A civil infraction citation for a violation of this Ordinance may be served in any of the following ways:
- (A) By personal service thereof on the person determined responsible for the violation or on an individual (age 18 or older) at the person to be served usual place of residence. A copy of the citation signed by the person shall suffice as proof of service.

- (B) By mailing the notice by certified mail, return receipt requested, to the responsible person at his or her last known address.
  - (C) By posting the notice in a conspicuous place on the offending property and mailing a copy of the notice by 1st class mail to the individual to be served; provided however that service by posting shall only be used when the authorized official cannot determine the last known address of the person.
- (3) Emergency Action. If an authorized official determines that a nuisance exists and may present an imminent and substantial threat to the health, safety, peace or environment of the community, the authorized official may take such actions as may be necessary to protect the interests governed by this Ordinance. Before an authorized official may take emergency action in the form of request for a temporary restraining order or injunction, a citation for violation of this Ordinance must be served on the alleged responsible party(ies) in accordance with Sections 1 and 2. Once service is completed, the Tribal Court may issue a temporary restraining order and set a date for a preliminary injunction at the next available court calendar date, provided that the cited individual/entity is given at least 10 days notice of the preliminary hearing. Service is to be completed as provided in 104 (2).
- (4) Order to Abate and Other Remedies. If an action brought under this Ordinance seeks to abate the nuisance or other remedy, and the Court finds by a preponderance of the evidence a violation of this Ordinance, the Court shall enter an order directing that the nuisance be abated, or such other proper remedy as set out in Sections (5), (6) and (7).
- (5) Enforcement of Orders to Abate. All orders entered by the Court directing that a nuisance be abated shall be carried out by an authorized official. The authorized official shall give notice to the cited person or entity (defendant) and to any person who is occupying the land on which the public nuisance exists. The defendant and the owner or occupier shall have an opportunity to voluntarily abate the nuisance within a specific and reasonable time. If the nuisance is not voluntarily abated, the authorized official shall cause the nuisance to be abated. The authorized official shall have the authority to authorize any and all action necessary to abate the nuisance in accordance with the court order. In the event abatement of the nuisance requires contract services, a fifteen percent (15%) administrative fee shall be added to the contract price of abating the nuisance.
- (6) Money Damages for Violation. Any person who violates any provision of this Ordinance shall be strictly liable for all damages resulting from such violation, in addition to any civil fine set out in Section 7. The Tribe or individual members of the Tribal community may bring suit in the Tribal Court for damages then have incurred as a result of the nuisance. The

Court may order money damages, injunctive relief, costs of suit, and attorney's fees to the prevailing party (see section 3). If liability is established and the Court orders restoration of the area affected, the Court shall make provision to assure that restoration is accomplished within a reasonable time and at the sole expense of the violator.

(7) Civil Penalty. The violation of any provision of this Ordinance shall be a civil infraction punishable by a fine not exceeding FIVE HUNDRED DOLLARS (\$500.00) for each violation. A civil infraction is not a crime and shall not subject a person to criminal punishment. The fines imposed under this section are intended as a remedial measure designed to compensate for the harm caused by the violation of this Ordinance regardless of the fact that the quantum of damage in some cases may be incapable of precise measurement. This section is also designed to provide a means to fund the administration and enforcement of this Ordinance and compensate any individuals injured by the conduct of the violator.

(8) Remedies. The Tribal Court has in addition to any other available remedies under this Ordinance, a further grant of authority to order one or more of the following remedies within its discretion in order to obtain compliance with its orders/judgments. These additional remedies include suspension of selective tribal services identified and limited to DMV exemptions, enrollment card verification, sales tax certification, suspension of eligibility to receive Tribal Per Capita and State of California Special Distributions, or in the alternative, the use of such Tribal Per Capita and State Distributions to satisfy any and all outstanding orders/judgments of the Tribal Court.

(9) Separate Offense. Each day any violation of any provision of this Ordinance shall constitute a separate offense.

(10) Tribal Immunity. Nothing in this ordinance is a waiver of the sovereign immunity of the Tribe or the Tribal Council or any official, agent or employee of the Tribe while acting in his or her official capacity. The employees and appointees of the Tribe, the members of the Tribal Council, and the personnel of the Tribal Court are cloaked with the sovereign immunity of the Tribe. No person named above shall be liable for his or her acts or failure to act under this Ordinance while acting in their lawful capacity.

(11) Severability. If any provision of this Ordinance or its application to any person, entity or circumstances is held to be invalid, the remainder of the Ordinance shall not be affected.

(12) Amendments. This Ordinance and the procedures promulgated hereunder may be amended or rescinded by the Tribal Council at a duly called regular or special called meeting.

(13) Effective Date. This Ordinance shall be effective from the date of its approval by the Tribal Council.

**CERTIFICATION**


The foregoing Ordinance was passed at a duly called meeting of the Bishop Tribal Council held on the 22<sup>h</sup> day of June, 2010 with a quorum present and voting 3 AYES, 0 NAYS, 0 ABSTAINING, and 0 ABSENT, Chairman not voting.

**BISHOP TRIBAL COUNCIL:**



Tribal Chairman

**ATTEST:**

  
Tribal Secretary

6/23/10

Date

Date: 081910\_\_\_\_\_

# EXHIBIT 9



## **JOB DESCRIPTION**

**Bishop Tribal Council  
Bishop, California**

**Position:** Tribal Police Officer  
**Department:** Tribal Police Department  
**Supervised by:** Tribal Police Chief  
**Pay Range:** T-8 \$19.57  
**FLSA Status:** Non-Exempt

**General Duties:** Under the general supervision of the Tribal Police Chief, performs a variety of administrative and professional work in assuring compliance with Tribal, State and Federal Law. This is an armed position.

### **Responsibilities:**

- Enforce ordinances and resolutions of the Bishop Paiute Tribe as directed.
- Deliver and serve legal papers as requested by the Tribal Court or Tribal Council.
- Investigate alleged violations of ordinances and resolutions of the Bishop Paiute Tribe.
- Act as bailiff during Tribal Court Sessions and security at public meetings to maintain order.
- Patrol and observe the Bishop Paiute Reservation as requested by the Tribal Council.
- Serve as Tribal liaison with local, state and federal law enforcement.
- Complete reports for all incidents that occur and prepare appropriate documentation for the Tribal Court System.
- Report individuals in violation of ordinances and resolutions of the Tribal Council.
- Availability to patrol 24 hours, seven days per week, with on call shifts.
- It is understood that this position will require the individual to perform discretionary and sometimes policymaking functions as a Tribal Official in performing the above listed and to be assigned responsibilities.
- Other duties as assigned.

**Supervisory Responsibilities:** As assigned by the Tribal Police Chief

**Competencies:** To perform the job successfully, an individual should demonstrate the following competencies that are essential functions of this position.

- **Decision Making**—the individual identifies and resolves problems in a timely manner and gathers and analyzes information skillfully to make the responsible decision.
- **Interpersonal Skills**—the individual maintains confidentiality, remains open to others' ideas and exhibits willingness to try new things.
- **Oral communication**—the individual speaks clearly and persuasively in positive or negative situations, demonstrates group presentation skills and can conduct productive meetings.



- Customer Oriented – the individual delivers excellent service to both internal and external customers in a friendly and courteous manner.
- Time Management—the individual prioritizes and plans work activities, uses time efficiently and develops realistic action plans.
- Detail Oriented—the individual demonstrates accuracy and thoroughness and monitors own work to ensure quality.
- Adaptability—the individual adapts to changes in the work environment, manages competing demands and is able to deal with frequent change, delays or unexpected events.
- Reliability—the individual is consistently at work and on time, follows instructions, responds to management direction and solicits feedback to improve performance.
- Organized—the individual keeps clean and organized workspace and projects.
- Motivated—the individual inspires himself/herself and others around them to get the job done and follow through on assigned tasks.

**Experience and Education:**

- Minimum of two years of law enforcement experience, military or Tribal Public Safety experience **required**.
- P.O.S.T. certified from a State or Federal agency
- Associates degree in related field is preferred.
- Knowledge of Public Law 280 and relevant Federal laws.

**Other Qualifications:**

- Must be a minimum of 21 years old.
- Comply with the Driving Policy, Drug, Alcohol and Contraband-Free Policy and Pre-Employment Selection Policy.
- Within 30 days of accepting employment, must be able to establish full-time residency within a **20 minute response time** of the Bishop Paiute Tribe.

**Indian Preference:**

Native American Indian preference shall apply pursuant to the Bishop Tribal Employment Rights Ordinance and the Indian Self-Determination and Education Assistance Act (24 U.S.C. 450, et seq.), 25 CFR 271.44 and other relevant laws.

# EXHIBIT 10

## San Bernardino Valley College



Hereby Awards

**Daniel Ray Johnson**

This Certificate  
For Successfully Completing  
The Requirements of  
**THE BASIC LAW ENFORCEMENT ACADEMY**

As Prescribed by  
The Commission On Peace Officers  
Standards And Training  
State of California

  
John Dabney, Dean

March 14, 1995

Date

  
Gloria M. Fisher, J.D., Director

March 14, 1995

Date

# EXHIBIT 11

CONCEALED FIREARM PERMIT  
A- 2387124 ISSUED: 11-05-2014  
Pursuant to NRS 202.350, the holder is authorized  
to carry a handgun concealed upon his/her person  
within the State of Nevada.  
EPC: 09/14

JOHNSON, DANIEL R  
399 E YANEY ST #23  
BISHOP CA 93514



HT: 511 WGT: 245 DOB: 11-19-1971

EXP: 11-05-2019

MICHAEL HALEY, SHERIFF  
Washoe County, Reno, Nevada

STATE OF NEVADA PRIVATE INVESTIGATORS LICENSING BOARD	SECURITY EXAM	DANIEL JOHNSON R-063063 Expires: 04/26/2017 ARMED REGISTERED EMPLOYEE

STATE OF NEVADA No. 65657  
PRIVATE INVESTIGATOR'S LICENSING BOARD  
CERTIFICATE OF COMPLETION OF COURSE IN FIREARM SAFETY  
Certification issued to: TRADE SHOW SERVICES  
NAME (Last, First, Middle Initial) JOHNSON, DANIEL R. DATE OF BIRTH 11-19-1971  
DATE ISSUED 7-12-12 ORIGINAL INST. NO. 120 REQUALIFY DATE 1-12-13 CURRENT INST. NO. 120  
WEAPON TYPE/CALIBER SEM1 / 9mm WEAPON TYPE/CALIBER SEM1 / 40 WEAPON TYPE/CALIBER SEM1 / 45  
SIGNATURE OF CARD HOLDER Daniel R. Johnson SIGNATURE OF INSTRUCTOR [Signature]  
This certifies that the above-named individual has completed a course in firearm safety;  
THIS IS NOT A PERMIT TO CARRY A CONCEALED WEAPON.  
(See reverse side for further information.)

BUREAU OF SECURITY & INVESTIGATIVE SERVICES  
P.O. BOX 989002  
WEST SACRAMENTO, CA 95798-9002  
(916) 322-4000  
Permit For Exposed Firearm  
DANIEL R. JOHNSON  
P.O. BOX 288  
BISHOP CA 93515



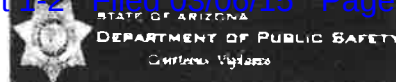
Permit No: FQ 299872 Expiration: 07/31/16

CALIBERS .38 .357 .45 9mm 40

Bearer must possess a valid qualifying: ACE, ACQ, G, PI, or PPO License.

Signature Daniel R. Johnson #10301 RECEIPT NO. 0001200

STATE OF CALIFORNIA  
BATUS CERTIFICATE  
DANIEL R. JOHNSON  
HAS SUCCESSFULLY COMPLETED A BUREAU CERTIFIED BATON  
COURSE WHICH MEETS THE REQUIREMENTS OF SECTIONS 12002  
(b) OF THE PENAL CODE AND 7553(b) OF THE BUSINESS AND  
AND PROFESSIONS CODE. SEE REVERSE FOR BATON TYPE.  
BARCLAY TFB-271 DATE OF COMPLETION 4-26-90  
FACILITY NAME/CERTIFICATE NO. 059537  
TALON TFB-710



## CONCEALED WEAPONS PERMIT JOHNSON, DANIEL RAY

Permit # 9147226 Issue Date 7/19/2013 Expiration Date 7/19/2018  
Race W Sex M Height 511 Weight 245 Hair BLN Eyes BLU DOB 11/19/1971  
I HEREBY CERTIFY THAT THE PERSON DESCRIBED HEREON HAS BEEN GRANTED  
THE PRIVILEGE OF CARRYING A CONCEALED WEAPON IN COMPLIANCE  
WITH ARIZONA REVISED STATUTE 13-3112.

DIRECTOR, ARIZONA DEPARTMENT OF PUBLIC SAFETY

DANIEL JOHNSON  
Lic: 1637263 Exp: 03/14/2015

SECURITY GUARD

Department of Public Safety



BUREAU OF SECURITY & INVESTIGATIVE SERVICES  
P.O. BOX 989002  
WEST SACRAMENTO, CA 95798-9002  
(916) 322-4000

Guard Registration

DANIEL R. JOHNSON  
P.O. BOX 288  
BISHOP CA 93515



Registration: G 1589616 Expiration: 07/31/16

Additional Permit Required to Carry Firearm

Signature Daniel R. Johnson #10301 RECEIPT NO. 41570005

## Certificate of Training and Identification

This is to certify that

DANIEL R. JOHNSON  
Name of Trainee

has successfully completed instruction in  
TEAR GAS TRAINING FOR CITIZENS  
as prescribed by 124057 P.C. on

4-12-1990

Date of Training

Sex	Male	Hair	BLN	Eyes	BLU	Height	5'11"	Weight	205
Date of Birth	11-19-1971	Calif. Driver's Lic. No.	U5052491						

T. Alamo  
Instructor

BARCLAY COLLEGE  
Training Institution

1128576

# EXHIBIT 12

*Department of Consumer Affairs  
Bureau of Security and Investigative Services*

**BUREAU OF SECURITY AND INVESTIGATIVE  
SERVICES**

**Licensee Name:** JOHNSON DANIEL R  
**License Type:** Baton Permit  
**License Number:** 149966  
**License Status:** CLEAR [Definition](#)  
**Expiration Date:** June 30, 2045  
**Issue Date:** June 25, 2008  
**City:** SAN BERNARDINO  
**County:** SAN BERNARDINO

**This information is updated Monday through Friday - Last updated: JUN-13-2014**

***Disclaimer***

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*Department of Consumer Affairs  
Bureau of Security and Investigative Services*

## BUREAU OF SECURITY AND INVESTIGATIVE SERVICES

**Licensee Name:** JOHNSON DANIEL R  
**License Type:** Guard/Patrolperson Registration  
**License Number:** 1589616  
**License Status:** CLEAR [Definition](#)  
**Expiration Date:** July 31, 2016  
**Issue Date:** April 21, 2008  
**City:** BISHOP  
**County:** INYO  
**Actions:** No

### Related Licenses/Registrations/Permits

Number	Name	Type	Status	Actions
<a href="#">149966</a>	JOHNSON DANIEL R	Baton Permit	CLEAR	No
<a href="#">299872</a>	JOHNSON DANIEL R	Firearm Permit	CLEAR	No

### Disciplinary Actions

No information available from this agency

#### Public Record Action(s)

**This information is updated Monday through Friday - Last updated: JUN-13-2014**

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*Department of Consumer Affairs  
Bureau of Security and Investigative Services*

**BUREAU OF SECURITY AND INVESTIGATIVE  
SERVICES**

Licensee Name: JOHNSON DANIEL R  
License Type: Firearm Permit  
License Number: 299872  
License Status: CLEAR [Definition](#)  
Expiration Date: July 31, 2016  
Issue Date: July 08, 2008  
City: BISHOP  
County: INYO  
Actions: No

**Related Licenses/Registrations/Permits**

Number	Name	Type	Status	Actions
<a href="#">1589616</a>	JOHNSON DANIEL R	Guard/Patrolperson Registration	CLEAR	No
<a href="#">299872</a>	JOHNSON DANIEL R	Firearm Permit	CLEAR	No

**Disciplinary Actions**

No information available from this agency

**Public Record Action(s)**

**This information is updated Monday through Friday - Last updated: JUN-24-2014**

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Remove your new Pocket  
Registration card from the receipt  
portion and carry it with you at  
all times.

Bureau of Security and Investigative Services  
P.O. BOX 989002  
West Sacramento, CA 95798-9002  
(916) 322-4000

06/11/14  
06/11/14

CUT HERE

BUREAU OF SECURITY & INVESTIGATIVE SERVICES  
P.O. BOX 989002  
WEST SACRAMENTO, CA 95798-9002  
(916) 322-4000

**Guard Registration**

DANIEL R. JOHNSON  
P.O. BOX 288  
BISHOP CA 93515

CUT HERE

**I M P O R T A N T**

1. Please include your Registration Number on any correspondence to this office.
2. Notify the Bureau of any name or address change in writing.
3. Report any loss immediately in writing to the Bureau.
4. Please sign and carry the Registration Card with you.
5. See reverse side for additional information.

Registration: G 1589618 Expiration: 07/31/16

**Additional Permit Required to Carry Firearm**

Signature Daniel R. Johnson RECEIPT NO. 41570005

DANIEL R. JOHNSON

REGISTRATION NO. EXPIRATION DATE RECEIPT NO.  
G 1589618 07/31/16 41570005

**This is your receipt. Please save for your records.**

PPIG 10/31/07

Remove your new Pocket Permit from  
the receipt portion and carry it  
with you at all times.

Bureau of Security and Investigative Services  
P.O. BOX 989002  
West Sacramento, CA 95798-9002  
(916) 322-4000

06/23/14  
06/23/14

CUT HERE

BUREAU OF SECURITY & INVESTIGATIVE SERVICES  
P.O. BOX 989002  
WEST SACRAMENTO, CA 95798-9002  
(916) 322-4000

**Permit For Exposed Firearm**

DANIEL R. JOHNSON  
P.O. BOX 288  
BISHOP CA 93515

CUT HERE

**I M P O R T A N T**

1. Please include your Permit Number on any correspondence to this of
2. Notify the Bureau of any name or address change in writing.
3. Report any loss immediately in writing to the Bureau.
4. Please sign and carry the Permit with you.
5. See reverse side for additional information.

Permit No: FQ 299872 Expiration: 07/31/16

CALIBERS .38 .357 .45 9mm 40

Bearer must possess a valid qualifying: ACE, ACQ, G, PI, or PPO License.

Signature Daniel R. Johnson RECEIPT NO. 00231320

DANIEL R. JOHNSON

PERMIT NO. EXPIRATION DATE RECEIPT NO.  
FQ 299872 07/31/16 00231320

**This is your receipt. Please save for your records.**

PPIFQ 04/15/1

# EXHIBIT 13

# **San Bernardino County Sheriff's Department**



## **Certifies that**

***DANIEL JOHNSON***

**has successfully completed  
4 hours of instruction in**

***TASER USER COURSE***

**and is therefore awarded this  
Certificate of Completion**

A handwritten signature in black ink, appearing to read "A. B. [unclear]", written over a horizontal line.

Training Division Commander

**JULY 6, 2007**

Dated

# EXHIBIT 14

## Daniel R. Johnson

**US Citizen**

**Address**

P.O. BOX 288  
Bishop, Ca. 93515

**Cell** (928) 916-0048

**Email** just4cops2@yahoo.com

**Minimum Salary** Negotiable

**Availability** Full Time

**All Shifts** Day, Swing, Graveyard, Rotating

**Will Work Saturdays** Yes

**Will Work Sundays** Yes

**Will Live at Worksite** Yes

**Lifting Capacity** Over 75 lbs

**Willing to Relocate** Yes

### Licenses

Drivers License	Class D	11/2065	AZ
American Red Cross First Aid & CPR/AED		07/2014	AZ
Private Security Guard License		07/2014	CA
Private Security Firearms License		07/2014	CA
Nevada Guard Card	R-063063	04/2017	NV
Nevada Armed Card	65657	01/2013	NV
Arizona Guard Card	1637263	03/2015	AZ
Arizona DPS CCW		06/2018	AZ

### Military Service

**Veteran** R - Reserve / National Guard **Campaign Badge** Yes

**Branch of Service** Army **Transitioning Veteran Status**

**Dates of service** 4/1990 - 12/1998  
HONORABLE Discharge



**Employment History**

Johnson, D. 2

Bishop Paiute Tribal Government Tribal Police Officer	11/13 - Current
Riverside Resort and Casino Laughlin <b>Armed Security Officer, NV Gaming</b>	08/13 – 11/13
ATAC Security <b>Security Officer</b>	11/12 – 10/13
Pro-Tect Security <b>Security Officer</b>	06/12 – 09/12
Guard Force <b>Security Guard for event River Run Laughlin</b>	04/12 – 04/12
Walmart <b>Overnight Frozen/Meat/Dairy Stocker</b>	10/11 – 06/12
Colorado River Indian Tribes Police <b>Tribal Police Officer</b>	10/10 – 05/11
Morongo Tribal Government <b>Tribal Law Enforcement Officer</b>	07/09 – 10/10
Seibert Security Services <b>Armed Security Officer</b>	07/09 – 07/09
Security Defense <b>Armed Security Officer</b>	04/09 – 07/09
Unemployed for a little less than 30 days	03/09 – 04/09
Transit Systems Security <b>Transit Security Officer</b>	10/08 – 03/09
San Bernardino Community Hospital <b>Public Safety Officer II</b>	09/08 – 10/08
Rialto Unified School District <b>Campus Safety Officer I</b>	09/08 – 11/08
Stater Brothers Plant Protection <b>Plant Protection Officer</b>	02/08 – 09/08
San Bernardino Community College Police <b>Police Officer / Field Training Officer</b>	01/05 - 04/08
CPS Security Services <b>Armed Security Officer</b>	06/06 – 04/08
San Manuel Indian Nation DPS <b>Tribal Police Officer</b>	08/03 - 01/05
San Bernardino Community College Police <b>Reserve Police Officer</b>	06/03 - 01/05

Loma Linda University Medical Center  
**Campus Police Corporal**

10/01 - 6/03

Edison International / Westec Security Group  
**Special Officer Sergeant**

04/95 -10/01

Johnson, D. 3

**Education**

S.C.I.E.S. High School Diploma 02/08

San Bernardino Valley College 04/95  
Criminal Justice/Police Science /Safety Studies

Riverside City College 04/92  
Criminal Justice/Police Science/Safety Studies

Barclay College 08/90  
Security and Protective Services/Loss Prevention

**Skills / Tools**

- Access
- Bilingual Spanish
- Budgets
- Clean Driving Record
- Computer Literate
- Conflict Management
- Counselor
- Customer Service
- Data Entry
- E-mail
- Evaluate
- Excel
- General Office
- Grant Writing
- Hiring
- Internet Knowledgeable
- Microsoft Word
- Multi-Line Phone
- Observation
- Organizational Skills
- Outlook
- Power Point
- Reports
- Supervisor
- Train
- Typing (word processing)
- Windows 2000
- Windows NT
- Windows XP
- Word Perfect

**Additional Education History**

Johnson, D.

5

<b>School Name</b>	<b>Type of Education</b>	<b>Completion Date</b>	<b>Location</b>
San Bernardino Sheriff's Department	Taser User Course	7/2007	San Bernardino, CA
	L.E.R.T.	5/2007	San Bernardino, CA
	Drug Influence Recognition	2/2007	San Bernardino, CA
	Defensive Tactic Instructor Course	2/2007	San Bernardino, CA
	ID, Collection & Preservation of Evidence	12/2006	San Bernardino, CA
New Mexico Tech	Incident Response to Terrorist Bombings	12/2006	San Bernardino, CA
San Bernardino Sheriff's Department	Clandestine Laboratory Safety	11/2006	San Bernardino, CA
	Field Training Officer	11/2006	San Bernardino, CA
	Search Warrants	11/2006	San Bernardino, CA
	Hostage Situations	10/2006	San Bernardino, CA
	Dealing with Informants	10/2006	San Bernardino, CA
	Advanced Subject Contact	10/2006	San Bernardino, CA
	Spanish for Law Enforcement	9/2006	San Bernardino, CA
	Courtroom Survival	7/2006	San Bernardino, CA
	Clayton-Morrow Method of Grant Development	7/2006	San Bernardino, CA
San Bernardino Sheriff's Department	Terrorism: Bombs and Bombings	4/2006	San Bernardino, CA
	Terrorism: Bombs and Bombings	4/2006	San Bernardino, CA
	Terrorism: Current Threat & Response	11/2005	San Bernardino, CA
	Problem Oriented Policing	7/2005	San Bernardino, CA
	Campus Law Enforcement	3/2005	San Bernardino, CA
Rio Hondo College	Re-qualification-Basic Course	2/2004	Whittier, CA
San Bernardino Sheriff's Department	Driver Awareness Update	6/2003	San Bernardino, CA
Loma Linda University	Disaster Management: EOC/ICS	11/2002	Loma Linda, CA

**Additional Education History**

Johnson, D.

6

Loma Linda University	Fire Safety Training	10/2002 Loma Linda, CA
	Handling Conflict in the Workplace	10/2002 Loma Linda, CA
	Motivation the Unmotivated Employee	9/2002 Loma Linda, CA
	Manager or Leader part VI	4/2002 Loma Linda, CA
	Biological Warfare and Terrorism	11/2001 Loma Linda , CA
	Basic Learning Units for Employees	11/2001 Loma Linda, CA
San Bernardino Sheriff's Department	Firearms Instructor School	7/2000 San Bernardino, CA
Monadnock Police Training Council	Monadnock Expandable Baton	10/1999 Van Nuys, CA
ASP	Tactical Baton Certification	7/1999 Van Nuys, CA
Zenger Miller	Frontline Leadership	5/1999 Pasadena, CA
Orange County Sheriff's Department	Tactical Firearms Update	8/1998 Orange, CA
Comp USA	Excel 95	1/1998 San Dimas, CA
Comp USA	Word 95	8/1997 San Dimas, CA
Orange County Sheriff's Department	Laser Firearm Training	11/1996 Orange, CA
West Covina Police Department	Firearm Simulator Training	8/1995 West Covina, CA
San Bernardino Valley College	Basic Law Enforcement Academy	3/1995 San Bernardino, CA
San Bernardino Sheriff's Department	Basic Driver Training	1/1995 San Bernardino, CA
Union Pacific Police Department	Grade Crossing Collision Investigation	9/1994 San Bernardino, CA
Region 5 NCO Academy	Leadership Development Course	3/1994 Camp Williams , UT
Department of the Army	Basic Reconnaissance Training	3/1991 Ft. Knox, KY

# *Sheriff-Coroner Department*

*County of Orange, California*

*This Certifies that*

DANIEL JOHNSON

*has successfully completed 8 class hours of instruction in*

**Laser Firearm Training**

*and is therefore awarded this  
Certificate of Completion*

November 25, 1996

*Date*

*E. Hendry*  
*Training Division Commander*

© Goes 456

LITHO IN U.S.A.

# **Sheriff - Coroner Department**

**County of Orange, California**

**This Certifies that**

**DANIEL R. JOHNSON**

*has successfully completed 8 class hours of instruction in*

**TACTICAL FIREARMS UPDATE**

*and is therefore awarded this  
Certificate of Completion*

**August 27, 1998**

*E. Hendry*  
*Training Division Commander*

© Goes 456

LITHO IN U.S.A.

# **San Bernardino County Sheriff's Department**



**Certifies that**  
**Daniel Johnson**

**has successfully completed**  
**8 hours of instruction in**

**Hostage Situations**

**and is therefore awarded this**  
**Certificate of Completion**

A handwritten signature in black ink, appearing to read "G. Bottrell", with a long horizontal stroke extending to the right.

**Greg Bottrell**

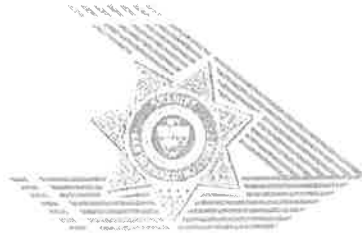
*Training Division Commander*

**October 10, 2006**

*Dated*

Post# 2330-21500-06001

# **San Bernardino County Sheriff's Department**



**Certifies that**  
**Daniel Johnson**

**has successfully completed**  
**8 hours of instruction in**

**Advanced Subject Contacts**  
**and is therefore awarded this**  
**Certificate of Completion**

A handwritten signature in black ink, appearing to read "G. Bottrell", is written over a horizontal line.

**Greg Bottrell**

*Training Division Commander*

***October 18, 2006***

*Dated*

**Post# 2330-33051-06001**



# **San Bernardino County Sheriff's Department**



**Certifies that**

**Daniel Johnson**

**has successfully completed  
8 hours of instruction in**

**Dealing with Informants**

**and is therefore awarded this  
Certificate of Completion**

A handwritten signature in black ink, appearing to read "G. Bottrell", written over a horizontal line.

**Greg Bottrell**

*Training Division Commander*

**Oct. 19, 2006**

*Dated*

POST #2330-22500-06001

# **San Bernardino County Sheriff's Department**



**Certifies that**  
**Daniel Johnson**

**has successfully completed**  
**8 hours of instruction in**  
**Clandestine Laboratory Safety**

**and is therefore awarded this**  
**Certificate of Completion**

A handwritten signature in black ink, appearing to read "G. Bottrell", written over a horizontal line.

Greg Bottrell

Training Division Commander

**November 9, 2006**

Dated

Post# 2330-34091-06001

# **San Bernardino County Sheriff's Department**



**Certifies that**  
**Daniel Johnson**

**has successfully completed**  
**8 hours of instruction in**

**Search Warrants**

**and is therefore awarded this**  
**Certificate of Completion**

A handwritten signature in black ink, appearing to read "G. Bottrell", written over a horizontal line.

*Training Division Commander*

**Greg Bottrell**

POST #2330-24270-06001

**Nov. 15, 2006**

*Dated*

# **San Bernardino County Sheriff's Department**



**Certifies that**  
**Daniel Johnson**

**has successfully completed**  
**8 hours of instruction in**  
**ID, Collection & Preservation of Evidence**

**and is therefore awarded this**  
**Certificate of Completion**

A handwritten signature in black ink, appearing to read "G. Bottrell", written over a horizontal line.

**Greg Bottrell**

*Training Division Commander*

***December 5, 2006***

*Dated*

Post# 2330-31566-06001

# **San Bernardino County Sheriff's Department**



**Certifies that**  
**Daniel Johnson**

**has successfully completed**  
**8 hours of instruction in**  
**Drug Influence Recognition**

**and is therefore awarded this**  
**Certificate of Completion**

A handwritten signature in black ink, appearing to read "G. Bottrell", written over a horizontal line.

Greg Bottrell

Training Division Commander

***February 1, 2007***

Dated

Post #2330-22220-06002

# **San Bernardino County Sheriff's Department**



**Certifies that**  
**Daniel Johnson**

**has successfully completed**  
**8 hours of instruction in**

**LERT**

**and is therefore awarded this**  
**Certificate of Completion**

A handwritten signature in black ink, appearing to read "G. Bottrell", written over a horizontal line.

Greg Bottrell

Training Division Commander

**May 9, 2007**

Dated

Post #2330-20115-06005

# **San Bernardino County Sheriff's Department**



## **Certifies that**

***JOHNSON DANIEL***

---

**has successfully completed  
40 hours of instruction in**

***DEFENSIVE TACTIC INSTRUCTOR COURSE***

---

**and is therefore awarded this  
Certificate of Completion**

A handwritten signature in black ink, appearing to read "A. B. [unclear]".

Training Division Commander

**FEBRUARY 12-16, 2007**

Dated

# **San Bernardino County Sheriff's Department**



**Certifies that**  
**Daniel Johnson**

**has successfully completed**  
**24 hours of instruction in**  
**PC 832 - Firearms**

**and is therefore awarded this**  
**Certificate of Completion**

A handwritten signature in black ink, reading "Greg Kyrtis", is written over a horizontal line.

Training Division Commander

Greg Kyrtis

**April 30th, 2003**

Dated

POST # 2330-80100-02



# **San Bernardino County Sheriff's Department**



**Certifies that**  
**Daniel Johnson**

**has successfully completed**  
**52 hours of instruction in**  
**PC 832 - Powers of Arrest**

**and is therefore awarded this**  
**Certificate of Completion**

  
Training Division Commander

Greg Kyrtis

**April 24th, 2003**

Dated

POST # 2330-80100-02

# San Bernardino County Sheriff's Department



## Certifies that

Daniel Johnson

**has successfully completed**

157 **hours of instruction in**

Level III Modular Format Training

**and is therefore awarded this  
Certificate of Completion**

This training meets the requirements of  
Division 9 of Title 22 of the California  
Code of Regulations.

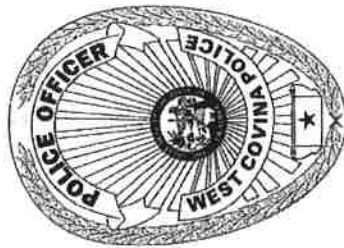
POST # 2330-00130-02000

  
Training Division Commander  
July 13th, 2003  
Dated

Greg Kyritsis

# CERTIFICATE OF

## COMPLETION



Awarded to

*Daniel Ray Johnson*

**4 HOURS**



## **FIREARM SIMULATOR TRAINING**

Presented by

**West Covina Police Department**

*Tuesday, August 29, 1995*

  
Kevin Kilcoyne Firearm Instructor

# Emergency Management Institute



## FEMA

This Certificate of Achievement is to acknowledge that

**DANIEL R JOHNSON**

has reaffirmed a dedication to serve in times of crisis through continued professional development and completion of the independent study course:

**IS-00907**

**Active Shooter: What You Can Do**

*Issued this 24th Day of April, 2013*



0.1 IACET CEU

*Tony Russell*  
Tony Russell  
Superintendent  
Emergency Management Institute





# Certificate of Appreciation

is awarded to

SPC DANIEL R JOHNSON

*For meritorious service while serving with Joint Task Force - Los Angeles in Operation Garden Plot, May 1992. Your disciplined and skillful performance of duty was vital to the rapid restoration of order in Los Angeles and the protection of its citizens. Your efforts reflect distinct credit upon yourself, your organization and the United States Government.*

MARVIN L. COVAULT  
Major General, United States Army  
Task Force Commander

*Awarded this 12<sup>th</sup> day of May 1992*

# Certificate of Completion



Department of Public Safety Administration of Justice Center

Certifies

***Daniel R. Johnson***

as having successfully completed POST Certified Training.

***Requalification-Basic Course***

***(136 Hours)***

***February 23, 2004 – March 12, 2004***

  
Division Dean, Department of Public Safety

  
Basic Academy Coordinator

Your college transcript is the official record of attendance

## SHERIFF-CORONER DEPARTMENT

County of Orange, California

### CERTIFICATE OF COMPLETION

***DANIEL JOHNSON***

***has successfully completed 136 class hours of instruction in***

***BASIC COURSE REQUALIFICATION***

***POST Control #2060-25000-98002***

06-Nov-1998

  
Training Division Commander

# **San Bernardino County Sheriff's Department**



## **Certifies that**

Daniel Johnson

**has successfully completed**

32 **hours of instruction in**

Campus Law Enforcement

**and is therefore awarded this**

## **Certificate of Completion**

Two handwritten signatures are present. The first signature is on the left, and the second signature is on the right, above the name Paul Cappitelli.

Training Division Commander

Paul Cappitelli

**March 14, 2005**

**POST #2330-33620-04-001**

**\* Satisfies SB1626 training**

Dated

# San Bernardino County Sheriff's Department



*Dick Williams, Sheriff*

## **Certifies that**

**DANIEL JOHNSON**

**has successfully completed  
24 hours of instruction in**

**BASIC DRIVER TRAINING**

**and is therefore awarded this  
Certificate of Completion**

*Forrest Billington*

Training Division Commander

**01/14/95**

Dated



\*\*\* SAVE - OFFICIAL NOTIFICATION \*\*\*

25014



CALIFORNIA COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

THIS NOTICE CERTIFIES THAT YOU HAVE SUCCESSFULLY COMPLETED  
THE FOLLOWING COURSE PURSUANT TO SECTION 832(a), PENAL CODE:

COURSE: POWERS OF ARREST  
NOTICE NUMBER: A0027923  
COURSE LENGTH: 24 Hours  
COMPLETION DATE: March 31, 1992  
SSN: 573-13-3856  
PRESENTER: ACADEMY OF JUSTICE  
RIVERSIDE CITY COLLEGE

NOTICE TO  
EMPLOYERS:

APPLICANT  
MUST PRESENT  
THE ORIGINAL

DO NOT ACCEPT  
PHOTOCOPY OF  
THIS DOCUMENT

JOHNSON DANIEL R  
14798 IVY AVE  
FONTANA, CA 92335

>>>> SEE REVERSE <<<<

EMPLOYER: YOU MAY PHOTOCOPY THIS NOTICE FOR YOUR RECORDS ONLY  
\*\*\* THIS ORIGINAL NOTICE IS THE PROPERTY OF THE ADDRESSEE \*\*\*

\*\*\* SAVE - OFFICIAL NOTIFICATION \*\*\*

20275



CALIFORNIA COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

THIS NOTICE CERTIFIES THAT YOU HAVE SUCCESSFULLY COMPLETED  
THE FOLLOWING COURSE PURSUANT TO SECTION 832(a), PENAL CODE:

COURSE: FIREARMS FAMILIARIZATION AND SAFETY  
NOTICE NUMBER: F0023992  
COURSE LENGTH: 16 Hours  
COMPLETION DATE: April 1, 1992  
SSN: 573-13-3856  
PRESENTER: ACADEMY OF JUSTICE  
RIVERSIDE CITY COLLEGE

NOTICE TO  
EMPLOYERS:

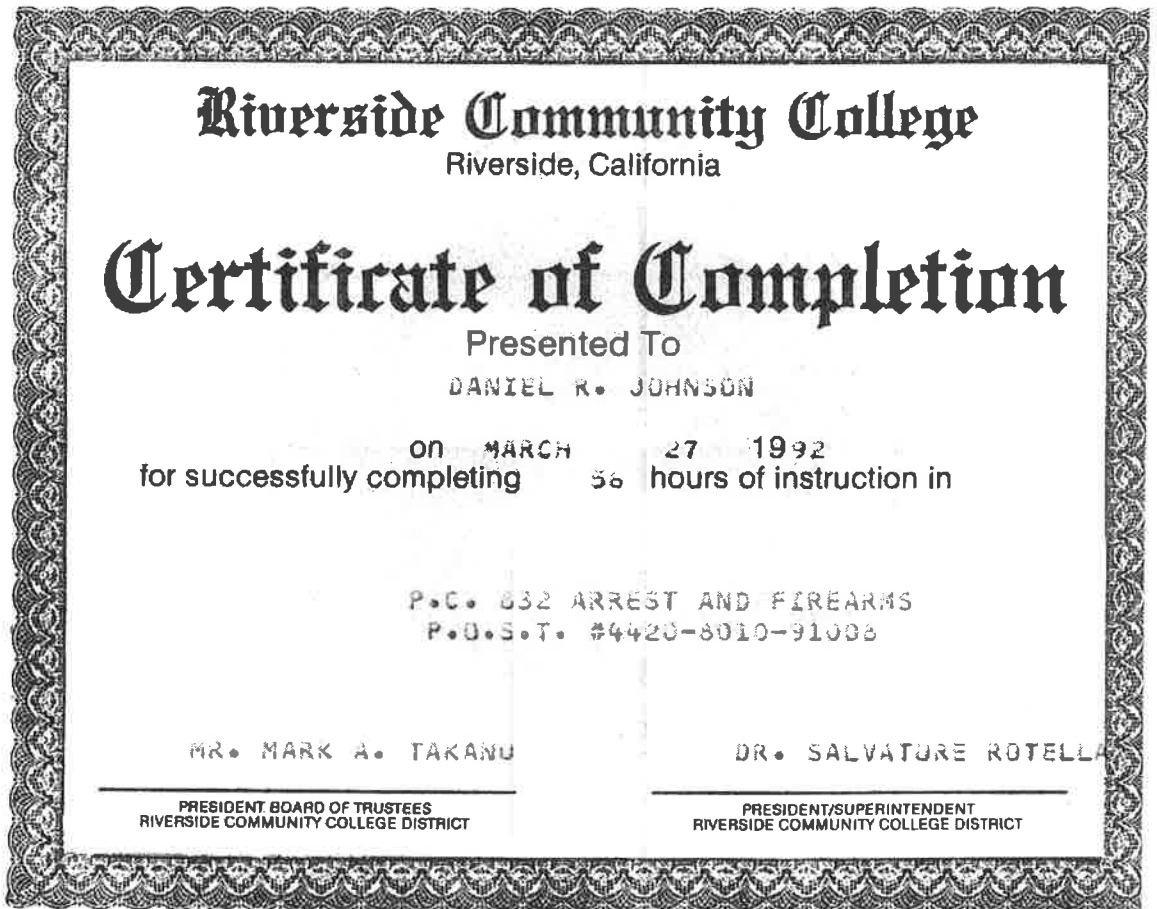
APPLICANT  
MUST PRESENT  
THE ORIGINAL

DO NOT ACCEPT  
PHOTOCOPY OF  
THIS DOCUMENT

JOHNSON DANIEL R  
5731 WALTER STREET  
RIVERSIDE, CA 92504

>>>> SEE REVERSE <<<<

EMPLOYER: YOU MAY PHOTOCOPY THIS NOTICE FOR YOUR RECORDS ONLY  
\*\*\* THIS ORIGINAL NOTICE IS THE PROPERTY OF THE ADDRESSEE \*\*\*



# EXHIBIT 15

<b>Bishop Tribal Police Department Policies and Procedures</b>			
DEPARTMENT GENERAL ORDER	ORIGIN: Chief of Tribal Police		
SUBJECT: Detentions	DATE: 05-19-14	3.1	PAGE: 1 of 2

**PURPOSE:**

The purpose of this order is to establish a procedure for detaining individuals by the Bishop Tribal Police Department for the purpose of investigation and releasing to outside law enforcement agencies.

**POLICY:**

It is the policy of the Bishop Tribal Police Department to ensure that all matters of investigation are handled in a professional manner. In addition, it is the policy of the Bishop Tribal Police Department to detain individuals until the appropriate outside law enforcement agency responds and takes custody of the detained individual.

**PROCEDURE:**

**I. Responsibility**

- A. A Tribal Police Officer has the responsibility when arriving on scene, prior to outside law enforcement agencies arrival or for the purpose of investigation of violations of Bishop Paiute Tribal Laws and Ordinances to detain suspected violators. In addition the Officer may have to detain an individual(s) to ensure the scene is secure. At times this may include the detention of individuals for the purpose of preventing a suspect from leaving the scene or for the safety of the Officer and public.
- B. As soon as reasonably possible Tribal Police Officers should notify the Chief of Tribal Police or his designee of any arrests made by outside law enforcement agencies or detentions made by Tribal Police Officers. Notification may include but not limited to a phone call, in person contact or by written Tribal Police report(s).
- C. Any detention should include notification to the Inyo County Sheriff's Department Dispatch when reasonably possible and it is safe to do so. Notification will not be required if any County Sheriff's Department Deputy is already on scene.

II. Procedure

- A. Tribal Police Officers are to notify the person or persons detained, the reason for the detention and to advise that he / she is not under arrest. All detained persons suspected of committing a violation of the California Penal Code shall as soon as reasonably possible be turned over to outside law enforcement agencies pursuant to *Oliphant V. Suquamish Indian Tribe*, 435 U.S. 191 (1978) –Decided on March 6, 1978 – Ninth Circuit.
- B. It is the policy of the Bishop Tribal Police Department to handcuff the detained person or persons, check for spacing with a minimum of two fingers to avoid injury to the detained person(s) and to double lock the handcuffs. Tribal Police Officers may secure the detained person(s) in the custody area of the Tribal Police Vehicle for officer safety, for the safety of the detained person(s) and the public. Tribal Police Officers shall conduct a search of the detained person(s) for weapons.
- C. It is the policy of the Bishop Tribal Police Department that reasonable force may be used to detain person(s) for investigations, while enforcing Bishop Paiute Tribal Laws and Ordinances, to overcome resistance, the threat of resistance or unlawful attack against a Tribal Police officer while in the performance and within the scope of his duties. Any person(s) detained that have been determined to have committed any violation of California State Criminal laws shall be turned over to outside law enforcement as required by this policy and existing case law.

# EXHIBIT 16

**Declaration of Daniel Johnson**

I, Daniel Johnson, declare:

1. I am Daniel Johnson. I am over the age of 18. I have personal knowledge of the facts contained in this declaration, and if called upon to testify I could and would testify competently as to the truth of the facts stated herein.
2. I make this Declaration in support of the Complaint for Declaratory and Injunctive Relief filed on behalf of the Bishop Paiute Tribe.
3. I am currently a Tribal Police Officer for the Bishop Paiute Tribal Police Department.
4. On December 24, 2014 at about 12:00 p.m. while I patrolled the Bishop Paiute Tribe's Reservation (the "Reservation") on duty in full uniform and while driving a marked Tribal Police vehicle I received a call on my Tribal Police cellular phone from Mark Napoles regarding the presence of Andri Napoles at 799 N. PaHa Lane, Bishop, CA 93514.
5. I called out via Tribal Police radio to the Inyo County Sheriff's Department to advise them of the call, the nature of the call, and to advise that I was on my way to 799 North PaHa Lane.
6. Prior to the call, I had been involved in eight previous requests for tribal police involving Mrs. Napoles beginning in March 2014. At least six of those requests involved tribal member Mark Napoles. On May 8, 2014 I served Mrs. Napoles with a Bishop Paiute Tribal Court Temporary Restraining Order restraining her from contacting tribal member Mark Napoles, Inyo County DV-600 Form (California State's form to Register an Out-of-State Restraining Order), and Notice of Hearing. Out of my contacts with Mrs. Napoles I cited her six times, the last four of which included violations of a Tribal Protection Order restraining her from contacting tribal member Mark Napoles. My contact with Mrs. Napoles on November 12, 2014 necessitated me to detain her until an Inyo County Sheriff's deputy arrived. I was also made aware by reviewing the tribal police log entries and report system as well as discussion with fellow Tribal Officer

DECLARATION OF DANIEL JOHNSON

1 Michael Jones that Mrs. Napoles on or about November 28<sup>th</sup> 2014 had again violated  
2 both tribal and state protection orders, was combative towards tribal police, and was  
3 detained by tribal police until Inyo County Sheriff's deputies arrived and arrested Mrs.  
4 Napoles and transported her to jail for violating the state protection order.

5 7. With this knowledge, I responded to Mr. Napoles' address due to Mrs. Napoles'  
6 trespassing on his Tribal land assignment, violating active restraining orders and creating  
7 a nuisance violation.

8 8. When I arrived at 799 North PaHa Lane I saw Andri Napoles 30-40 feet from Mr.  
9 Napoles' residence in Mr. Napoles' driveway.

10 9. I made contact with her, announcing that I was "Tribal Police" as I approached the  
11 vehicle where Mrs. Napoles was located.

12 10. I verbally advised Mrs. Napoles that she was being detained for violating Tribal and State  
13 restraining orders, trespassing on Mr. Napoles' land assignment and for a nuisance  
14 violation.

15 11. I ordered Mrs. Napoles to exit her vehicle and she refused. I informed her she was being  
16 detained and took control of her left wrist to place her into handcuffs.

17 12. Mrs. Napoles started screaming and resisting by flailing her arms and legs.

18 13. I told Mrs. Napoles to get out of the vehicle and she took a swing at my face with her  
19 open right hand like a slapping motion. Mrs. Napoles then repeatedly attempted to kick  
20 my groin area.

21 14. Mrs. Napoles at that time connected her kick with my inner thigh which left a bruise.

22 15. I then deployed my Taser in Drive Stun mode.

23 16. I warned Mrs. Napoles that I would be applying force to gain compliance to my orders  
24 and she still refused. I then applied my Taser in Drive Stun mode to Mrs. Napoles. The  
25 Drive Stuns had little to no effect on Mrs. Napoles. I warned Mrs. Napoles again and  
26 gave her time to respond to my orders to comply, when she did not I applied my Taser in  
27 Drive Stun mode again. I warned Mrs. Napoles a third time and gave her time to respond

28 DECLARATION OF DANIEL JOHNSON



1 to my orders to comply, when she did not I applied my Taser in Drive Stun mode a third  
2 time.

3 17. The Drive Stuns had little to no effect on Mrs. Napoles.

4 18. Mrs. Napoles continued to refuse to exit her vehicle.

5 19. At that time Mrs. Napoles' daughters Shelby and Auburn Andreas ran out of Mr.  
6 Napoles' residence and started yelling at me.

7 20. Shortly thereafter, Deputy Hoodman from Inyo County Sheriff's Office arrived and  
8 assisted me by requesting Auburn and Shelby Andreas go back into the residence.

9 21. I saw Deputy Hoodman talking to Auburn and Shelby Andreas, at that time I saw an  
10 opportunity to take Mrs. Napoles into custody as she had released her grip on the vehicle.

11 22. I grasped her left hand using a wrist lock and then an arm bar to remove her from the  
12 vehicle and place her on the ground.

13 23. Deputy Hoodman then assisted me in handcuffing Mrs. Napoles.

14 24. I double locked the handcuffs for her safety.

15 25. I then picked Mrs. Napoles up and placed her in the back of my unit for safety.

16 26. I was asked by Sheriff's Acting Lieutenant Baldwin and Detective Scott what I was going  
17 to do, and I stated I was going to issue a Tribal citation for violation of the Tribal and  
18 State Domestic Violence Protection Order, Trespassing, and Nuisance for creating an  
19 unsafe and unhealthy environment on the reservation.

20 27. I further advised that I would be turning Mrs. Napoles over to the Inyo County Sheriff's  
21 Department because she is not Native American and considered an undesirable on the  
22 Bishop Paiute Reservation.

23 28. At that time I observed Acting Lieutenant Baldwin, Detective Scott and Deputy  
24 Hoodman speaking, and shortly thereafter I observed Mrs. Napoles be released without  
25 even a citation.

26  
27  
28 DECLARATION OF DANIEL JOHNSON

1 29. Mrs. Napoles at that time complained of two small scratches she received when taken to  
2 the ground for handcuffing. I offered Mrs. Napoles to have an ambulance respond but  
3 Mrs. Napoles refused any medical assistance.

4 30. I informed Mrs. Napoles I would document the scratches in my report as well as her  
5 refusal for an ambulance.

6  
7 I declare under penalty of perjury under the laws of the State of California and the United  
8 States that the foregoing is true and correct and this Declaration is executed on

9 MARCH 6, 2015 at Bishop, California.

10  
11   
12 Daniel Johnson

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DECLARATION OF DANIEL JOHNSON

# EXHIBIT 17

**Injuries:**

Andri Napoles sustained redness on the left side of her chin, redness on her abdominal area, and a small abrasion on one of her left toes which caused slight bleeding.

**Attachments:**

1-CDR containing audio recordings of my interviews with Auburn Andreas and Mark Napoles.

**Details:**

On 12-24-2014 at about 1156 hours, I heard Tribal Police Officer Daniel Johnson responding to 799 North Pa Ha Lane, Bishop, on the report of a verbal argument and a trespassing violation. I know Mark Napoles resides at 799 North Pa Ha Lane. There have been several restraining order violations in the past at his residence by his ex-wife, Andri Napoles. I responded to assist Officer Johnson.

At about 1158 hours, I arrived on scene. I saw Andri's black Dodge Durango (CA Lic #5ZUA913) parked in front of the residence. Andri was sitting in the driver's seat with the driver's door open. Officer Johnson was standing next to Andri in between the vehicle and the driver's door. Mark Napoles, Auburn Andreas, and Shilby Andreas (all known to me) were standing on the other side of the opened driver's door. Auburn, Shilby, and Andri were all yelling and screaming at Officer Johnson. Auburn and Shilby were extremely agitated and throwing their arms up at Officer Johnson, telling him to leave Andri alone. Officer Johnson was yelling at Auburn and Shilby to get back. I believed Auburn and Shilby were about to assault Officer Johnson. As I approached, I noticed Officer Johnson had his Taser in his right hand and pointed at Andri. There was no cartridge on the Taser. Officer Johnson was repeatedly telling Andri to exit her vehicle. Officer Johnson was holding one of Andri's arms with his left hand and attempting to pull her out of her vehicle. Andri was resisting and refusing to exit her vehicle. Andri had some papers in her hand that appeared to be restraining order documents. I heard Andri say she had a new restraining order allowing peaceful contact between her and Mark.

I requested assistance from the Bishop Police Department due to Officer Johnson and I being outnumbered and the hostility of Andri, Auburn and Shilby.

I stepped in front of Officer Johnson in an attempt to get Mark, Auburn and Shilby to back away from Officer Johnson. I repeatedly told Mark, Auburn and Shilby to back up and calm down. Mark immediately complied and took several steps back. I put my left arm out in front of me with my hand up and Auburn walked into my hand. Auburn started yelling, "Don't touch me!" I continued to order Auburn and Shilby to get back. Auburn and Shilby eventually took a few steps back and created some distance between them and Officer Johnson.

Auburn and Shilby continued to yell at Officer Johnson and me. I went back to Officer Johnson and stood in between him and Andri. Officer Johnson let go of Andri and holstered his Taser. Officer Johnson took a few steps back and was standing directly behind me. I asked Andri what she was doing at Mark's residence. Andri handed me the restraining order documents and said it has been modified to allow peaceful contact. Andri said she was there to pick up her and Mark's child, Elvis Napoles, for Christmas. Andri was hysterical and raising her voice. I told Andri to calm down so I could figure out what was going on.

I walked away from Andri and approached Mark, who was standing about 15 feet away from Andri's

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Date:

12/24/2014

Approved By:

SPB1 BALDWIN, PAUL

Date:

12/31/2014





550 SOUTH CLAY STREET INDEPENDENCE, CA 93526 760-878-0383

## NARRATIVE

14-12-080

vehicle. I asked Mark about the modification on the restraining order. Mark was unaware of any modifications allowing peaceful contact and that is why he called Officer Johnson for assistance. Mark said Andri showed up at his residence unannounced and wanted to see Elvis for Christmas. Mark said he did not want Andri arrested and just wanted her to leave his property. While talking with Mark, I heard Officer Johnson and Andri struggling behind me. I turned around and saw Officer Johnson pulling Andri out of her vehicle. Andri was resisting and attempting to pull away from Officer Johnson. Officer Johnson pulled Andri from her vehicle and was holding onto her left arm. I took hold of Andri's right arm to assist in gaining control of her, as Officer Johnson began to take her to the ground. Andri fell to the ground and I placed her right arm behind her back. Officer Johnson began to handcuff Andri when Auburn and Shilby approached Officer Johnson and me. Auburn and Shilby were extremely hostile and yelling at Officer Johnson and me. I was in fear that Auburn and Shilby would attack Officer Johnson and me. I broke away from Andri and repeatedly ordered Auburn and Shilby to get back. I pointed my department issued Oleoresin Capsicum (O.C.) spray toward Auburn and Shilby. I continued to order Auburn and Shilby to get back. Auburn and Shilby took several steps back but continued their hostility by yelling at Officer Johnson and I. While attempting to get Auburn and Shilby back, Officer Johnson had placed Andri in the backseat of his patrol vehicle.

Sergeant Baldwin, Investigator Scott, and Bishop Police Detective Waasdorp arrived on scene to assist. I told Auburn and Shilby to go inside of their residence, and they eventually complied. I ran an automated records check on Andri through dispatch. Dispatch advised Andri had an active restraining order showing Andri as the restrained and Mark as the protected. Andri was also on active Inyo County Probation with terms and conditions not to contact Mark Napoles.

I re-contacted Mark in front of the residence. I asked Mark to tell me what happened before I arrived on scene. Mark told me the following in essence:

Earlier today, Andri called his home telephone several times in an attempt to get ahold of Elvis. No one at the home wanted to speak with Andri so they did not answer the telephone. Andri then showed up at his residence unannounced. Andri parked her vehicle in front of his residence and remained inside of the vehicle. Mark did not know Andri was there until his girlfriend told him Andri was outside to see Elvis. Mark asked Elvis if he was supposed to go with Andri. Elvis said he did not want to see Andri. Mark called Officer Johnson and told him that Andri was at the residence. Mark requested Officer Johnson to respond and remove Andri from the property.

Mark went outside and contacted Andri who was still inside of her vehicle. Mark told Andri that she was not supposed to be at his residence. Andri claimed to have new restraining order documents saying that she can be there to see their children. Andri wanted to see Elvis. Mark told Andri he was unaware of any changes to the restraining order and told Andri to leave his property. Andri refused to leave and told Mark that he cannot keep her from seeing their children. Officer Johnson then arrived on scene and told Andri to exit her vehicle. Andri refused to exit her vehicle and Officer Johnson "tased" Andri. Auburn and Shilby became upset at Officer Johnson for tasing Andri, then I arrived on scene.

Mark said Andri did not exit her vehicle or attempt to contact him. Andri was only at his residence to contact Elvis. Mark said it was Christmas Eve and he did not want anyone to get arrested. Mark did not desire prosecution against Andri for violating the restraining order and only requested that she leave the

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NARRATIVE

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property. I ended my interview with Mark and asked him to go inside his residence while I spoke with Andri.

I re-contacted Andri in the backseat of Officer Johnson's patrol vehicle. I advised Andri of her probation and restraining order terms not to contact Mark. Andri said she was unaware of the no-contact order as part of her probation terms. I told Andri that she cannot be at Mark's residence. I had Andri exit Officer Johnson's patrol vehicle and I removed the handcuffs. I explained to Andri that Mark did not want her arrested and that I would be filing charges against her with probation. Officer Johnson advised Andri she was trespassed from the Bishop Paiute Reservation. Andri became argumentative with Officer Johnson and asked how she could see her children if she cannot come on the reservation. I explained to Andri that she had to find another way to make arrangements to see her children and she cannot come to Mark's residence. I escorted Andri to her vehicle. Andri got into her vehicle and sat in the driver's seat with the door open. I noticed Andri had a small abrasion on one of her toes on her left foot. The abrasion was slightly bleeding. Andri also had dirt and redness on the left side of her chin. I asked Andri if she had any other injuries. Andri lifted her shirt and exposed her abdominal area. Andri had what appeared to be several stretch marks and scars on her abdominal area. I also saw slight redness on her abdominal area. Andri said the redness was from Officer Johnson tasing her. Andri then left the scene without further incident.

As Officer Johnson and I were walking back to our vehicles to leave the scene, Officer Johnson told me he Tased Andri prior to my arrival. Officer Johnson said he was trying to get Andri to exit her vehicle when she took a swing at him with her right hand. Officer Johnson subsequently "drive stunned" Andri with his Taser. Officer Johnson and I then cleared the scene without further incident.

Interview with Auburn Andreas:

On 12-30-2014 at about 1340 hours, I contacted Auburn Andreas at her residence, 799 North Pa Ha Lane, Bishop. Auburn told me in essence the following:

On the morning of 12-24-2014, Auburn was putting her daughter down in the front bedroom of the residence. Through the bedroom window, Auburn saw Officer Johnson trying to pull Andri out of her vehicle. Officer Johnson was pulling on Andri's left arm with both of his hands, trying to get Andri out of her vehicle. Auburn saw Officer Johnson pull out his Taser. Auburn ran outside to Officer Johnson and Andri.

Auburn was standing next to the opened driver's door on the opposite side of Officer Johnson and Andri. Officer Johnson was standing outside of the car next to Andri who was in the driver's seat. Officer Johnson continued pulling on Andri's left arm. Andri was holding onto the steering wheel of the vehicle, preventing Officer Johnson from pulling Andri out of her vehicle. Officer Johnson was repeatedly telling Andri, "Get out of the car Andri." Andri refused to get out of the car and was asking Officer Johnson why he was being mean to her. Officer Johnson had the Taser in his right hand and was tasing Andri. Auburn could hear the sound of the Taser cycling. I asked Auburn how she knew it was a Taser. Auburn said the Taser was yellow and she knew what a Taser looks like. Auburn did not know if the cartridge was on the Taser or if Officer Johnson shot Andri with the probes. Auburn believed Andri was connected to the Taser but she was not sure if she saw the wires. Auburn

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began yelling profanities towards Officer Johnson. Auburn told Officer Johnson that he had no right to be tasing Andri. Officer Johnson told Andri that he was going to tase her again and he kept pulling the button to activate the Taser. Auburn was upset with Officer Johnson, yelling at him and pushing him because he was tasing Andri. I then arrived on scene. I pushed Auburn on her chest and she yelled at me for doing that. Officer Johnson was still trying to yank Andri out of the car. Officer Johnson still had his Taser in his right hand. Andri was still holding onto the steering wheel preventing Officer Johnson from pulling her out of the car. I was talking to Auburn asking her what was going on. Auburn said I was not really paying attention because I was talking to her while Officer Johnson had pulled Andri out of the car. Officer Johnson and I then both took Andri to the ground and handcuffed her. While Andri was on the ground Auburn saw that Andri had urinated on herself. Officer Johnson then stood Andri up and put her in the back of his car on the left side. Other Officers arrived on scene and told Auburn to go inside of her house or she would go to jail. Auburn then went inside her house.

While talking to Auburn she repeatedly said Officer Johnson was handling Andri "like she was a man." I asked Auburn if Andri was fighting with Officer Johnson while he was trying to pull her out of the car. Auburn said Andri was not fighting with Officer Johnson and that she was only trying to hold onto her car. Andri was asking Officer Johnson why he was pulling her out of the car and repeatedly told Officer Johnson to read the papers that she had. Auburn could not provide me with any further valuable information and I concluded my interview.

Interview with Mark Napoles:

On 12-30-2014 at about 1717 hours, I contacted Mark Napoles at his residence, 799 North Pa Ha Lane, Bishop. Mark told me in essence the following:

On the morning of 12-24-2014, Mark was inside of his residence when his girlfriend called him and said Andri was parked in front of his house. Mark looked out through a front window and saw Andri out front talking to their son, Elvis. Mark went outside and talked to Andri about his restraining order against her. Andri claimed to have a paper signed by Judge Lamb saying she could be at his residence and Mark could not keep her from their kids. Mark went back inside of his residence and called Officer Johnson about the restraining order terms. Officer Johnson did not know the specifics of the restraining order terms and offered to respond and have Andri removed from the property. Mark told Officer Johnson he (Mark) would attempt to get Andri to leave and then call Officer Johnson back if she refused. Mark went back outside and told Andri she was not supposed to be there and told her to leave. Andri refused to leave. Mark went back inside of his residence and called Officer Johnson back. Mark requested Officer Johnson respond and tell Andri to leave. While waiting for Officer Johnson to respond, Andri stayed outside in her car. Mark went back outside and again told Andri to leave but she refused.

While Mark was outside talking to Andri, Officer Johnson arrived. Officer Johnson told Andri she could not be there and had to leave. Andri told Officer Johnson she could be there and presented the restraining order documents to him. Mark did not know if Officer Johnson looked at the documents. While Officer Johnson and Andri were conversing, Officer Johnson opened the car door. Officer Johnson grabbed Andri's left arm with both of his hands and tried to physically remove Andri from the car. Andri was holding onto either the steering wheel or the seat and refused to get out. Mark said, "His

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NARRATIVE

14-12-080

(Officer Johnson's) actions were totally unexpected."

Mark believed Officer Johnson was trying to restrain Andri because she was refusing his orders. Officer Johnson told Andri, "If you don't get out I'm going to tase you." Officer Johnson had his Taser in his right hand and was holding onto Andri's arm with his left hand. Andri put her legs up to block the Taser. Andri was kicking to get Officer Johnson away and to stop him from tasing her. At that time, Auburn and Shilby came out of the residence and began yelling at Officer Johnson to stop. Mark believed Officer Johnson shot Andri with the Taser but it did not really affect her. Mark did not remember hearing a pop from the Taser being deployed. Mark did not notice if a cartridge was on the Taser and did not see any wires. Mark just saw that the Taser was yellow. Mark did not hear the Taser making any noise. Officer Johnson was holding the Taser back away from Andri. Mark demonstrated to me that Officer Johnson was holding the Taser in his right hand at about eye level.

Mark was pleading with Andri telling her to just get out. Andri was asking Officer Johnson, "What have I done?" and "Why are you doing this to me?" Mark was trying to calm everyone down. Mark was also trying to get Officer Johnson to stop. Mark said, "It was a surprise to see him (Officer Johnson) lose his cool like that." I arrived on scene and Officer Johnson stopped pulling on Andri.

While Mark and I were talking face to face, Officer Johnson started pulling and twisting Andri's left arm again with both of his hands. I went and assisted Officer Johnson in pulling Andri out of the car and we placed her face down on the ground. Mark believed Officer Johnson handcuffed Andri and put her in his vehicle. Mark did not remember seeing Officer Johnson stand Andri up and walk her to his vehicle.

I asked Mark if he knew why Officer Johnson was trying to get Andri out of the car. Mark did not know he wanted Andri out of the car. I asked Mark if Andri was fighting with Officer Johnson while he was trying to pull her out of the car. Mark said Andri was only trying to hold onto the steering wheel and refusing to get out. Mark did not think Officer Johnson was going to try to arrest Andri. Mark thought Officer Johnson would tell Andri to leave and call the Sheriff's Department if she refused. Mark could not provide me with any further information.

**Case Status:**

Referred to the Inyo County District Attorney's Office for review.  
Referred to Investigations.

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12/24/2014

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Date:

12/31/2014



# CIVIL COVER SHEET

Case 1:15-cv-00367---JLT Document 1-3 Filed 03/06/15 Page 1 of 2

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) \_\_\_\_\_

## DEFENDANTS

County of Residence of First Listed Defendant \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known) \_\_\_\_\_

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other  <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act  <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark  <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))  <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

## V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding    ☐ 2 Removed from State Court    ☐ 3 Remanded from Appellate Court    ☐ 4 Reinstated or Reopened    ☐ 5 Transferred from Another District (specify)    ☐ 6 Multidistrict Litigation

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE \_\_\_\_\_ SIGNATURE OF ATTORNEY OF RECORD \_\_\_\_\_

## FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

Case 1:15-cv-00367---JLT Document 1-3 Filed 03/06/15 Page 2 of 2  
**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.