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[VIA E-MAIL & U.S. MAIL]

Chief Ortiz
jortiz@southpasadenaca.gov
1422 Mission Street
South Pasadena, California 91030

Dear Chief Ortiz:

I am writing on behalf of and at the request of Fahren James and Victoria Patterson regarding July 8 and 10, 2020 incidents involving Joe Richcreek and the response of the South Pasadena Police Department to Mr. Richcreek's criminal conduct. You have received correspondence from Ms. James and Ms. Patterson so you should be well acquainted with some of the facts. Ms. Patterson wrote you on July 14th pointing out the inaccuracies in the police reports prepared on these incidents and Ms. James brought her concerns to you in emails dated July 16 and 20. While Sgt. Abdalla responded to Ms. Patterson, you did not respond to Ms. James. Sgt. Abdalla offered excuses why Mr. Richcreek would not be arrested for the spitting incident and I address those excuses below.

1) Ms. Fahren James has offered to make herself available to give a statement and has provided written statements. On August 7, 2020, I was informed in writing by Detective Hang that South Pasadena Police Department was filing charges against Mr. Richcreek for assaulting Ms. James with a rock. However, he did not mention the charges that would be filed in connection with the July 8th spitting incident despite the fact that it was caught on video and Mr. Richcreek clearly and intentionally spit on Ms. James and in Ms. Patterson's face in the middle of a deadly pandemic.

Penal Code 242 states, "A battery is any willful and unlawful use of force or violence upon the person of another." In the case of *People v. Valdez*, 28 Cal. App. 5th 308 (2018) the Appellate Court affirmed that spitting at someone constitutes battery under California law.

On July 25, 2020, Ms. Patterson wrote to you and your investigating Sergeant confirming that: The police report is inaccurate because Mr. Richcreek did not only spit on her shirt as the police report pertaining to the July 8 spitting incident stated. Ms. Patterson stated in writing, "He spat on my face. Let me be clear: I was wet with spit. It was in my hair, on my shirt, my shoulder and arm. Fahren James also got spit on.

The report states that Fahren James is a witness. This is not true. She was also assaulted.”

Despite their diligent follow up, neither Ms. Patterson nor Ms. James received any confirmation that criminal charges would be filed. This is especially disappointing given the clear malicious intent that Mr. Richcreek exhibits on video after being spoken to in patient, polite, and calm tones by Ms. James culminating in her telling him to “enjoy your day.”

The video also reveals that Mr. Richcreek is holding a sharpened drum stick that looks extremely threatening and dangerous in light of his erratic and assaultive conduct. Mr. Richcreek was also holding a rock in his hand.

Additionally, Mr. Richcreek’s motivation was based on Ms. Fahren’s race as an African-American and her expressing her First Amendment Rights in support of Black Lives Matter. Mr. Richcreek is clearly hostile and injected race into the conversation by accusing Ms. James, a black woman, of being racist and/or having racist signs, an accusation which is simply not true.

Penal Code Section 422.55 states in relevant part, “Hate crime means a criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim: (4) Race or ethnicity... (7) Association with a person or group with one or more of these actual or perceived characteristic.”

Penal Code Section 422.6(a) states: “No person, whether or not acting under color of law, shall by force or threat of force, willfully injure, intimidate, interfere with, oppress, or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States in whole or in part because of one or more of the actual or perceived characteristics of the victim listed in subdivision (a) of Section 422.55.”

It is clear that Mr. Richcreek used force and threats of force to deter Ms. James and Ms. Patterson from exercising their right to peaceably assemble and to free speech under the First Amendment of the Constitution. The fact that he came back twice, once to throw a rock at Ms. James and another time, on July 19, to threaten to fight other individuals exercising their freedom of speech in support of Black Lives Matter leaves no doubt about his motive. Mr. Richcreek should be charged with assault and a hate crime enhancement for his despicable conduct in assaulting and battering Ms. James twice and Ms. Patterson on one occasion.

2) Ms. James and Ms. Patterson would also like to submit a personnel complaint on the manner in which this was handled by Corporal Randy Wise and the other Officers who arrived at the scene on July 10th. Officers of the South Pasadena Police Department should have been on alert for Mr. Richcreek given that Ms. James and Ms. Patterson submitted the video of his

assaultive conduct which showed his hostility towards them for exercising their First Amendment Rights.

However, the Officers who arrived at the scene exhibited little knowledge or appreciation of Joe Richcreek's dangerous propensities. Mr. Richcreek was not even patted down for weapons placing everyone in danger. Instead of handcuffing Mr. Richcreek, while assuring and speaking with Ms. James about the subsequent assault with a rock, Mr. Richcreek was allowed to sit on the sidewalk, spew lies about Ms. James, while Ms. James was ignored. When Corporal Wise informed Ms. James that he was conducting an investigation and he was getting Richcreek's side of the story, Ms. James informed there were not two sides of the story as she had video evidence of the crime. Corporal Wise refused to see the video and told her to "get back." While Ms. James was initially upset at this treatment, and pointed out the fact that if this were a black man (with video evidence of an assault), Richcreek would be in handcuffs, she calmed down quickly.

After Mr. Richcreek was placed in handcuffs, Corporal Wise made a point to emphasize to him, "I am not arresting you, she is [referring to Ms. James]" further endangering Ms. James and essentially putting a target on her back. As you are aware, if a police officer has video evidence of a crime it establishes probable cause for a warrantless arrest. *See, for example People v. Alexander* 36 Cal. App. 5th 827 (2019). Not only was it frankly spineless for the South Pasadena Police Department not to make this arrest and placing the burden on Ms. James, it further and unnecessarily endangered Ms. James given her open and protected conduct in publicly advocating for change.

The motivation for Corporal Wise's malfeasance became readily apparent when he informed Ms. James' brother, London Lang, that all of this was her fault and that the "cop-hating" had to stop. As Mr. Lang replied, they are not cop hating and neither is Black Lives Matter. They are against police brutality, racism and for the preservation of black lives.

None of the officers there including Corporal Wise consoled or expressed concern for Ms. James, a victim of two assaults which were hate crimes. Nobody asked her to see the video nor were her legs looked at as the police report stated. The Officers did not ask to see the video that Ms. James offered to show them which showed the despicable nature of Mr. Richcreek's conduct. No Police Officer tried to question Ms. James about the incident.

In light of the video of July 10, the police report authored by Corporal Wise is a work of fiction, containing numerous falsehoods. It repeats the false accusation that Ms. James has been participating in an anti-police protest.

Corporal Wise does not mention that Ms. James offered to show a video of the crime. It describes Ms. James negatively as part of an "angry group" and "unruly group". It leaves out the fact that Corporal Wise found a rock in Joe Richcreek's pocket (which

is captured on video). It falsely states, “I was unable to interview James or any of her group about this allegation due to their uncooperative behavior at the scene.” The video of Corporal Wise’ ongoing and condescending lecture to the young London Lang is available to the public. He did absolutely nothing to investigate these crimes or question any witnesses. Nobody was being uncooperative and Ms. James cooperated by signing the citizen’s arrest form she was requested to sign. Corporal Wise was more concerned about his “soap box” trying to prove he was right than serving and protecting the victim of a crime. His assertion that the group was uncooperative is a lie and he should be held accountable for falsifying a police report. Moreover, he falsely asserts that he “later attempted to interview James by telephone but she did not answer or return my call for questioning.” This too is an absolute lie. Ms. James has the phone records to prove it.

3) We request that the contents of this letter be provided to the District Attorney as the police reports contain misrepresentations and lies and this matter should proceed based on evidence and the truth. Ms. James informed Detective Hang she was available to speak. When I informed the Detective I would attend the meeting, the Detective proceeded only through email, and did not ask any follow up questions regarding the conduct of Mr. Richcreek. Ms. James and Ms. Patterson are law abiding citizens who want to be able to exercise their First Amendment rights with the confidence that the South Pasadena Police Department will work to serve and protect them while they are exercising their constitutional rights. Based on my review of the evidence, they have been subjected to biased policing against them because Corporal Wise and the Department disagrees with their views. When this bias results in the falsification of a police report and false accusations against victims of crime, appropriate corrective action must be taken. We look forward to your response.

Sincerely,

V. JAMES DESIMONE LAW

A handwritten signature in blue ink, appearing to read 'V. James DeSimone', with a stylized flourish at the end.

V. James DeSimone, Esq.