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December 5, 2020

Acting Chief of Police Brian Solinsky
South Pasadena Police Department
1422 Mission Street
South Pasadena, California 91030

Dear Acting Chief Solinsky:

On behalf of City of Fahren James, we submit this complaint pursuant to California Penal Code section 832.5, and the City of South Pasadena Police Department's Citizen Complaint Reporting Procedure. On November 15, 2020, together with other City residents, Ms. James served complaints against certain South Pasadena Police Department (SPPD) personnel related to matters that are also incorporated into this complaint. This complaint serves to both supplement those earlier-submitted complaints, as well as expand upon them by including additional allegations against the earlier-referenced and additional SPPD personnel.

It is our understanding that the City Council has authorized an investigation into those earlier-submitted complaints pursuant to the above-referenced procedures. As such, please forward this expanded complaint from Ms. James to the investigating authority. It asserts complaints against the following SPPD personnel related to incidents that occurred on July 8, 2020, July 10, 2020, July 19, 2020, and October 3, 2020, and interactions with SPPD personnel related to those incidents: Officer Roppo, Officer Sandoval, Officer Calderon, Corporal Carillo, Corporal Wise, Sergeant Valencia, Sergeant Louie, Sergeant Abdalla, Detective Hang, Detective Palmieri, Deputy Chief and Watch Commander Brian Solinsky, and Chief Ortiz. Witnesses to these incidents are referenced herein, and include but are not limited to: Fahren James, Victoria Patterson, London Lang, Alan Ehrlich, Eric Fabio, Zane Crumley, Sylvia M. Valladares (Michelle), Allison, Anne Bagasao, and Eric Fabio.

I. Background Facts

In response to ongoing reports of systemic and inhumane police abuses against Black and Brown communities across the country, and the national conversation about the need to escalate efforts to root them out, beginning on June 1, 2020, London Lang, a longtime South Pasadena resident began to organize peaceful and inclusive community protests in South Pasadena to raise awareness about the gravity of these issues. At that time, Mr. Lang spoke to SPPD about how to ensure that the protests complied with laws and local ordinances, to ensure that people could exercise their First amendment rights without incident. Soon thereafter, Fahren James, Mr. Lang's sister, joined to lead the effort. Ms. James is African American, and an organizer for Black Lives Matter, an advocacy group that centers the

experiences of Black lives in the movement for greater social justice particularly as it relates to criminal justice.

These peaceful protests took place on the corner of Mission Street and Fair Oaks Avenue in South Pasadena, and have been supported by a racially diverse group of local residents and visitors to the City. As an experienced organizer, Ms. James made every effort to conduct the protests in a way that ensures that the community's First Amendment rights could be exercised lawfully. She has also actively communicated with SPPD to ensure compliance with laws and local ordinances.

Despite the overwhelmingly positive response to the peaceful protests, they have also been met with some opposition. This complaint addresses SPPD's inadequate response to a few, isolated incidents of violence and threats to public safety perpetrated by individuals opposing the protests. As described below, SPPD's response to these incidents have not been in line with its stated commitment to "diversity," "professionalism" and "community-oriented policing." In fact, SPPD's responses have been in clear violation of well-established provisions of the SPPD Policy Manual and associated laws, and have left community members with a dangerous lack of confidence that SPPD will serve and protect them equally.

This complaint addresses a continuum of incidents beginning on or about July 8, 2020, that are ongoing and highlight a systemic culture of biased policing in South Pasadena, particularly against racial justice protesters promoting awareness of abusive police practices. The protests are not "anti-police," but rather about police accountability for biases against black lives, among other forms of discrimination, and uses of excessive force that violate the Constitution of the United States of America. The United States Constitution also provides First Amendment rights of freedom of speech, freedom of assembly, and the right to petition for grievances.

The complaint focuses on the following four incidents, which Ms. James personally experienced. The incidents show SPPD's failure to properly identify and investigate likely hate crimes against peaceful Black Lives Matter protesters, accurately report on them, and take proactive measures to ensure they do not reoccur. They also show that SPPD was particularly biased against Ms. James, the lead African American protester, by refusing to press appropriate charges against White individuals who assaulted or attempted to assault her on multiple occasions for exercising her rights. Together, they highlight the City's need to take corrective action against the SPPD personnel named in this complaint. They also highlight what appears to be a culture within SPPD, from the top down, of failing to protect individuals exercising their First Amendment rights on issues they are hostile toward, in particular accountability for police abuse.

Through this complaint, we ask for an investigation into the above-referenced incidents and above-referenced SPPD personnel's responses to them. We also ask that this complaint be forwarded through proper channels to the California Department of Justice, as is required by SPPD Policy Manual section 401.8 and related laws, to address "complaints of racial bias against officers."

A. July 8, 2020 Incident: Hate Crime Perpetrated by Joe Richcreek Against Black Lives Matter Protesters Victoria Patterson and Fahren James

On July 8, 2020, at around 4 pm, Ms. James was at the protest site with fellow protester Victoria Patterson, who is White. They were both at a table they had set up to make protest signs, when Ms. James stepped away to fix a sign about 10-15 feet away. When she approached the sign, she noticed a White man on a bicycle standing approximately 15 feet away from her who was looking at the sign. She did not engage with him until he asked her "Is this you?" He was referring to the sign that read, "I don't know who needs this, but police aren't supposed to kill guilty people either." She replied, "Yes, it is," and proceeded to fix the sign. The man, who she would later learn was Joe Richcreek, said: "I don't like that sign." She asked why and he said, "Because it's racist." He continued, "My dad's a cop," to which Ms. James responded, "My dad's a cop too." He then said his dad was deceased. She replied, "I'm sorry for your loss, but that doesn't help me to understand why the sign is racist."

During the conversation Mr. Richcreek began to walk closer to her in an intimidating manner, prompting Ms. James to back away from him for her physical safety, as well as to keep appropriate social distance. She also noticed that he had a rock in one hand and a sharpened drummer's stick under his arm, which alarmed her. Within a few minutes, Ms. Patterson, who was still sitting at the table, noticed the disturbing interaction, including that Mr. Richcreek had weapons. She then left the table, approached Ms. James and Mr. Richcreek, and began video recording the interaction from her cellphone.

When Mr. Richcreek noticed Ms. Patterson filming the interaction, he rode over to her and snatched her phone out of her hand. Ms. James then ran over to get in between them to try to deescalate the situation. Ms. Patterson took her phone back from Mr. Richcreek and began recording again. Ms. James continued to try to deescalate the situation by wishing Mr. Richcreek to "have a great day," in hopes that he would leave. But Mr. Richcreek was undeterred. He pulled his face mask down and spat toward Ms. Patterson. The spit flew everywhere: Ms. Patterson's face, her face mask, her shirt, her hair, and Ms. James' arm which was attempting to block the assault. After the initial shock of Mr. Richcreek's violent behavior, Ms. Patterson instinctively responded, "Fucking asshole. I'm going to call the cops!"

While the interaction was occurring, bystanders called SPPD, who arrived at the scene approximately 5-10 minutes later. By that time Mr. Richcreek had fled the scene. Both Ms. James and Ms. Patterson provided a detailed explanation of what had happened to the arriving officers - Officer Christina Roppo and her superior Corporal Carillo. They also showed the officers Ms. Patterson's two videos, and made it clear they wanted to press charges against Mr. Richcreek. However, Officer Roppo and Corporal Carillo only seemed interested in taking down information about Ms. Patterson and Ms. James, including where they lived, and took no notes about the suspect and other facts about the incident.

When the officers were leaving, Ms. Patterson and Ms. James asked them for the number of the police report so they could follow up to see if Mr. Richcreek had been apprehended. The officers admitted that they did not have a police report number to provide them. Only after they again made clear that they wanted to press charges did Officer Roppo begin to take notes about the incident to include in a police report. However, the follow up questions she asked made it clear that they had not taken the incident very seriously. The first question Officer Roppo asked was "So who was the victim again," followed up with a request that they describe the suspect, despite having just watched a video of the entire incident. Ms. Patterson and Ms. James waited until July 11, 2020, to ask for a copy of the police report. Despite two days having passed since the spitting incident, SPPD told Ms. Patterson the report was not ready at that time. They ultimately received the report (# 201339) on July 13, 2020,

and found it riddled with inaccuracies. On July 14, 2020, Ms. Patterson emailed SPPD Chief Ortiz, on behalf of herself and Ms. James, expressing concerns about the inaccuracies in the report, and the lack of follow up by anyone at SPPD about the incident. She stated, "Reviewing our reports, there are blatant inaccuracies. We need to remedy this ASAP...When will we hear from the detective(s)? ... I've had no one check on me from SPPD...I've been a resident of this community for over twenty-five years. I'm personally requesting your assistance as the Chief of our department. We deserve (and must receive) services and protections from SPPD."

After Ms. Patterson's July 14 email to Chief Ortiz, several SPPD officers did reach out to Ms. Patterson as they were required to do independent of her request. See SPPD Policy Manual at 319.4 (h), (i), 319.4.2(c). Among them were Sergeant Tony Abdalla, Sergeant Spencer Louie, and Detective Palmieri. However, they responded with only excuses and misinformation about why SPPD could not do more for the victims. Among other things, they told Ms. Patterson that spitting does not constitute an assault, which is not true; that the July 8 and July 10 incidents were too far apart to be considered a related act, which makes no sense; and that South Pasadena simply does not have the resources to respond more proactively to protect residents in their situation, which is belied by the plain obligations set forth in the SPPD Policy Manual. Further, despite repeated reminders by Ms. Patterson and Ms. James that Ms. James too was a victim deserving proactive assistance from SPPD, no one from SPPD ever affirmatively reached out to her until July 21. At that time Detective Hang reached out to her, but not in an effort to provide her protection going forward, or to get more facts about the hate crime perpetrated by Mr. Richcreek, but rather to question Ms. James about whether she may have been an aggressor in the July 10 incident (see further detail below).

Because of SPPD's utter failure to properly investigate the blatant hate crimes that had been perpetrated against them, both Ms. Patterson and Ms. James had lost confidence in SPPD's ability to complete a fair and unbiased investigation. As such, they declined SPPD's later attempts to re-interview them under the guise of correcting the many inaccuracies in police report #201339. Instead, on July 20, 2020, Ms. Patterson and Ms. James each submitted separate written statements to SPPD to correct the inaccuracies in the report. Though SPPD informed them that their statements would become part of the official report of the July 8 incident, SPPD has refused to provide them with an updated copy of the police report, or any amended police report of the July 8 incident, so they can verify its accuracy.

B. July 10, 2020 Incident: Hate Crime Perpetrated Joe Richcreek Against Black Lives Matter Protester Fahren James

Only July 10, 2020, at about 7 p.m., Ms. James and a writer from the SouthPasadenan newspaper, Eric Fabio, were at the protest site, together with another protester, Sylvia M. Valladares (Michelle). Ms. James and Michelle were taking down signs to pack up for the day when Mr. Richcreek came upon them from behind. Referring to the July 8 spitting incident, one of the others there called out, "Is that the guy?" At that time, Mr. Richcreek locked eyes with Ms. James, called her a "fucking bitch," and started yelling more threatening obscenities at her. He then rode to the bus stop area near the protest site, picked up a rock and threw it at her, striking her left ankle area, and fled.

Mr. Fabio and Michelle ran after Mr. Richcreek, while Ms. James tried to follow in her car. When she caught up with Mr. Fabio and Michelle, she asked Mr. Fabio to go back to the

protest site, while she and Michelle continued to look for Mr. Richcreek in her car. Ms. James first drove to the nearby SPPD and asked two people walking their dog to go inside and ask the police to assist apprehending Mr. Richcreek. After evading Ms. James and several other witnesses also searching for him, they finally cornered Mr. Richcreek near an apartment complex on Fremont Avenue and Lyndon Street. Soon thereafter the police arrived.

The several SPPD officers who arrived at the scene did not search, handcuff or arrest Mr. Richcreek, despite his being the suspect in the July 8 assault where he was armed with weapons. Instead, they let him casually sit on the curb and describe his version of events. About 10-15 minutes later Corporal Randy Wise and Sergeant Spencer Louie arrived at the scene. When Ms. James approached Corporal Wise to explain what was going on, and ask him to review the video of Mr. Richcreek's July 8 assault for context, he responded aggressively with unwarranted hostility. He barked at her to "get away" and told her she was interfering with an investigation. He was agitated and began arguing with Ms. James and her brother, London Lang who had arrived to provide support to his sister. Corporal Wise told them that all of this was Ms. James' fault and that the "cop-hating" had to stop. Mr. Lang calmly responded that they were not cop hating and neither is Black Lives Matter; rather, the protesters are against police brutality, racism and for the preservation of Black lives. Corporal Wise maintained his unfounded opinion that "the protesters were bringing police hate to the city."

Not surprisingly, Ms. James, the crime victim, was initially upset by Corporal Wise and the other SPPD officers' biased treatment toward her. She pointed out that if the suspect were a black man (with video evidence of an assault), Mr. Richcreek would be in handcuffs by that time. However, she quickly calmed down and fully cooperated with the officers. Though Ms. James had a bat with her, she brought it only for self-defense, which is understandable in light of the fact that she was twice assaulted by Mr. Richcreek, most recently with a rock. She never swung the bat at Mr. Richcreek or anyone else, nor did the bat come into contact with anyone. At most, she anticipated using the bat to deflect any other rocks Mr. Richcreek might throw at her. In fact, SPPD found a rock in Mr. Richcreek's pocket as they were taking him into custody later that night, which can be seen in the video of the July 10 incident.

Unfortunately, none of the officers there including Corporal Wise consoled or expressed concern for Ms. James, the victim of two assaults by Mr. Richcreek in the span of just two days. Despite falsehoods in the police report, no SPPD personnel asked Ms. James about the injury Mr. Richcreek had inflicted on her leg, let alone inspected her leg or took photographs of it as evidence of the assault. Several witnesses tried to explain to Corporal Wise that Ms. James was in a traumatized state, as she had been spat on by the suspect just days ago. Corporal Wise cavalierly responded: "We get spat on all the time." Mr. Lang tried to further explain that Ms. James was understandably shaken up after chasing down the suspect who had just assaulted her for the second time in two days, and that she had been shot at in a prior protest earlier that month. Corporal Wise flippantly responded: "Haven't we all had a bad month?" A witness to the event, Alan Ehrlich, who lives nearby, corroborated the insensitive manner in which SPPD treated Ms. James, in an email he sent to SPPD on July 15: "Other than Wise 'sparring' with James and Lang, from 25' as seen on the video, none of the officers came to speak with the victim and help explain the process that was happening or help to de-escalate the situation."

In the end, not a single officer interviewed Ms. James about the July 10 incident, or agreed to review the videos of Mr. Richcreek's despicable conduct on July 8. SPPD also did not

interview any of the other witnesses to the events that evening, including Alan Ehrlich, Michelle, Allison, or Eric Fabio. The only time an SPPD officer approached Ms. James was to get her to sign a citizen's arrest warrant, which Corporal Wise instructed another officer, Officer Valdez, to do, and not to take down her version of the events. Ms. James asked the officer why she needed to sign the warrant, but the female officer gave her no answer, and only stated that if she did not sign the warrant, SPPD would not arrest Mr. Richcreek.

Because Ms. James signed the citizens' arrest warrant, SPPD arrested Mr. Richcreek on the night of July 10 and took him to the SPPD station. However, throughout the incident, Corporal Wise went out of his way to protect Mr. Richcreek and act as his advocate. Corporal Wise explicitly told Mr. Richcreek, "I am not arresting you, she is," referring to Ms. James. He repeatedly advised Mr. Richcreek not to speak because his words could incriminate him. He did so despite the fact that he never actually read Mr. Richcreek his Miranda rights because he had made the decision not to arrest him, unless Ms. James made a citizens' arrest. Corporal Wise also stated he was worried for Mr. Richcreek's safety based on his biased and baseless perception that the witnesses at the scene constituted an "unruly" and "angry" "mob." Corporal Wise's conduct placed Ms. James even in more fear of her safety by falsely blaming the arrest on her instead of Richcreek's patently offensive and assaultive conduct. To the contrary, it was Mr. Richcreek who was a public safety threat that night as he was carrying a rock in his pocket throughout the incident which he could have weaponized at any time. SPPD failed to discover Mr. Richcreek's weapon until the end of the night, because they did not bother to search him or treat him as a suspect of two violent crimes, as they should have. Despite his having recently committed two assaults against Ms. James, and one against Ms. Patterson, Corporal Wise released Mr. Richcreek from custody later that night at the SPPD station, with only a Notice to Appear for a court date.

C. July 19, 2020 Incident: Hate Crime Perpetrated by Joe Richcreek Against Zane Crumley, Nearby Protesters including Fahren James

On July 19, 2020, at around 6:40 p.m., Mr. Richcreek came back to the protest site, again enraged by the protest activity. When one of the protesters, Zane Crumley, saw Mr. Richcreek approach them, he went to protect the signs at the Starbucks intersection. Mr. Richcreek approached him, started yelling obscenities at Mr. Crumley, and threatened to fight protesters exercising their First Amendment rights in support of Black Lives Matter. Witnesses to the incident included Ms. James, London Lang, Victoria Patterson, and Anne Bagasao. They contacted SPPD, and Officer Sandoval and Officer Calderon arrived on the scene after Mr. Richcreek had fled. The officers acted as if they had not heard of Mr. Richcreek, or his prior assaults on the protesters, despite the fact that they had just occurred about a week ago, and SPPD had put out a press release of his arrest.

Ms. James is not aware of whether SPPD prepared a police report of the July 19 incident, or whether Mr. Richcreek was apprehended or faces any consequences because of the July 19 incident. As far as she knows, he is still at large, and undeterred to engage in repeat offenses.

D. October 3, 2020 Incident: Hate Crime Perpetrated by Richard Cheney Against Three Protesters, including Fahren James

On October 3, 2020, in the early afternoon, about three protesters including Ms. James were gathered at the protest site, peacefully setting up signs and going about their business. Suddenly, a White male by the name Richard Cheney approached them in his car, jumped

the curb and barreled through the sidewalk toward them. He nearly hit three protesters including Ms. James, Holly Waddle, and Omar Espinosa, as well as several bystanders. He yelled out of his car toward Ms. James, "So you're going to keep putting those signs up anyway?" Ms. James attempted to have a conversation with Mr. Cheney, explaining that if he had a problem with the signs, he should contact authorities rather than act as a vigilante.

It became clear that Mr. Cheney had already spoken to SPPD about the protesters and their signs, and likely spoke to SPPD about a visit SPPD Officer Perez made to Ms. James on September 22. On that date, Officer Perez came to the protest site and gave Ms. James a partial printout of city ordinance purporting to govern signage at the protest site. No one else was present, so it was suspicious that Mr. Cheney asked Ms. James whether she would "keep" putting up her signs "anyway," and indicated that Mr. Cheney had previously spoken to SPPD about the protests. When Ms. James proceeded to put up her signs, Mr. Cheney informed the protesters that he was going to call SPPD Chief Ortiz, and proceed to make a call on his cell phone. On the call he stated, presumably to Chief Ortiz, "She is still putting these signs up, I'm here on the corner right now." As his conversation continued, Ms. James started recording the event.

After about 5-8 minutes, SPPD Officer Stephens arrived at the scene. He saw Mr. Cheney in his car parked across the sidewalk, and witnessed him back off the sidewalk going in the opposite direction against traffic, and make an illegal left turn. He pulled Mr. Cheney over and asked him why he had been parked on the sidewalk. Mr. Cheney lied, stating that he was looking for parking for Starbucks. The officer asked if he had seen pedestrians on the sidewalk before he drove through it, and he said "yes."

After Officer Stephens, who is African American, had begun interviewing Mr. Cheney, other SPPD officers arrived at the scene. Rather than allow Officer Stephens complete his interview of Mr. Cheney, SPPD assigned a later arriving Latina officer, Officer Valdez, to be the "Investigating Officer" of the incident. Once seven witnesses provided statements and the suspect provided his statement again, the Investigating Officer left for her squad car to speak with her supervisor. After a brief discussion, including a call to their superiors, they returned to explain that SPPD had decided to let Mr. Cheney go, without charges, or even a traffic citation. The Investigating Officer admitted she could not provide any justification for why no action was being taken against Mr. Cheney, despite his having just threatened the lives of at least three people. Officer Valdez later revealed on video that this was not her call or her decision. Instead, it was an instruction from Watch Commander and Deputy Chief Brian Solinsky who, after speaking to Chief Ortiz, gave her the order to let Mr. Cheney go. Ms. James asked SPPD for a copy of the police report of this incident, but SPPD has refused to provide it to her.

II. SPPD Personnel's Violations of SPPD Policy Manual and Related Laws

A. Failure to Identify, Investigate, and Protect Victims of Hate Crimes

As described above, Ms. James and other protesters associated with Black Lives Matter were the victims of hate crimes perpetrated by both Joe Richcreek and Richard Cheney. In responding to these crimes, occurring on July 8, July 10, July 19 and October 3, 2020, a number of SPPD personnel failed to properly identify and investigate the crimes, let alone apply the heightened procedures required for investigating hate crimes. They also failed to take measures to protect the victims from continuing danger from repeat perpetrators who

were fueled by hate against individuals based on their race and/or advocacy for a particular racial group. In failing to do so, the following SPPD personnel violated the SPPD Policy Manual, including but not limited to sections 319.1, 319.3, 319.4, 319.4.2: Officer Roppo, Officer Carrillo, Officer Valencia, Officer Wise, Officer Louie, Officer Abdalla, Detective Palmieri, Detective Hang, Watch Commander and Deputy Chief Solinsky, and Chief Ortiz.

1. Failure to Properly Identify, Investigate and Supervise Potential Hate Crime Incidents (SPPD Policy Manual sections 319.1, 319.1.1, 319.4)

The SPPD Policy Manual defines “hate crimes,” as “[a] criminal act committed in whole or in part, because of one or more of the following actual or perceived characteristics of the victim (Penal Code § 422.55; Penal Code § 422.56; Penal Code § 422.57): Race or ethnicity, Association with a person or group with one or more of these actual or perceived characteristics.” Id. at 319.1.1. It goes on to provide that “hate crimes include, but are not limited to: 1. Interfering with, oppressing or threatening any other person in the free exercise or enjoyment of any right or privilege secured by the constitution or laws because of one or more of the actual or perceived characteristics of the victim (Penal Code § 422.6).”

The SPPD Policy Manual mandates heightened investigation procedures for potential hate crimes. It states, “Whenever any member of this department receives a report of a suspected hate crime or other activity that reasonably appears to involve a potential hate crime.” SPPD Policy Manual at section 319.4. It also imposes on supervisors affirmative responsibilities relating to hate crimes investigations, including “identify[ing] reasonable and appropriate preliminary actions,” and “[r]eviewing related reports to verify whether the incident is appropriately classified as a hate crime for federal and state bias crime-reporting purposes.” Id. at 319.4.2. Supervisors also are required to consider whether to “assign[] an officer at specific locations that could become targets or increase neighborhood surveillance.” Id.

Here, there can be no doubt that the assaults Joe Richcreek and Richard Cheney perpetrated against Ms. James and her fellow Black Lives Matter protesters “reasonably appeared” to be hate crimes. Id. at 319.4. However, SPPD personnel – of all ranks – tasked with responding failed to identify the crimes they committed as hate crimes, let alone apply the heightened procedures required to investigate them or take proactive measures to protect the victims. Id. Each of the assaults committed on July 8, 10, 19 and October 3 were targeted at protesters clearly affiliated with Ms. James, an African American woman, and/or Black Lives Matter, a well-recognized group known for promoting racial justice for African Americans. The perpetrators of the crimes specifically took issue with Black Lives Matter protesters, and their exercise of their First Amendment rights to promote their message through protest signs and related protest activity. Given the highly public nature of the protest activity and its association with advocacy for a particular racial group, SPPD personnel had ample reason to treat the incidents as hate crimes. In failing to do so, they violated SPPD Policy Manual at sections 319.4 and 319.4.2, and should be held to account.

a. July 8 Incident: Joe Richcreek Calls Ms. James’ Protest Activity “Racist” and Spits on Ms. Patterson and Ms. James for Defending their Right to Support Black Lives Matter

As described above, in this incident Mr. Richcreek approached Ms. James, armed with a rock and a sharpened drummer’s stick, and called her protest sign “racist.” He proceeded to spit on Ms. Patterson, who came to Ms. James’ defense, and also spat on Ms. James who was

trying to protect Ms. Patterson. These acts clearly constitute a hate crime. However, Officer Roppo, Corporal Carillo, and their supervisor Sergeant Valencia failed to treat Mr. Richcreek's assault as a potential hate crime, and in so doing violated SPPD Policy Manual section 319.4 and 319.4.2 in the following ways:

- (1) They failed to notify their supervisors of the circumstances of the hate crime "as soon as practical." Id. at (b). In fact, as described above, they were largely dismissive of the incident, and did not initially intend to file a police report at all. It was only when Ms. Patterson and Ms. James inquired about a police report number, and repeated that they wanted to press charges, did Officer Roppo take detailed notes about the incident. However, as far as the victims are aware, at no time did Officer Roppo or Corporal Carillo contact a supervisor to apprise them of the circumstances of the hate crime. Even if they did, their supervisors, including Sergeant Valencia who signed off on the police report, appear to have failed to comply with their obligations to ensure the crimes were properly reported as hate crimes, and advise on proactive measures to mitigate them going forward. See SPPD Policy Manual at 319.4.2.
- (2) They failed to "take all reasonable steps to preserve evidence that establishes a possible hate crime." Id. at (b). Here, there was DNA evidence of the suspect's spit on Ms. Patterson's clothing. They failed to collect and preserve this evidence.
- (3) They failed to "take appropriate action to mitigate further injury or damage to potential victims or the community." Id. at (d). As discussed above, neither Officer Roppo, Corporal Carillo, or anyone at SPPD contacted Ms. Patterson or Ms. James to follow up to inquire about their safety after the July 8 incident. Nor did they take any other measure to protect these victims, or others who were continuing to exercise their First Amendment rights through the ongoing Black Lives Matter protests in South Pasadena. For example, they could have, but did not, proactively station a police officer near the protest site in case Mr. Richcreek returned. They did nothing to protect the protesters, despite being on notice that an individual like Mr. Richcreek was at large, and was trying to threaten their right to engage in First amendment protected activity. Their willful inaction had consequences. Mr. Richcreek returned to the protest site twice, first on July 10 to attack Ms. James with a rock, and again on July 19, to threaten to fight with other protesters for continuing to exercise their First Amendment rights.
- (4) They failed to take "Statements of victims and witnesses [by] audio or video recorded." Id. at (e). It was entirely "practicable" for them to do so, but they completely failed to comply with this obligation, resulting in a police report that was riddled with inaccuracies, as discussed in more detail below.
- (5) They failed to "include all available evidence indicating the likelihood of a hate crime in the relevant reports," "mark[] the report" as a "Hate Crime" and likely failed to "complete[] and submit[]" the report "before the end of the shift." Id. at (g). As discussed, they did not treat the July 8 incident as a hate crime at all, and would not even have filed a police report unless the victims repeated their request to press charges against Mr. Richcreek. Though they ultimately filed a report, they did not label the incident as a hate crime. While it appears Officer Roppo completed the report on the same day as the incident, for inexplicable reasons

SPPD did not make it available for public release until July 13, together with the report for Mr. Richcreek's second assault on Ms. James on July 10, calling into question whether it was actually completed on July 8. Even then, as discussed in more detail below, the report was riddled with inaccuracies, requiring Ms. Patterson and Ms. James to submit separate written statements to correct the record, as discussed in further detail below.

- (6) They did not provide the victims of the potential hate crime "with a brochure on hate crimes (Penal Code § 422.92)" nor did they "make reasonable efforts to assist the victims by providing available information on local assistance programs and organizations." *Id.* at (h). The record is clear they failed to do either of these things, even after Ms. Patterson reached out to Chief Ortiz on July 14 seeking protection and inquiring about a protective order against Mr. Richcreek, particularly after his second attack against Ms. James on July 10. SPPD responded with a number of excuses and misinformation for why they could not do more for the victims.
- (7) They did not "take reasonable steps to ensure that any such situation does not escalate further," nor did they "provide information to the victim regarding legal aid (e.g., Possible Temporary Restraining Order through the District Attorney or City Attorney Penal Code § 136.2 or Civil Code § 52.1 as indicated)." *Id.* at (i). As discussed, SPPD's complete failure to take proactive measures to mitigate another assault by Mr. Richcreek likely led to the Mr. Richcreek's second assault against Ms. James on July 10, as well as his third assault on protesters on July 19 when he spewed violent threats against them.

b. July 10 Incident: Joe Richcreek Returns to the Protest Site to Hurl a Rock at, and Injure Ms. James' Leg

As described above, this incident was a continuation of the July 8 hate crime Mr. Richcreek perpetrated against Ms. Patterson and Ms. James. On July 10, Mr. Richcreek returned to the protest site, and hurled a rock at Ms. James, hitting her in the ankle area. After he fled and was later approached by SPPD, Corporal Wise found a rock in Mr. Richcreek's pocket, confirming his intention to use violence to chill Ms. James' protest activities in support of Black Lives Matter. However, Corporal Wise and his supervisor Sergeant Louie failed to identify the incident as a hate crime, and follow the requisite procedures for investigating it, in violation of SPPD Policy Manual at 319.4 and 319.4.2, as follows:

- (1) He failed to notify his supervisors of the circumstances of the hate crime "as soon as practical." *Id.* at (b). As discussed above, Corporal Wise did not himself arrest Mr. Richcreek for any crime, let alone a hate crime, despite ample evidence to do so. He only did so after Ms. James agreed to sign a citizen's arrest warrant, absent which he would have let Mr. Richcreek go without consequence, despite video evidence of his prior assault against Ms. James. As far as Ms. James is aware, at no time did Corporal Wise contact supervisors to apprise them of the circumstances of the hate crime. Even if he did, his supervisors appear to have failed to comply with their obligations to ensure the crimes were properly reported as hate crimes, and advise on proactive measures to mitigate them going forward. See SPPD Policy Manual at 319.4.2. Indeed, Sergeant Louie was apparently at the scene on July 10, but also failed

to comply either with the heightened investigation procedures or his supervisory responsibilities.

- (2) He failed to “take all reasonable steps to preserve evidence that establishes a possible hate crime.” *Id.* at (b). Here, despite the falsehood in the police report, Corporal Wise failed to examine Ms. James leg where Mr. Richcreek hit it with a rock, let alone photograph it. He also found a rock in Mr. Richcreek’s pocket when he was escorting him to the station, but also failed to preserve that as evidence (it is visible on the video of the incident).
- (3) He failed to “take appropriate action to mitigate further injury or damage to potential victims or the community.” *Id.* at (d). As discussed above, after arresting Mr. Richcreek and taking him into brief custody, he let him go with a Notice to Appear, despite this having been his second violent offense against Ms. James and another protester in two days. Several days later, on July 19, Mr. Richcreek returned a third time to the protest site. This time he threatened to fight other Black Lives Matter protesters. Again, SPPD’s inaction at all levels put the protesters in continuing physical danger.
- (4) He failed to “interview available witnesses, victims and others to determine what circumstances, if any, indicate that the situation may involve a hate crime,” as well as take “[s]tatements of victims and witnesses [by] audio or video recorded.” *Id.* at (e). It was entirely “practicable” for him to do so, but he completely failed to comply with this obligation. In fact, as discussed, neither Corporal Wise nor any of the SPPD officers present on site bothered to interview Ms. James to get her account of the incident from her perspective as crime victim. Nor did they interview any of the other witnesses present, let alone audio or video record any interview. Corporal Wise falsely claimed that he “was unable to interview James or any of her group about this allegation due to their uncooperative behavior at the scene.” This account is not only contradicted by the video documenting the July 10 incident, but also by eye-witness Alan Ehrlich in an email he sent to SPPD on July 15, 2020. While SPPD interviewed the suspect Mr. Richcreek both at the scene, as well as later at the SPPD station, they did not audio or video record the interview, though it was practicable to do so.
- (5) He failed to “include all available evidence indicating the likelihood of a hate crime in the relevant reports,” and “mark[] the report” as a “Hate Crime” and “complete[] and submit[]” the report “before the end of the shift.” *Id.* at (g). As discussed, Corporal Wise did not treat the July 10 incident as a crime at all, let alone a hate crime. He would not have even arrested Mr. Richcreek unless Ms. James agreed to sign a citizen’s arrest warrant. In the police report, he did not label Mr. Richcreek’s assault of Ms. James as a hate crime. Corporal Wise appears to have completed the report on July 11, a day after the incident, which is a separate violation of the procedures governing hate crimes. Further, for inexplicable reasons SPPD did not make it available for public release until July 13, calling into question whether it was even completed on July 11. Even then, the report was riddled with inaccuracies, requiring Ms. James to submit separate written statement to correct the record on July 20.

- (6) He did not “provide the victims of any suspected hate crime with a brochure on hate crimes (Penal Code § 422.92)” nor did he “make reasonable efforts to assist the victims by providing available information on local assistance programs and organizations.” *Id.* at (h). The record is clear he failed to do either of these things, even after Ms. Patterson reached out to Chief Ortiz seeking protection and inquiring about a protective order against Mr. Richcreek on July 14, particularly after his second July 10 attack against Ms. James.
- (7) He did not “take reasonable steps to ensure that any such situation does not escalate further,” nor did he “provide information to the victim regarding legal aid (e.g., Possible Temporary Restraining Order through the District Attorney or City Attorney Penal Code § 136.2 or Civil Code § 52.1 as indicated).” *Id.* at (i). As discussed, SPPD’s complete failure to take proactive measures to mitigate another assault by Mr. Richcreek, including by releasing him from custody after his second attack on Ms. James in two days, likely directly led to Mr. Richcreek to feel emboldened enough to return to the protest site and threaten protesters for a third time on July 19.

c. July 19 Incident: Joe Richcreek Returns to Threaten Protestors with Violence a Third Time

As discussed above, on July 19, 2020, Joe Richcreek came back to the protest site for a third time to threaten to fight protesters exercising their freedom of speech in support of Black Lives Matter. Given his prior assaults, there is no doubt that he did so with animus against the protesters First Amendment protected activity in support of racial justice, making this another potential hate crime.

There is no reason to believe SPPD treated the July 19 incident as a hate crime, let alone follow the proper procedures for investigating the incident as such. Instead, the facts are to the contrary. While SPPD officers were called to the scene, they acted as if they had not heard of Mr. Richcreek, or his prior assaults on the protesters, despite the fact that they had just occurred about a week ago. Ms. James is not aware of whether SPPD prepared a police report of the July 19 incident, or whether Mr. Richcreek was apprehended or faces any consequences because of it.

d. October 3 Incident: Richard Cheney Intentionally Jumps the Sidewalk with His Truck, Nearly Hitting Black Lives Matter Protesters

SPPD has not released a police report for this incident, where Richard Cheney attempted to drive his car into protesters almost hitting three of them because he was outraged by the content of their signs in support of racial justice. However, it is clear that its handling of the incident suffers from many of the same deficiencies as described above regarding the July 8, 10 and 19 incidents. Among other things, the very fact that the SPPD Watch Commander made the decision not to charge the suspect with any crime, let alone a hate crime, and let him go free, is sufficient to show that it failed to comply with the basic procedures required for identifying and investigating hate crimes.

2. Failure to take Proactive Measures to Prevent Potential Hate Crimes (SPPD Policy Manual section 319.3)

In addition to failing to identify and investigate hate crimes when Ms. James and others reported them on July 8, 10, 19 and October 3, SPPD personnel also failed in their obligation to “tak[e] a proactive approach to preventing and preparing for likely hate crimes.” SPPD Policy Manual at 319.3. As such, even before Ms. Patterson and Ms. James reported the July 8 incident, the above-referenced SPPD personnel should have been on alert that individuals like Mr. Richcreek and Mr. Cheney could commit the kinds of assaults they did against the highly visible Black Lives Matter protesters. This is particularly so given the nationwide conversations about systemic racism in policing, and controversies around how to address it.

In light of these realities, it is particularly troubling that even after the first July 8 incident that SPPD failed to proactively seek to mitigate further hate crimes, either against the same perpetrator or the likely others. Mr. Richcreek’s animus was clearly visible on the video the victims provided to SPPD, showing not only his assaultive conduct but also his ongoing hostility towards them for exercising their First Amendment Rights. SPPD’s failure to take common sense steps to protect the victims, including basic outreach and follow up, likely emboldened Mr. Richcreek to return to the protest site to assault Ms. James a second time on July 10, and to return to threaten her and other protesters for a third time on July 19.

It was not until Ms. Patterson directly asked for follow-up assistance and protection from SPPD, beginning on July 14, that it reached out to her to address her concerns. But a series of emails between Ms. Patterson, Ms. James and various SPPD personnel make clear their continued failure to take their plea seriously, let alone comply with their obligations under SPPD Policy Manual section 319.3.

On July 14, 2020, after almost a week passed since the July 8 assault against her by Mr. Richcreek, and without any outreach from SPPD, Ms. Patterson had to write to Chief Ortiz, seeking basic protection for her and Ms. James. She wrote:

“Did any 911 calls come in on July 8th and /or July 10th. If so, did they take down information from the callers? Has a detective been assigned to our cases. When will we hear from the detective(s)? Why aren't the cases connected? Why was Joe Richcreek arrested only for throwing a rock? Why was he released? He went after one of the victims two nights later. We need protective orders. It's my understanding that Joe Richcreek has prior offenses. he [sic] assault occurred almost a week ago. I was spit on in the face during a pandemic. I've had no one check on me from SPPD. I was fortunate enough that a testing site in Pasadena took pity on me and gave me a Covid test this morning. I've been a resident of this community for over twenty-five years. I'm personally requesting your assistance as the Chief of our department. We deserve (and must receive) services and protections from SPPD.”

In response, between July 15 and 21, SPPD, Sergeant Abdalla, Sergeant Louie, and Detective Palmieri provided through emails and phone calls a series of excuses for why SPPD could not do more to address Ms. Patterson’s concerns. Among them were the false claim that spitting was not recognized as assault under California law, too much time had elapsed to connect the spitting incident and the rock throwing incident, which made no sense, and that South Pasadena was a small police office with limited resources, apparently trying to play on Ms. Patterson’s sympathies and make her feel guilty for tapping their resources. However, no one at SPPD provided even this limited level of outreach to Ms. James, despite numerous reminders by both Ms. Patterson and Ms. James that she too was a victim, and was entitled to further assistance and protection.

Ultimately, SPPD's failure to abide by its obligations to proactively prevent and prepare for likely further hate crimes has left the community vulnerable to further hate crimes. Since the July 8 incident, Mr. Richcreek returned to the protest site to assault and intimidate protesters two more times on July 10 and 19. And on October 3, 2020, a separate incident occurred when Richard Cheney attempted to drive his car into the protest site, almost hitting three protesters. Had SPPD taken even one of the basic proactive measures to ensure the safety of protesters after the July 8 incident, as set forth in SPPD Policy Manual 319.3 (a)-(e), these additional three incidents likely could have been mitigated or avoided altogether. Similarly, SPPD supervisors failed to heed their obligations under SPPD Policy Manual at section 319.4.1, including "[c]onsider[ing] the need for further action to be taken for the protection of the victims or vulnerable sites, such as assigning an officer at specific locations that could become targets or increase neighborhood surveillance." Had they done so, much harm and suffering could have been prevented, and responsible SPPD personnel should be held to account.

B. SPPD Personnel Engaged in Bias-based Policing Against Ms. James

There is ample evidence in the record that Ms. James suffered bias-based policing at the hands of a number of SPPD personnel, potentially in concert with one another.

Pursuant to the SPPD Policy Manual, "Bias-based policing" is defined as "an inappropriate reliance on characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability or affiliation with any non-criminal group (protected characteristics) as the basis for providing differing law enforcement service or enforcement (Penal Code § 13519.4)." At SPPD, "Bias-based policing is strictly prohibited," *id.* at 401.3, and any complaints racial bias against officers," must be reported to the California DOJ, *id.* at 401.8.

Here, Ms. James was first subject to bias-based policing when SPPD Officer Roppo and Corporal Carillo failed to recognize her as a victim in the July 8 spitting incident. Though Ms. Patterson received the brunt of that assault, it was directed at Ms. James as well. There is no basis for SPPD to determine that Ms. James was not an intended target of Mr. Richcreek's assault, particularly since she was the one he initially took issue with, when he called her protest sign "racist." Ms. Patterson was coming to Ms. James' defense, which is what triggered the assault by Mr. Richcreek, who was clearly directing his ire at both Ms. Patterson and Ms. James. That Officers Roppo and Corporal failed to recognize this, and their supervisor Sergeant Valencia failed to correct them, shows bias against Ms. James.

SPPD's bias-based policing against Ms. James was even more pronounced at the July 10 incident. As discussed above, SPPD officers largely disregarded Ms. James as the victim of the assault, instead treating her as a pariah who Corporal Wise even accused of interfering with the investigation. None of the officers there consoled or expressed concern for Ms. James, a victim of two assaults which were clearly potential hate crimes.

The motivation for Corporal Wise's bias against Ms. James 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. But this did not deter Corporal Wise from repeating in his police report the false claim that Ms. James was engaged in "anti-police" protests.

SPPD's bias against Ms. James is also apparent by comparing its treatment of her relative to its preferential treatment of the White suspect Mr. Richcreek. Despite video evidence of his prior assaults, and the fact that he had a rock in his pocket confirming the account that he had earlier thrown a rock at Ms. James injuring her leg, Corporal Wise refused to arrest Mr. Richcreek based on the evidence before him. Not only did he have ample grounds to do so, see *People v. Alexander* 36 Cal. App. 5th 827 (2019) (police officer who has video evidence of a crime it establishes probable cause for a warrantless arrest), it was spineless of him to place the burden on Ms. James. Doing so unnecessarily endangered Ms. James given her open and protected conduct in publicly advocating for change. Corporal Wise was also more concerned with the suspect's safety, and with being his advocate, rather than bringing him to justice, based on his biased and unsubstantiated opinion that the witnesses and victims of the incident constituted an "unruly" and "angry" "mob." Video evidence shows this group was calm and courteous to Corporal Wise and his mischaracterization of these individuals evidences his racial bias.

In the days following the July 10 incident, not a single SPPD personnel reached out to Ms. James to check on her well-being and safety, as they are required to do pursuant to SPPD Policy Manual 319.3 and 319.4.1. On July 14, Ms. Patterson reached out to Chief Ortiz on behalf of both herself and Ms. James as victims of hate crimes, pleading with SPPD to provide them with basic assistance and protection. While several SPPD personnel reached out to Ms. Patterson over the course of the next week, not a single one extended that same courtesy to Ms. James, despite being reminded of their obligation to do so. The only time SPPD proactively reached out to Ms. James was when they wanted to obtain additional facts about the July 10 incident, to follow up on why she had a bat with her that day. Clearly, this follow up was not to ensure Ms. James' safety or protection, but rather to explore whether she might have been an aggressor in the July 10 incident.

Similarly, SPPD's bias against her and her fellow protestors was manifest in its decision not to cite Richard Cheney, a White man who was irate about the content of the protest signs, who intentionally jumped a sidewalk in his car, almost hitting three protestors, including Ms. James. Even the Investigating Officer at the scene had no words to justify this egregious decision, which was handed down from the SPPD's highest ranks. Mr. Cheney clearly received preferential treatment from SPPD, at the expense of his victims, the Black Lives Matter protestors. The only conclusion that can be drawn from this incident is that SPPD has a bias against the protestors and their message, as they sided here with a White man who had just committed a potentially deadly crime, because they shared his hostility to the protestors' activities.

C. SPPD Personnel Failed to Produce Timely and Accurate Police Reports

As described above, SPPD personnel failed to produce timely and accurate reports for both the July 8 or the July 10 incidents, in violation of the SPPD Policy Manual sections 323.2, 323.1.1, 323.2.1, 323.3, and 323.4.

Most egregiously, Corporal Wise violated his reporting obligations when he prepared a report of the July 10 incident which contained blatant lies, improper opinions, and omissions that distort the facts (Report #201355). As such, he violated SPPD Policy Manual section 232.1.1, which states, "Employees shall not suppress, conceal or distort the facts of any reported incident, nor shall any employee make a false report orally or in writing. Generally, the

reporting employee's opinions should not be included in reports unless specifically identified as such." 323.1.1. Sergeant Louie, Corporal Wise's supervisor, was present at the July 10 incident, and a such is also responsible for failing to require Corporal Wise to correct the report's inaccuracies before signing off on it. Id. at 323.4. The following are some of the more significant issues with Corporal Wise's report:

- (1) It falsely accused Ms. James participated in an anti-police protest. Witnesses at the scene refuted this claim, and Corporal Wise has no basis for it.
- (2) It mischaracterized the witnesses as "unruly" and a "mob," and that he was afraid for his safety and the safety of the suspect (despite evidence that the suspect was armed with a rock that night). It also falsely states, "I was unable to interview James or any of her group about this allegation due to their uncooperative behavior at the scene." This account is not only contradicted by the video documenting the July 10 incident, but is also disputed by eye-witness Alan Ehrlich in an email he sent to SPPD a few days later, in which he attested that neither Ms. James, Mr. Lang or any of the bystanders were closer than 25 feet from any of the SPPD officers for any length of time. Nobody was being uncooperative, and Ms. James specifically cooperated by signing the citizens' arrest form SPPD requested her to sign.
- (3) It falsely asserts that Corporal Wise "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.
- (4) It leaves out the fact that Corporal Wise found a rock in Joe Richcreek's pocket (which is captured on video).

After having reviewed the Police report # 201355 describing the July 10 incident, on July 20, 2020 Ms. James submitted a written statement to try to correct some of its falsehoods. Through her attorney V. James DeSimone, she also submitted responses to further questions SPPD had about the facts of the July 10 incident. However, when she inquired with SPPD about getting a copy of any amended or supplemental police report of the July 10 incident, to verify whether her corrections had been included, SPPD denied her request.

Similarly, Officer Roppo and Corporal Carrillo submitted a report of the July 8 incident that was also riddled with errors (Report # 201339), in violation of SPPD Policy Manual section 232.1.1. Among the most blatant errors are as follows: it failed to describe that full extent of Ms. Richcreek assault, including that he was carrying multiple weapons including a rock in addition to a sharpened drumstick, he forcibly grabbed Ms. Patterson's phone from her, that the spit he projected toward them was voluminous and landed all over Ms. Patterson's upper body, as well as on Ms. James' arm. It also failed to identify Ms. James as a victim of the assault, only as a witness to it.

In addition, Officer Roppo and Corporal Carrillo violated section 323.2.1, when they initially decided not to prepare a police report at all, until Ms. Patterson and Ms. James insisted on pressing charges. In doing so, they violated section 323.2.1, which states that "When a member responds to a call for service ... the member shall document the incident regardless of whether a victim desires prosecution."

Finally, both sets of SPPD personnel involved in preparing the July 8 and July 10 reports appear to have violated section 323.3, which requires SPPD “officers and supervisors” to “act with promptness and efficiency in the preparation and processing of all reports.” Here, given that the incidents involved hate crimes, they were required to produce them the same day as the incident. Id. at 319.4. While the reports on their face state they were completed and signed off by supervisors on or near the same day as the incidents, they were not made available to Ms. James until July 13 – 5 days after the July 8 incident, and 3 days after the July 10 incident. This begs the question whether the reports were actually prepared and signed off timely, or whether they were amended or altered before they were made public in violation of section 323.4 (“Reports that have been approved by a supervisor and submitted to the Records Bureau for filing and distribution shall not be modified or altered except by way of a supplemental report. Reviewed reports that have not yet been submitted to the Records Bureau may be corrected or modified by the authoring officer only with the knowledge and authorization of the reviewing supervisor.”)

III. Conclusion

On August 12, 2020, V. James DeSimone sent a letter via email and United States mail to Chief Ortiz outlining many of the issues outlined herein. He requested that appropriate corrective action be taken. SPPD did not even have the courtesy of providing any response to that letter, further evidencing its policy and practice of racial bias and ratifying the unlawful conduct of its police officers.

For the foregoing reasons, Ms. James requests a full investigation and appropriate corrective action against the SPPD personnel identified above, including the appropriate disciplinary action against those who violated the law and department policies. It is also apparent that the unlawful conduct of City of South Pasadena personnel have caused great harm to Fahren James and Victoria Patterson, who should be compensated. We look forward to your response.

Sincerely,

A handwritten signature in black ink, appearing to be 'L. Hoq', written in a cursive style.

Laboni A. Hoq, Esq.
Attorney for Fahren James