



**DATE:** November 10, 2021

**TO:** Colorado Springs City Council

**FROM:** Office of the City Attorney

**SUBJECT:** *Darlene Griffith v. Monique Garcia Colorado Springs Police Officer, Case No. 21CV266, District Court, El Paso County, Colorado*

This memorandum is to apprise you of the facts alleged in the above-referenced case as you consider the claims made against the involved City employee.

#### **NATURE OF THE CASE**

Plaintiff is incarcerated at the Criminal Justice Center (CJC). Plaintiff was convicted in 2017 of felony theft, in 2014 of felony forgery, and in 2011 of felony menacing and attempted murder on a police officer. Plaintiff is housed with male inmates but identifies as female.

On October 5, 2020, Plaintiff reported to CSPD that her debit and EBT cards were being used by Eric Lucero without Plaintiff's permission. Ofc. Garcia took Plaintiff's report and investigated. She spoke to Mr. Lucero, who explained that he and Plaintiff had been in a relationship, Plaintiff wanted more from the relationship but Mr. Lucero didn't, and as a result, Plaintiff had threatened to and now was accusing him of fraud. Ofc. Garcia listened to Plaintiff's jail calls with Mr. Lucero and heard Plaintiff give Mr. Lucero permission to use Plaintiff's debit and EBT cards. Ofc. Lucero also learned that Plaintiff separately had reported to CSPD that a backpack containing the title to her vehicle had been stolen; Mr. Lucero provided evidence to Ofc. Garcia showing that the backpack and vehicle title had not been stolen. In her police reports, Ofc. Garcia referred to Plaintiff as "Mr. Griffith" and utilized masculine pronouns (he/him/his) to refer to Plaintiff because although Mr. Lucero informed Ofc. Garcia that Plaintiff identified as female, Plaintiff was "housed in male only wards inside CJC."

Officer Garcia prepared a probable cause affidavit requesting to charge Plaintiff with criminal extortion and two counts of false reporting. Plaintiff was so charged, and

Ofc. Garcia testified on January 6, 2021, at the preliminary hearing in Plaintiff's criminal case. This action followed.

Plaintiff's pro se complaint asserts four "claims" against Ofc. Garcia:

1. Breach of contract/dereliction of duty, for allegedly failing to investigate Plaintiff's report that Eric Lucero's son threatened Plaintiff.
2. Plaintiff claims Ofc. Garcia "is having a sexual relationship with Eric Lucero."
3. Sex and Gender Discrimination, based on Ofc. Garcia's reference to Plaintiff as "Mr." Griffith instead of as a female.
4. Malicious prosecution, for allegedly lying on the witness stand at the preliminary hearing.

On November 9, 2021, Plaintiff pled guilty to the two counts of false reporting that underlie this civil action.

### **RECOMMENDATION**

The Civil Action Investigation Committee met on November 10, 2021, and has recommended that the City represent the Officer as required by the Colorado Governmental Immunity Act and the Peace Officer's Liability Act. The Officer was acting in the course and scope of her employment and not in a willful and wanton manner. As usual, it is recommended that the City reserve the right not to pay any award of punitive damages.