



DATE: January 19, 2016

TO: Colorado Springs City Council

FROM: City Attorney's Office

SUBJECT: *Luis Antonio Juarez Martinez v. City of Colorado Springs, et al.*
Case No. 2015CV33722

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

NATURE OF THE CASE

Plaintiff, Luis Antonio Juarez Martinez, has filed this action in the District Court for the Fourth Judicial District. Plaintiff asserts claims for violation of the Colorado Child Protection Act, C.R.S. § 19-3-301, *et seq.*, negligence, negligence *per se*, and 42 U.S.C. § 1983 against the City of Colorado Springs ("City") and Officer Justin Carricato. Plaintiff asserts additional claims against the City for vicarious liability and against Officer Carricato for exemplary damages.

Plaintiff's claims stem from the death of his two year old son at the hands of Raul Alvarado. Plaintiff alleges that Officer Carricato did not properly investigate his report of suspicious injuries. Plaintiff claims that, after he reported the injuries to police, Officer Carricato met and interviewed Plaintiff, took photographs of his son and made a telephone call to Mayra Juarez, the boy's mother. According to Plaintiff, Officer Carricato's investigation should have been more extensive. Specifically, Plaintiff alleges that Officer Carricato should have traveled to Ms. Juarez's residence and interviewed Mr. Alvarado. Plaintiff, also, alleges that the Colorado Springs Police Department's failure to train, supervise or discipline Officer Carricato caused his damages.

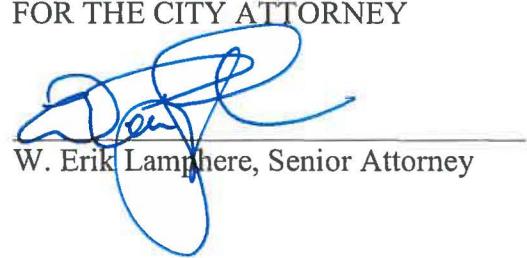
As a result of Officer Carricato and the City's actions, Plaintiff alleges that he, individually and as a surviving parent, has suffered economic, noneconomic, and compensatory damages. Plaintiff also seeks punitive damages, costs, interest and attorney fees.

RECOMMENDATION

The Civil Action Investigation Committee met on January 15, 2016 and has recommended City representation for Officer Carricato as required by the Colorado Governmental Immunity Act and the Liability of Peace Officers Act. Officer Carricato was acting in the course and scope of his employment and in good faith during the incident. As usual, it is recommended that the City reserve the right not to pay any award of punitive damages.

Sincerely,

FOR THE CITY ATTORNEY

A handwritten signature in blue ink, appearing to read "W. Erik Lamphere".

W. Erik Lamphere

W. Erik Lamphere, Senior Attorney