

**STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT COURT**

GISELL ESTRADA,

Plaintiff,

v.

No.

THE CITY OF ALBUQUERQUE,

Defendant.

COMPLAINT FOR VIOLATIONS OF THE TORT CLAIMS ACT

Gisell Estrada, through her counsel, KENNEDY KENNEDY & IVES, PC (Shannon L. Kennedy, Joseph P. Kennedy, Laura Schauer Ives, and Adam C. Flores) and the AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF NEW MEXICO (Leon Howard and Zoila Alvarez Hernandez), brings this Complaint to vindicate her rights under the New Mexico Tort Claims Act and Article II, Section 10 of the New Mexico Constitution.

PRELIMINARY STATEMENT

1. In the fall of 2019, Gisell Estrada (“Plaintiff”), age seventeen and a Senior at Albuquerque High School, an innocent child with no criminal history, was arrested for armed robbery and first-degree murder, a capital felony in New Mexico. She was charged as an adult and faced a potential sentence of life in prison.
2. Based on the severity of the allegations set forth in the police investigation, the State of New Mexico moved to detain Plaintiff until trial. At the detention hearing, prosecutors told the court that “the community is not safe if she is not detained. ... There are no conditions of release this court can impose which will prevent her from planning another robbery or prevent someone else from dying.”

3. The State filed the allegations against Plaintiff under seal, meaning that neither Plaintiff nor her attorneys at the Law Offices of the Public Defender had any way to learn what she was accused of doing, other than that she was facing an armed robbery and murder charge.

4. Ultimately, Plaintiff, a minor, spent a week in custody, charged with a heinous crime she never committed, based on information not disclosed to her. While detained, she was treated like a violent criminal and repeatedly strip-searched. She didn't eat, and she barely slept. She racked her brain trying to understand why this was happening to her. She thought—hoped—that she was just having a nightmare. But what happened to Plaintiff was real.

5. City of Albuquerque Police Department Homicide Unit Detective Jessie Carter conducted an incompetent first-degree murder investigation that involved nothing more than haphazardly presenting another person's Facebook photo to an administrator at Plaintiff's school for identification.

6. Detective Carter then made false statements in a criminal complaint and affidavit for arrest warrant, representing to the court that a co-conspirator—rather than a school administrator viewing a Facebook photo—identified Plaintiff as the offender.

7. In doing so, Detective Carter prevailed upon a court to issue a warrant for Plaintiff's arrest, and thereby abused a position of trust “to induce the criminal justice system to confine and then to prosecute an innocent defendant.” *Pierce v. Gilchrist*, 359 F.3d 1279, 1293 (10th Cir. 2004). Meanwhile, the true offender enjoyed complete freedom and continued to present a risk to the community.

8. Because Detective Carter's conduct is repugnant to the New Mexico Tort Claims Act and the New Mexico Constitution, Plaintiff brings this Complaint:

PARTIES, JURISDICTION, AND VENUE

9. Plaintiff is a resident of the State of New Mexico and the County of Bernalillo.
10. The City of Albuquerque is a political subdivision of the State of New Mexico and a local public body as defined in NMSA 1978, Section 41-4-3(C). The City of Albuquerque has control over the Albuquerque Police Department and its employees, including Detective Carter. Plaintiff provided notice of this lawsuit to the City of Albuquerque on January 24, 2020. (*See Exhibit 1*)
11. Sovereign immunity is waived by NMSA 1978, Section 41-4-12 (1977).

BACKGROUND

Detective Carter's Murder Investigation

12. On July 10, 2019, a young man named Calvin Kelly was murdered during a robbery in the early morning on a side street near his apartment complex.
13. One witness heard a gunshot and described a woman at the scene with "shoulder length, pink or red in color hair."
14. APD Homicide Unit Detective Jessie Carter was tasked with investigating the killing.
15. Detective Carter, as the assigned homicide detective, assumed responsibility for all phases of the investigation, safe processing of the scene, and the collection of evidence.
16. He met with a woman named Cynthia Salgado, who told him that she was involved.
17. Ms. Salgado reported to Detective Carter that she was with three other individuals who conspired to rob Mr. Kelly.
18. She reported that one of the alleged co-conspirators was a woman named Alexis "Lexi" Barraza, that Lexi went by different last names, but that she went by the surname Barraza on Facebook. Ms. Salgado estimated that Lexi was 15 or 16 years old.
19. According to Ms. Salgado, Lexi knew Mr. Kelly from Facebook. She had previously seen

him carrying cash. Lexi's alleged role in the robbery was to ask the victim to give her a ride and lure him outside. The plan was that two men who were with them would then come out from the dark and rob Mr. Kelly at gunpoint while Lexi and Ms. Salgado waited in the car.

20. Ultimately, when the assailants appeared, Mr. Kelly attempted to flee, and one of the robbers fatally shot him in the back with a 30-30 rifle.

21. Ms. Salgado described Lexi as homeless and on drugs. Physically, she was "short, chunky, dark. ..." with "like one lazy eye." According to Ms. Salgado, Lexi was known for "setting people up."

22. Ms. Salgado also told Detective Carter that one of the robbers was subsequently arrested after a separate shooting, and that during the arrest, police seized the 30-30 rifle that was used to kill Mr. Kelly.

23. Detective Carter wrote in his criminal complaint and affidavit for arrest warrant that the information Ms. Salgado provided was credible because her statement comported with other information collected during the investigation that would not have been known by anyone who was not present during the robbery.

24. Detective Carter conducted a search in APD's records for the co-conspirator Ms. Salgado identified, who had been subsequently arrested with the murder weapon. He located a police report that was created on July 11, 2019, one day after Mr. Kelly was killed. From the police report, he learned that officers arrested the man for a separate shooting on that day and recovered a 30-30 rifle that was seized and tagged into APD's evidence room.

25. The police report also stated that a 17-year-old female named Alexis Pina was found with the arrestee. She was in possession of 30-30 cartridge casings, which she turned over to the police.

26. Detective Carter then used Facebook to search for Lexi by name.

27. Lexi maintained two Facebook pages, which included information about her, and numerous photos that were viewable by the public.

28. Detective Carter located her Facebook accounts, and preserved them. He noted that Lexi had red-dyed hair in some of the photos, which matched the eyewitness description given earlier.

29. Detective Carter took two of Lexi's Facebook photos back to Ms. Salgado and presented them to her.

30. Ms. Salgado agreed that the person depicted in the photos was Lexi. At no point did Ms. Salgado identify Plaintiff, say Plaintiff's name, view any photo of Plaintiff, or indicate to Detective Carter that Plaintiff was involved in any crime.

31. In fact, Plaintiff had no connection to Ms. Salgado, Lexi, the alleged murderer, any of the alleged robbers, or the murder victim.

32. One of Lexi's Facebook pages identified her education as: "Albuquerque Highland High School Class of 1958." A Highland Hornet—Highland High's official mascot—was prominently displayed next to the school's name.

33. On information and belief, Detective Carter misread the Facebook page and erroneously concluded that Lexi attended Albuquerque High School as opposed to Highland High School.

34. Detective Carter contacted APS School Resource Officer Stanley Gray at Albuquerque High and asked him to help identify Lexi from the Facebook photos.

35. Officer Gray contacted Ashley Chavez, an administrator at the school, and presented her with the photos.

36. Ms. Chavez stated that she recognized the young woman as a student aide in the office. Ms. Chavez accessed the student directory and identified Plaintiff as the person in the Facebook photos.

37. Plaintiff, whose name is Gisell Estrada, has never gone by the name Alexis Barraza, Alexis Pina, Lexi Barraza, Lexi Boo, or any other alias used by the true offender.

38. Based on this single-suspect Facebook photo identification of a Hispanic female, conducted by an APS School Resource Officer contacting an administrator at the wrong school, Detective Carter concluded that Plaintiff, a minor with a different first and last name than the actual offender, had committed the offense of first-degree murder, a capital felony.

39. Prior to filing a criminal complaint, Detective Carter could have reasonably conducted additional investigation related to Plaintiff, including any of the following:

- a. speak with Plaintiff;
- b. speak with Plaintiff's teachers or family members;
- c. speak with the other alleged offenders that Ms. Salgado identified;
- d. search for Lexi or her known aliases by name;
- e. locate Lexi through NCIC/MVD, where her social security number, driver's license information, including date of birth, address, and driver's license number, was stored;
- f. locate Lexi in the police report related to APD's seizure of the murder weapon;
- g. travel to the known address where the murder weapon was located;
- h. request consent to present Plaintiff—rather than a picture of Lexi—to Ms. Salgado for identification;
- i. conduct additional forensic investigation of the crime scene and vehicles, including fingerprinting; and
- j. execute search warrants for Lexi's Facebook accounts, which were already in the possession of the second judicial district attorney's office in connection with a separate case.

40. But Detective Carter did not conduct any further investigation. Had he done so, he could have reasonably learned that

- a. Plaintiff did not fit the physical description given by Ms. Salgado;
- b. unlike Lexi, Plaintiff did not have a lazy eye;
- c. unlike Lexi, Plaintiff did not have pink or red-dyed hair;
- d. Plaintiff had been photographed with her natural hair color the day before Mr. Kelly was killed;
- e. Plaintiff was born without a right thumb, a detail that Ms. Salgado never mentioned when she described Lexi's physical characteristics;
- f. unlike Ms. Salgado's description of Lexi, Plaintiff was not homeless and had no history of drug use;
- g. Plaintiff had no connection to any of the robbers, or to Mr. Kelly;
- h. Ms. Salgado had never seen Plaintiff before and did not know who she was;
- i. Plaintiff had never gone by any of Lexi's aliases;
- j. APD had already encountered Lexi in a separate case, in which APD officers recovered the 30-30 rifle that was used to kill Mr. Kelly;
- k. Lexi's identifying information was already in the second judicial district attorney's office in connection with a separate case; and
- l. Plaintiff was at home with her family when Mr. Kelly was killed.

The Criminal Complaint and Arrest Warrant Affidavit

41. Detective Carter prepared an arrest warrant affidavit and criminal complaint for Plaintiff.

42. The arrest warrant affidavit and criminal complaint is six pages long, single-spaced, and includes a lengthy description of Detective Carter's investigation.

43. The document is written under oath and under penalty of perjury.
44. An arrest warrant affidavit and criminal complaint is supposed to present “particular facts and circumstances underlying the existence of probable cause, so as to allow the magistrate to make an independent evaluation of the matter.” *Franks v. Delaware*, 438 U.S. 154, 165 (1978).
45. When a third-party supplies information critical to developing probable cause, the sworn document must recite relevant circumstances supporting the informant’s conclusions and explain why the officer concluded that the information is credible. *Id.*
46. In this case, however, Detective Carter did not mention anything about any APS administrator identifying Plaintiff from Facebook photos.
47. In fact, the sworn document does not mention Albuquerque High School, APS school resource officer Stanley Gray, or APS school administrator Ashley Chavez. The sworn document does not say anything about any person accessing a student directory to identify Plaintiff.
48. Instead, the sworn document states, falsely, that Ms. Salgado “positively identified ‘Lexi’ Gisell Estrada, date of birth 06/13/2002.”
49. Detective Carter knew that Ms. Salgado did not “positively identify” Plaintiff as a person involved in Mr. Kelly’s murder.
50. When Detective Carter put that statement in the criminal complaint and arrest warrant affidavit, he misled the district attorney and the court “with information in an affidavit that he knew was false or would have known was false except for his reckless disregard for the truth.” *United States v. Leon*, 468 U.S. 897, 923 (1984).
51. Anyone reviewing the criminal complaint and arrest warrant affidavit would believe that Ms. Salgado—a credible eyewitness and co-conspirator at the scene—specifically identified Plaintiff as the individual that orchestrated Mr. Kelly’s robbery and murder.

52. If that single sentence was removed from the document, nothing else within would explain how Plaintiff was identified as the offender, who was known by a different name.

53. Based on the criminal complaint and arrest warrant affidavit, the State charged Plaintiff with First Degree Murder, Armed Robbery, and conspiracies to commit those offenses. Plaintiff was charged as an adult and faced a potential penalty of life in prison.

54. Based on the criminal complaint and arrest warrant affidavit, the metropolitan court issued a warrant for Plaintiff's arrest on October 18, 2019.

55. The State persuaded the court to seal the arrest warrant and criminal complaint, which meant that neither Plaintiff, nor her attorneys, would later be able to access the allegations against her, aside from the fact that she was being charged with murder. Law enforcement and prosecutors pressed the case forward with total secrecy.

Plaintiff is Swallowed Up by the Criminal Justice System

56. At the time of these events, Plaintiff was a modest seventeen-year-old student at Albuquerque High School. She lived peacefully at home with her parents and her brother.

57. Plaintiff was shy by nature and uncomfortable in large groups. She ate lunch each day in the classroom with her college prep teacher.

58. Plaintiff had never been in trouble with the police. She did not use drugs, had never been to any parties, other than family parties. She had never been suspended at school. Her parents enforced a strict curfew and kept tabs on where she was and who she was with. Her bedtime was 10 o'clock, because her mother would have to wake up for work at 5:00 a.m. and couldn't sleep if there was any noise in the house.

59. On or about November 4, 2019, Plaintiff received a letter in the mail from a criminal defense attorney who was apparently combing public court records for active arrest warrants. The

letter was written in English, but Plaintiff translated it into Spanish for her mother.

60. The letter said that there was a felony warrant for Plaintiff.

61. Plaintiff and her mother were in disbelief when they read the letter. Plaintiff's mother contacted the firm that sent the letter, and a receptionist told her that Plaintiff was charged with homicide. The attorney would not help Plaintiff unless she paid \$30,000 up front, and another \$30,000 in two weeks—an impossible sum.

62. Plaintiff was eventually provided counsel from the Law Offices of the Public Defender.

63. On November 7, 2019, Plaintiff's attorneys contacted the district attorney's office and reported that Plaintiff was plainly innocent and that there had been a mistaken identity. The assistant district attorney prosecuting the case contacted Detective Carter, who continued to press the case against Plaintiff.

64. Plaintiff decided to turn herself in to Detective Carter the following day. Her family was afraid that if she did not turn herself in, the police would come to her home and arrest her violently. That night at home, nobody could sleep. The whole family cried all night, wondering what was going to happen.

65. On the morning of November 8, 2019, Plaintiff hugged her parents goodbye. Her attorneys met Detective Carter outside of the police station, where he handcuffed Plaintiff with metal handcuffs, while she sobbed.

66. Detective Carter waited with Plaintiff at the police station for approximately an hour. On information and belief, he fielded several phone calls at the time from the district attorney's office asking whether he was sure Plaintiff was the suspect he was looking for.

67. Detective Carter responded that he wanted to go forward with the charges.

68. Transport officers arrived, patted Plaintiff down, and looked down her shirt, which was humiliating to her.

69. Officers took Plaintiff to the detention center. They asked her to remove her earrings, but she couldn't get them off because her mother had superglued them shut. Guards cut the earrings off with scissors, stripped her down, and then watched her "squat and cough," naked.

70. Plaintiff asked if she had to take her clothes off in front of the guards, and they said "Yeah, it's jail."

71. When officers demanded a urine sample, Plaintiff was too nervous to pee.

72. For days, Plaintiff was too nervous to eat much of anything, aside from some fruit.

73. Plaintiff's first night in the detention center was the first time she had ever slept outside her house, and away from family. She spent her nights mostly awake in her bunk, wondering if she would be free again and trying to figure out what she was accused of.

74. When Plaintiff's parents were allowed to visit her, they all cried. Her mother tried to hold her hand, but the guards told her that she couldn't touch Plaintiff. After every family visit, the guards would swab and test Plaintiff's hands, tell her she didn't pass the swab test, and then order Plaintiff to take her clothes off, squat and cough, naked.

75. Plaintiff would ultimately be strip searched three more times while at the detention center.

76. Prosecutors moved on an emergency basis to continue to detain Plaintiff until trial without bail.

77. Prosecutors follow the lead of the detectives that investigated the case.

78. A spokesperson for the second judicial district attorney's office later told reporters that the State relied on Detective Carter's investigation, and prosecutors were under the impression they had the right person when they pursued the murder charge and moved for pretrial detention.

79. On November 9, 2019, Plaintiff was transported to the courthouse for her felony first appearance. Plaintiff's college prep teacher was there in the courtroom; crying – trying her best to support her student through the difficult situation.

80. Plaintiff's attorneys argued to the Metropolitan Court that Plaintiff was falsely accused and that there was some kind of mistaken identity. "We are trying to solve this mystery with the State and with Detective Carter," Plaintiff's attorneys pleaded. But the Metropolitan Court, relying on the statements in Detective Carter's criminal complaint and affidavit for arrest warrant, made a probable cause finding, remanded the matter to the District Court, and ordered Plaintiff returned to custody.

81. On November 13, 2019, Plaintiff's attorneys provided exculpatory evidence to Detective Carter, including a photograph of Plaintiff with her natural hair color, taken a day before the killing.

82. Plaintiff's attorneys also used Plaintiff's cellphone data to confirm that she was at home when the incident occurred.

83. That same day, Detective Carter met with one of the robbers and interviewed him. After the interview, the robber told Detective Carter: "You have the wrong Lexi. I just spoke to her yesterday."

84. Nevertheless, Plaintiff spent another night in detention.

85. The following day, prosecutors agreed that Plaintiff should be released on her own recognizance until the State could confirm whether or not she was the true offender. Plaintiff was released into the hallway of the detention center, where she reunited with her parents.

86. When Plaintiff got home, she felt disoriented. For a moment, she couldn't remember where her bedroom was.

87. Detective Carter did not request the dismissal of charges against Plaintiff until November 19, 2019, after he located the true offender through an NCIC/MVD search. In the meantime, Plaintiff remained on probation and was required to comply with check ins.

88. APD officers apprehended Lexi at a different high school. She was found with two pink iPhones and a methamphetamine drug pipe.

89. On December 2, 2019, Detective Carter closed his investigation.

90. For her part, Plaintiff struggled at school after her release, which was toward the end of the Fall semester. Because Plaintiff had missed school while in custody, and because she had to deal with the stress of the criminal charge and the trauma of detention, she felt behind during finals. She struggled to complete make-up work and was worried that she wouldn't graduate.

91. Plaintiff's reputation was damaged at school and in the community. Some teachers and students still believed that Plaintiff was involved in the murder.

92. After the publication of an Albuquerque Journal Article on December 4, 2019, the principal at Albuquerque High had to send an email to all teachers and staff, telling them not to ask Plaintiff questions about the incident.

93. Plaintiff is still getting counseling. She was humiliated by the experience and she is still burdened with the stigma of somebody who has been jailed and accused of a horrific crime.

94. After the incident, as part of an art project Plaintiff covered a mirror with excerpts from newspaper articles written about her false arrest in the Albuquerque Journal. She glued shattered glass to the front of the mirror to show what the experience did to her life. (*See Exhibit 2*) Written in Spanish across the back of the mirror reads "Me han pasado muchas cosas, que jamas olvidare" which translates to "I've had a lot of things happen to me that I'll never forget."

95. When family came to visit for the holidays, Plaintiff's parents had to explain what had

happened to her. Plaintiff felt ashamed, and she couldn't stop crying.

96. To this day, Plaintiff has vivid flashbacks of particular moments during the ordeal. When she's going to sleep or when she sees a police officer she remembers the strip-searches, and she remembers saying goodbye to her parents, and calling her brother and crying with him before she turned herself in to Detective Carter.

97. Now, as an adult, when Plaintiff applies for a job, she feels scared and nervous. She is afraid that potential employers have heard about her arrest or will run a background check and will perceive her as a criminal.

98. Plaintiff does not trust the police, which could impact her safety for the rest of her life. She is anxious and feels like the police are always following her and that they might incorrectly suspect her of doing something wrong and take her back to jail.

99. Plaintiff's parents are also deeply troubled by what happened to their daughter. They believe that their world will never be the same. Plaintiff's parents both exhibit symptoms of PTSD, and have difficulty speaking about the incident without crying, or feeling angry and ashamed.

100. Plaintiff has experienced a Kafkaesque nightmare born of the incompetence of those who have sworn to protect and serve her.

101. Nobody from the City of Albuquerque, the Albuquerque Police Department or Albuquerque Public Schools has ever apologized to Plaintiff or her family for what happened in this case.

102. While Mayor of Albuquerque Tim Keller has eloquently protested the separation of children from their families at the border of the United States and Mexico, he was silent when police officers under his control separated Plaintiff from her family in a high-profile case in his own City.

**COUNT I: FALSE ARREST AND THE DEPRIVATION OF STATE
CONSTITUTIONAL RIGHTS**

103. All allegations are incorporated herein.

104. The New Mexico Tort Claims Act waives sovereign immunity for personal injury resulting from false arrest, false imprisonment, or from the “deprivation of any rights, privileges, or immunities secured by the constitution and laws of ... New Mexico when caused by law enforcement officers acting within the scope of their duties.” NMSA 1978, § 41-4-12.

105. Detective Carter’s acts and omissions in this case amount to a false arrest, a false imprisonment, and a violation of the New Mexico Constitution.

106. Article II, Section 10 of the New Mexico Constitution is analogous to the Fourth Amendment, but provides greater protection.

107. Absent certain well-delineated exceptions, an arrest requires an arrest warrant based on probable cause. When a state actor violates that principle, he may be liable for false arrest.

108. “Probable cause exists if facts and circumstances within the arresting officer’s knowledge and of which he or she has reasonably trustworthy information are sufficient to lead a prudent person to believe that the arrestee has committed or is committing an offense. *Romero v. Fay*, 45 F.3d 1472, 1476 (10th Cir. 1995) (citation omitted).

109. “[I]n determining whether there is probable cause, officers are charged with knowledge of any readily available exculpatory evidence that they unreasonably fail to ascertain.” *Maresca v. Bernalillo County*, 804 F.3d 1301, 1310 (10th Cir. 2015) (citations omitted).

110. “A police officer may not close her or his eyes to facts that would help clarify the circumstances of an arrest.” *Id.* (citation omitted).

111. Additionally, law enforcement officers are “not automatically shielded from ... liability

merely because a judicial officer approves a warrant.” *Kaul v. Stephan*, 83 F.3d 1208, 1213 n. 4 (10th Cir. 1996).

112. It has long been clearly established that officers may not falsify or omit evidence from an affidavit for arrest warrant, either knowingly, or with reckless disregard for the truth. *Pierce v. Gilchrist*, 359 F.3d 1279, 1298 (10th Cir. 2004).

113. In a claim alleging falsified information in an arrest warrant, “the existence of probable cause is determined by setting aside the false information and reviewing the remaining contents of the affidavit.” *Id.* at 1293.

114. Detective Carter did not have probable cause to believe that Plaintiff committed the offenses he charged her with based on a haphazard Facebook photo identification to an administrator at Plaintiff’s school.

115. Detective Carter unreasonably closed his eyes to exculpatory information and facts that would help clarify the circumstances of his investigation.

116. Detective Carter knowingly or recklessly omitted all information from the criminal complaint and affidavit for arrest warrant that would have explained who accused Plaintiff and how she became a suspect in the investigation.

117. A description of the Facebook photo show-up identification would have been “clearly critical” for the court and prosecutors to evaluate Detective Carter’s finding of probable cause. *See DeLoach v. Bevers*, 922 F.2d 618, 622 (10th Cir. 1990).

118. Detective Carter knowingly or recklessly included a false statement in the criminal complaint and affidavit for arrest warrant indicating that a co-conspirator at the scene—rather a school administrator viewing a Facebook photo—identified Plaintiff as the true offender.

119. The exclusion of the false statement in the arrest warrant affidavit would undermine the existence of probable cause, thereby making the warrant invalid. *See Harte v. Bd. of Comm'rs of County of Johnson, Kansas*, 864 F.3d 1154, 1162 (10th Cir. 2017).

120. The court relied on Detective Carter's criminal complaint and arrest warrant affidavit when it issued the warrant for Plaintiff's arrest and remanded Plaintiff to the district court to face a felony charge.

121. Prosecutors relied on Detective Carter's criminal complaint and arrest warrant affidavit when they charged Plaintiff as an adult, prosecuted the case under seal, and moved for pre-trial detention on an emergency basis.

122. At all relevant times, Detective Carter acted in the scope of his duties.

123. The City of Albuquerque is liable for Detective Carter's acts and omissions via the doctrine of respondeat superior. *Weinstein v. City of Santa Fe ex rel. Santa Fe Police Dept.*, 1996-NMSC-021, ¶ 14, 121 N.M. 646.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this honorable court:

- A. Award damages to make Plaintiff whole;
- B. Award costs for maintaining this suit; and
- C. Award pre- and post-judgment interest as permitted by law.

Respectfully Submitted,

KENNEDY KENNEDY & IVES, PC

/s/ Shannon L. Kennedy

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/s/ Leon Howard

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Attorneys for Plaintiff



New Mexico

January 24, 2020

Via U.S. certified mail, facsimile and/or email to:

Office of the Mayor
ATTN: Mayor Tim Keller
PO Box 1293
Albuquerque, NM 87103
F: (505) 768-3019
USPS Tracking # 70190700000197932849

Albuquerque Police Department
ATTN: Chief Mike Geier
400 Roma NW
Albuquerque, NM 87102
mgeier@cabq.gov
U.S. certified mail tracking #: 70190700000197932818

Albuquerque Public Schools
Superintendent Raquel Reedy
c/o Risk Management Department
P.O. Box 25704
Albuquerque, NM 87125
superintendent@aps.edu
U.S. certified mail tracking #: 70190700000197932825

Re: Tort Claims Notice
Claimants: Gisell Estrada, (DOB 06/13/2002)
Date of Incident: Approximately - October 29, 2019
Place: Albuquerque, New Mexico

To Whom It May Concern:

The purpose of this letter is to provide notice pursuant to the New Mexico Tort Claims Act, NMSA 1978, § 41-4-16 that Gisell Estrada (DOB 06/13/2002) is considering pursuing state tort claims for false arrest, false imprisonment, malicious prosecution and violation of her state constitutional rights against the City of Albuquerque, Albuquerque Police Department, Albuquerque Public Schools (APS), and any other governmental employees responsible for the alleged tortious conduct.

Gisell Estrada, a minor of 17 years of age, was falsely arrested for murder for a crime she had nothing to do with. The police department, working in conjunction with APS personnel, had no probable cause to arrest her. And, Ms. Estrada subsequently experienced malicious prosecution for that crime. Ms. Estrada was subjected to this arrest despite the fact that the police knew the name of the person actually suspected in the murder and even had that person's Facebook photos.

You are hereby notified that Ms. Estrada is considering bringing suit for injuries related to the incidents described above.

Sincerely,



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Legal Director
ACLU of New Mexico
P.O. Box 566
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F: (505) 266-5916
lhoward@aclu-nm.org



EXHIBIT 2