

**BEFORE THE CIVIL SERVICE COMMISSION  
OF THE CITY OF EL CERRITO**

In the Matter of the Disciplinary Appeal )  
 )  
Involving )  
 )  
City of El Cerrito with regard to the action of the )  
El Cerrito Police Department, )  
 )  
Employer, )  
 )  
and )  
 )  
Scott A. Erwin, )  
 )  
Grievant/Appellant. )

**FINDINGS AND  
DECISION**

**Summary**

As presented in more detail below, the Civil Service Commission of the City of El Cerrito ("Commission") hereby certifies its findings and decision upholding the disciplinary action of discharge in the above captioned matter and denies the grievance/appeal. The Commission certifies its findings and decision to the City Council and the parties and respectfully recommends to the City Council that it affirm the disciplinary action of discharge.

**Introduction**

This matter came before the Commission pursuant to applicable provisions of the El Cerrito Municipal Code ("Code"), the City of El Cerrito Personnel Rules ("Rules") (JX 2) and the applicable Memorandum of Understanding ("MOU") (JX 1). The matter was heard on June 12, 2003, and on July 22, 23, 24, 29 and 30, 2003 at the El Cerrito City Council Chamber, 7007 Moser Lane, El Cerrito. A site inspection was conducted on July 24, 2003 at the El Cerrito Public Safety Building, 10900 San Pablo Avenue, El Cerrito. (CX 12)

The parties were present and represented by counsel throughout the proceedings. The parties were afforded full opportunity to examine and cross-examine witnesses under oath, introduce and rebut evidence and to offer arguments in support of their respective positions. At the conclusion of the hearing, the parties agreed to complete their respective presentations by oral argument. Following oral argument, the matter stood as submitted for findings and decision on July 30, 2003. The Commission conducted deliberations on July 30 and 31, 2003, and on August 6, 2003.

## Background

Scott A. Erwin was employed as a Police Officer in the El Cerrito Police Department ("Department") for approximately 22 years. He held the rank of Corporal on a promotional probationary basis at the time of the events involved in this disciplinary action. His performance prior to this action appears to have been within the acceptable range, tending toward the higher portion of that range in recent years. (EX 2 - 29) He has been the subject of many commendations (EX 1) and demonstrated expertise with respect to computer technology and accident reconstruction. Cpl. Erwin has not been the subject of recent discipline and prior discipline was not a significant factor in this decision.

## The Incident

The events leading to Cpl. Erwin's termination began on Saturday, November 16, 2002. Cpl. Erwin entered the front office of the Public Safety Building to obtain snacks from the work area of Police Records Supervisor Lorelee Lenert. Police Records Specialist \_\_\_\_\_ was standing at a podium, filing reports into file folders at the same location. Cpl. Erwin passed by \_\_\_\_\_ and, because of the cramped quarters, brushed against \_\_\_\_\_ hip or buttock. \_\_\_\_\_ reports that Cpl. Erwin said words to the effect of "I didn't mean to touch your butt." \_\_\_\_\_ states that she responded to the effect of "I know." Cpl. Erwin's statements during the investigation and at the hearing were ambiguous with regard to any conversation and its content, but he ultimately denied that there was a conversation at this point.

Cpl. Erwin obtained the snacks and passed by \_\_\_\_\_ a second time. \_\_\_\_\_ states that Cpl. Erwin said words to the effect of "Because if I wanted to touch you, I would have just ..." and then he held her right buttock. Cpl. Erwin admits touching \_\_\_\_\_ right buttock, but claims the touch was inadvertent.<sup>1</sup> He states that he attempted to place his hand on her waist to let her know that he was there so that he could pass by without disrupting her.<sup>2</sup> Cpl. Erwin is "absolutely positive" he did not make the statement recounted by \_\_\_\_\_ and has been consistent in his denial. \_\_\_\_\_ is equally consistent and certain Cpl. Erwin made the statement.

\_\_\_\_\_ reports that Cpl. Erwin came to the front of the podium. She claims to have said words to the effect of "Hey, that was intentional that time." She reports that Cpl. Erwin was eating pretzels and tried to say something, but she could not tell what he was saying. \_\_\_\_\_ reports that she was embarrassed and flushed, she commented to Cpl. Erwin that she was flushed. \_\_\_\_\_ states that she told Cpl Erwin to leave and he did. Cpl. Erwin recalls \_\_\_\_\_ stating that she was flushed. He claims he might

<sup>1</sup> While there is agreement as to the contact, the nature of that contact is in dispute. Cpl. Erwin describes it simply as a "touch." \_\_\_\_\_ states that Cpl. Erwin "held" her right buttock and the investigation indicates that she demonstrated a cradling or cupping hold.

<sup>2</sup> Cpl. Erwin provided a detailed explanation of and justification for touching \_\_\_\_\_ waist. He claims he simply misjudged and accidentally touched her buttock. As noted below, the Commission did not find this persuasive.

have said he was sorry, but cannot recall anything he said. During the investigation, Cpl. Erwin denied that \_\_\_\_\_ stated the touch was intentional or told him to leave. During the hearing he explained that he did not think she made the statements because he cannot recall it.

### **Events Following the Incident**

On her next regular work day, \_\_\_\_\_ spoke to her close friend, Senior Police Clerk Charlene Sly, about the incident and possible responses. The following day, \_\_\_\_\_ sought a meeting and simultaneously reported the incident to Ms. Lenert, her supervisor, and Sergeant Michael W. Regan, assigned to the Administrative Services Division and the supervisor for the civilian front office staff. At the Direction of Police Chief Scott C. Kirkland, the Department initiated an Interdepartmental Personnel Complaint, investigated by Sergeant Shawn Maples (See CX 2) ("Complaint").<sup>3</sup> While investigating the Complaint, Sgt. Maples completed an interview and a follow-up interview with \_\_\_\_\_ (CX 14).

Sgt. Maples interviewed Cpl. Erwin during the investigation (CX 13, 15). There is no indication of other contemporaneous discussions, although Cpl. Erwin has made statements during other portions of the discipline process leading to this hearing.

Sgt. Maples issued his findings sustaining the Complaint (CX 2). The Department carefully considered the Complaint, findings and the action to be taken (CX 5, 6). Based on the sustained Complaint, Chief Kirkland found the allegations of the Complaint "sustained" (CX 6, p.10) and, based on the sustained Complaint, recommended that Cpl. Erwin be discharged from employment with the City of El Cerrito (CX 7, p. 1; CX 8, p. 3). Following proceedings preliminary to this hearing, the disciplinary action of dismissal was implemented on April 11, 2003.<sup>4</sup> The decision and recommendation of Chief Kirkland (CX 6; CX 7; CX 8, p. 2-3), as implemented (CX 8, p.1; CX 9), is appealed to the Commission (CX 10).

### **Positions of the Parties**

The City states that Cpl. Erwin was discharged from the El Cerrito Police Department because he sexually harassed \_\_\_\_\_ and because he lied and was \_\_\_\_\_

<sup>3</sup> During the course of the investigation, Sgt. Maples received information indicating that Cpl. Erwin had massaged the neck/shoulders of Records Specialist \_\_\_\_\_. The Complaint was amended to add this as an additional allegation of conduct violating Department policy. Cpl. Erwin admits the conduct, if not the label of "massage." To the extent that there is any disagreement, it is as to whether the conduct violates Department policy or whether Cpl. Erwin was advised not to engage in such conduct following a discussion with former Police Chief Linda Fellers. The City did not present this as a central portion of its case. Cpl. Erwin's counsel acknowledges that discipline was imposed for this allegation, but not other incidents of neck and shoulder massages.

<sup>4</sup> In addition to the pre-discipline "Skelly" hearing conducted by Chief Kirkland (CX 7; CX 8, P. 2-3), City Manager Scott Hanin conducted a limited administrative appeal and issued his findings and decision upholding the disciplinary action (CX 9). The findings and decision resulting from administrative appeal to the City Manager are not binding on the Commission and the Commission has considered this matter anew (de novo).

deliberately evasive during the internal affairs investigation. In support of the sexual harassment allegation, the City contends that the second contact was intentional. The City contends that both charges are so serious that discharge is the only appropriate penalty for either charge.

Cpl. Erwin contends this is a case of two people who perceived an event differently. As a result, they have a different memory and recollection of the event. The City has misunderstood Cpl. Erwin's statement that he accepts that is telling the truth while denying that he engaged in misconduct. The different perceptions mean that it is not necessarily the case that one person must be lying and one must be telling the truth. The City has overreacted to the incident and turned a misunderstanding into dishonesty. Cpl. Erwin takes responsibility for the event, but contends the penalty is far too severe. Dismissal, according to Cpl. Erwin, should be set aside and a lesser and more appropriate punishment imposed.

### **Procedural Issues and Findings**

1. All procedural requirements of the disciplinary and appeal procedure have been complied with or waived and the matter is properly before the Commission for findings and decision.

2. Cpl. Erwin is a regular, full-time employee of the City of El Cerrito and his employment is subject to the rules and regulations of the civil service. (See Code § 3.10.020) His employment is also subject to the Rules (JX 2) and MOU (JX 1).

3. "[T]he rights of the City include, but are not limited to, the exclusive right to ... take disciplinary action." (JX 1, p. 4)

4. "No regular employee in the civil service shall be dismissed except for cause." (Code § 3.10.110; see JX 2, ¶13.3, p. 22) The City bears the burden of proof by a preponderance of the evidence to establish cause for the discipline, including charges and penalty. (See JX 2, 13.6(e)(2))

5. "Discharge is the permanent removal of an employee from City service." It "may be used as discipline for a first offense in cases where the employee's actions are so serious that no other response is appropriate." (JX 2, 13.2(g))<sup>5</sup>

6. Department orders establish an "Employee Harassment" policy and provide that sexual harassment includes verbal or physical conduct of a sexual nature that interferes with an individual's work performance or creates an offensive work environment. "Violation of this policy shall generally constitute just and reasonable cause for discipline up to and including termination." (CX 7, p. 6)

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<sup>5</sup> Discharge, dismissal and termination are often used interchangeably in common usage. The Commission has considered these words and any words of similar meaning to be interchangeable in reviewing the record and in these Findings and Decision.

7. Department regulations provide that no employee of the Department shall make false reports or statements. Deliberate evasiveness or knowingly withholding pertinent information in a Department investigation is a violation of this regulation. "Violating this regulation ... may result in disciplinary action up to and including termination." (CX 7, p. 5)

### Analysis and Findings

1. ***Sexual Harassment:*** *Cpl. Erwin committed sexual harassment when he intentionally and without justification touched buttock the second time. The act was sexual in nature because it involved an intimate area of the body. It interfered with work performance and created an offensive work environment. The act is a violation of City and Department policy, principally the Employee Harassment policy.*

### **The Incident**

On Saturday, November 16, 2003, Cpl. Erwin entered the front office in the Public Safety Building to obtain snacks from the work area of Records Supervisor Loree Lenert. Both participants agree the first contact was unintentional, although they disagree as to what was said, if anything. Both participants agree there was a second contact. They, again, disagree as to what was said, if anything, about the touch and as to the nature and intent of the touch. It is the two disputed statements Cpl Erwin allegedly made that are a key to determination of this charge since they reflect intent.<sup>6</sup>

Both participants agree as to reaction and her statement that she was flushed. In addition to the disputed statements, Cpl. Erwin states that he does not recall if asserted that the second contact was intentional or told him to leave the office.<sup>7</sup> As of the time of this hearing, Cpl. Erwin apparently does not deny that may have made these statements. It is unlikely that Cpl. Erwin would know that did not make the two disputed statements while being uncertain as to the other two statements. They are significant, material statements. Considering the reaction both participants report, the statements should be set in their memories. Consequently, Cpl. Erwin's claimed lack of memory and testimony based on it is not credible. A person who is not truthful in one portion of their testimony is more likely not to be truthful in other aspects of their testimony.

The Commission finds that the statements were made and that is more credible than Cpl. Erwin in her account of the incident. Further, corroborating her version, the Commission finds that would know the difference between a touch and having her buttock held or cradled. When combined with the statements and surrounding circumstances, it is clear that characterization of the touch as being held or cradled is the more plausible. She was able to distinguish between the first

<sup>6</sup> These statements are words to the effect of: "I didn't mean to touch your butt," and "Because if I wanted to touch you, I would have just ...."

<sup>7</sup> "Hey, that was intentional that time" and "You need to leave."

and second touches, acknowledging the first as accidental and the second as intentional. Consequently, the second touch was an intentional and unjustified act.

### **Credibility**

The Commission has considered a variety of factors in evaluating credibility. These include the demeanor of the participants, the potential for bias or motive, the logic and consistency of their stories, their abilities to accurately perceive events and truthfulness.

#### ***Credibility***

has no motivation to lie and Cpl Erwin suggests none. In fact, he suggests that she is telling the truth, from her perspective. However, there is no reason to believe that there is any difference in perception as to Cpl. Erwin saying words to the effect of "I didn't mean to touch your butt" and "Because if I wanted to touch you, I would have just ...." These are clear statements and not subjective interpretations open to perception. Further, has been consistent in recounting these statements and the material facts of the incident each time she has made a statement and in her testimony, supporting her credibility.

The Commission had the opportunity to observe demeanor at the hearing and on the tape-recorded interview. presented as a credible and truthful witness. Also, the Commission's observations indicate she is capable of accurately perceiving and recounting events. While it is clear that believes that Cpl. Erwin needs to understand that his actions are wrong, she is not vindictive and would have preferred that the matter not attain the significance that has developed. Finally, account is complete, logical and consistent with common sense. It has been consistent when retold by and it is internally consistent. has been truthful in all aspects of her testimony.

#### ***Cpl. Erwin's Credibility***

Conversely, Cpl. Erwin has ample motivation not to tell the truth to avoid discipline. Cpl. Erwin understood that if the events occurred as described by they would constitute sexual harassment and would expose Cpl. Erwin to serious and significant discipline.<sup>8</sup> While motivation is not determinative, it is an appropriate factor for consideration with other factors.

When Cpl. Erwin was first interviewed in the investigation and before he learned the details of account of the incident, his account was imprecise and unclear. He provided too much detail on insignificant matters, such as his interpretation of her thoughts and his reasons for the second touch. He is certain that he had food in his left hand, as opposed to the right. These details appear to have been offered to direct

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<sup>8</sup> Cpl. Erwin admits to receiving extensive training as an employee and as a supervisor. This training includes sexual harassment training.

attention away from more significant matters. As to significant matters, Cpl. Erwin could not provide the same level of detail or memory. His affect and style undermined his credibility. He did not appear to take the matter seriously and left the impression that since [redacted] was the one who became embarrassed, she was at fault for the incident. He tried to minimize the event by describing it as "no big deal." Cpl. Erwin's responses and demeanor were more consistent with someone trying to be evasive or untruthful. His answers were, at times, evasive and imprecise. His demeanor and affect during the hearing were not consistent with credibility.

Cpl. Erwin's account of the incident is not logical or consistent. For example, it is not logical that he would not remember the details of such a significant event. It also is not logical that he would not have addressed [redacted] reaction to the second touch if it were accidental, as Cpl. Erwin claims. He presents himself as a person who addresses issues and resolves issues as they arise. He claims he is not one to hold things in. Yet, he did not address the issue at the time of the incident, claiming he did not want to make it a big deal. Instead, it appears Cpl. Erwin wanted to minimize the incident and hoped nothing would come from it.

Given the first touch and Cpl. Erwin's stated intent to avoid another contact, it is not logical that he would not take a more cautious approach. Considering his attempt to avoid further contact with [redacted] buttock, it is more realistic that he would have said something like "excuse me" or would touch a more neutral area, such as a shoulder. Cpl. Erwin's account of the incident has been imprecise and inconsistent in the multiple statements and even within the video taped interview. At the hearing, selected elements of Cpl. Erwin's testimony were inconsistent with the video taped interview.

Cpl. Erwin has made much of his contention that he had food in his left hand and could not have touched [redacted] in the manner she describes. There was also discussion of the fact that he is left-handed. Being left-handed does not require that Cpl. Erwin had the food in his left hand or mean that he could not have fondled [redacted] buttock. The discussion of whether he was left or right handed was not significant. Further, Cpl. Erwin's clear and steadfast recollection of which hand held the food, while he is unable to remember other facts of equal or greater significance, is suspect.

2. ***False Reports or Statements:*** Cpl. Erwin made false statements in the investigation of the Complaint and continued the false statements in his testimony before the Commission. The false statements include Cpl. Erwin's statement that he did not say words to the effect of "I didn't mean to touch your butt" and "Because if I wanted to touch you, I would have just ...." Cpl. Erwin was deliberately evasive or knowingly withheld information, constituting false statements, when he claimed he could not recall specific conversations after the second touch and gave imprecise and unclear answers to questions.<sup>9</sup> Cpl. Erwin's claims he does not recall stating the second touch was intentional or that she told him to leave involve evasiveness or the withholding of information. Further, Cpl. Erwin's statements generally reflect a lack of candor amounting to evasiveness or withholding. These acts violate City and Department policy, principally the prohibition against making false statements.

Cpl. Erwin is not credible for the reasons already discussed. His denials and claims that he cannot recall are an attempt to avoid personal responsibility for his misconduct. In this regard, Cpl. Erwin denies the most significant aspects of the incident, as he must in an attempt to retain credibility and counter facts that would clearly lead to adverse findings. As to the other aspects on which it was safe not to have a response, Cpl. Erwin claims he cannot recall.

The record demonstrates that Cpl. Erwin is a bright and articulate person with a good memory. With such an illuminating event, the Commission finds it is not reasonable that he would not recall the significant details. Such an event should tend to set the events in his mind, rather than allowing them to pass as an insignificant or casual encounter. The claimed memory lapses are not consistent with common sense or the experience of normal people.

Further, Cpl. Erwin's testimony tends to support his ability to recall detail. For example, he is able to recall incidents and events from the evaluations. This includes matters raised by his counsel, for which he is more likely to be prepared. However, it also includes incidents raised by others, for which he would not have prior warning.

3. ***Conduct Unbecoming an Officer or Insubordination:*** The shoulder massage was not appropriate for the workplace and was contrary to direction given to Cpl. Erwin by a superior officer.

The shoulder massage, rub or touching of \_\_\_\_\_ is admitted by Cpl. Erwin. It does not deserve extensive discussion. The shoulder rub is not significant in the discipline, except to the extent it demonstrates Cpl. Erwin's attitude when his views are different from his supervisors. In that regard, it demonstrates a certain rationalization that allows Cpl. Erwin to place his interests and desires above those of the Department when he decides that the Department or his supervisors are wrong. This is troubling when considered in light of any assertion that Cpl. Erwin will not repeat his misconduct.

<sup>9</sup> Specifically, the claimed inability to recall intentional that time" and "You need to leave."

statement to the effect of "Hey, that was



Based on his training, including sexual harassment training, and judgment, Cpl. Erwin should have recognized that this is an inappropriate activity in the workplace. Even if this was not clear, the direction given by Chief Fellers, as admitted by Cpl. Erwin, was sufficient to tell him to stop. His explanation and attempt to avoid detection is not reasonable.

Even Cpl. Erwin's self professed efforts to avoid giving massages in the presence of those who may object failed as evidenced by the fact that \_\_\_\_\_ indicated that she objects and saw massages. Further, Cpl. Erwin fails to understand that the consent he believes he had from female civilian participants may not be effective in all cases because of his status as a supervisor in the Department. Finally, the activity of avoiding detection is not consistent with the honesty and integrity expected of law enforcement personnel.

### **Penalty (Level of Discipline)**

It is clear that the Department has carefully considered the penalty in this case. They have acknowledged Cpl. Erwin's accomplishments and contributions to the Department. The Department recognizes and has weighed the future contributions it will lose as a result of his discharge. The difficulty experienced by Commander Scot Mosby in making the recommendation for dismissal was especially obvious to the Commission. This is not a decision the Department made lightly or arbitrarily.

Police officers are held to a higher standard of conduct, honesty and integrity. They have the power to deprive citizens of their liberty and to hold people accountable for their actions. It is reasonable for society to expect Police Officers to uphold high standards in their own conduct. There is nothing surprising in this expectation; everyone entering law enforcement knows it and it is continually reinforced to those remaining in the profession.

Cpl. Erwin has had adequate training. There is no issue of his understanding his obligations or that this or future misconduct could be prevented through training. Significantly, Cpl. Erwin has been trained in and understands the sexual harassment policy to the point that he is able to apply it in his attempt to justify ignoring the advice of a supervisor.

An employer has a right to determine what conduct simply will not be tolerated. Sexual harassment and the making of false statements are reasonable for this category. Chief Kirkland advises that the policies prohibiting sexual harassment and false statements are matters of such significance. There is no evidence indicating that the Department has treated them otherwise.

Chief Kirkland and his staff have carefully considered the various factors and the Commission cannot say that their conclusion as to penalty is unreasonable. Consequently, the penalty of discharge is an appropriate disciplinary action under the

circumstances of this case and the City has demonstrated cause for discharge as the penalty.

The events are intentional and involve matters of significance. The sexual harassment was an aggressive and unsettling act. While it is a single act, an employer is justified in taking a strong stance against such acts to make it clear they will not be tolerated and thereby avoid more severe or pervasive incidents. It will also send a message to victims that will support reporting incidents and the City's commitment to its policy. Lesser discipline will tend to send a message to perpetrators that some level of harassment may be tolerated, undermining the City's commitment to a working environment free of harassment. The false statements are clear, premeditated and repeated. Honesty is inherent in police work and a police officer is not effective without it.

Further, even if the Commission were to substitute its judgment, it would reach the same conclusion based on the record in this case. Either the inappropriate touching or the false statements will support termination in the first instance. The nature and circumstances of the actions alleged and proven are so serious that no other response is appropriate.

Finally, it worth noting that Cpl. Erwin's claim of accepting responsibility is illusory. He is not accepting responsibility for any significant misconduct. Instead, when pressed, he admitted that he is only accepting responsibility for being present in the front office and for an inadvertent touching that was misperceived as inappropriate. He specifically denies responsibility for sexual harassment or making false statements. When pressed to identify a rule violation for which discipline might be imposed, the only one Cpl. Erwin could offer is treating employees with respect. He attempts to admit only insignificant matters, while trying to make it appear that he is doing more.

Any penalty short of discharge will return Cpl. Erwin to the workplace. Cpl. Erwin's remorse is not sincere and there is no assurance that he will not repeat his misconduct if he is returned to the workplace. Considering the nature of the misconduct and the factors evaluated in imposing discipline, allowing Cpl. Erwin to return to the Department is not appropriate.

### **Decision**

Based on the record presented at the appeal hearing in this matter, the Commission finds that the City has proven the charges of sexual harassment and false statements. While not necessary to this determination, the City has also proven that the shoulder massage of \_\_\_\_\_ constituted a violation of policy. The penalty of discharge is appropriate under the circumstances. There is cause for the disciplinary action and the disciplinary action of discharge recommended by the Chief of Police should be upheld.

**Recommendation to City Council**

The forgoing findings and decision were approved and certified by the Civil Service Commission at its meeting of August 6, 2003. The Civil Service Commission respectfully recommends that the City Council affirm the disciplinary action of discharge.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Patricia Trumbull, Chair  
Civil Service Commission  
City of El Cerrito

Attest:

\_\_\_\_\_  
Sandra Chapek, Secretary  
Civil Service Commission  
City of El Cerrito

Dated: \_\_\_\_\_



September 17, 2003

Alison Berry Wilkinson  
Rains, Lucia & Wilkinson, LLP  
2300 Contra Costa Boulevard, Suite 230  
Pleasant Hill, California 94523

Re: Appeal of Corporal Scott A. Erwin  
Action by El Cerrito City Council

Dear Ms. Wilkinson:

Pursuant to notice and relevant provisions of the El Cerrito Municipal Code and the El Cerrito Personnel Rules and Regulations, the El Cerrito City Council met on Monday, September 15, 2003, to review the findings and decision of the El Cerrito Civil Service Commission in the matter of the disciplinary action involving Scott A. Erwin. The City Council took action on that date affirming the disciplinary action of dismissal.

The City Council reported its action during the public meeting of September 15, 2003. As permitted by the Brown Act, that report included the title of position and not the name of the employee. With regard to the City and the Civil Service Commission, this remains a confidential personnel matter. The action of the El Cerrito City Council is final.

**Notice: Any legal action to challenge this decision must be filed in a court of competent jurisdiction no later than ninety (90) calendar days following the date of this decision, as provided in California Code of Civil Procedure Section 1094.6.**

Sincerely,

A handwritten signature in cursive script, appearing to read "Sandy Chapek".

Sandy Chapek  
Civil Service Commission Secretary

cc: Scott A. Erwin c/o Alison Berry Wilkinson  
Scott Hanin, City Manager  
Linda A. Tripoli/Police Chief Scott C. Kirkland  
Roy A. Clarke, Assistant City Attorney