

DEPARTMENT OF PUBLIC SAFETY

COMPLAINT FORM

OPSIA CASE NO. <u>06-104-A2-05</u>	DATE & TIME OF INCIDENT: September 16, 2006
DATE & TIME REPORT RECEIVED August 16, 2006/1000	ALLEGATION/OFFENSE: Standard of Conduct Failure to Obey Laws (3) counts Battery on a household member
REPORT RECEIVED (Person, Phone, Letter) Phone/Person by Lieutenant Ramon Casaus	LOCATION OF INCIDENT Los Lunas, New Mexico
EMPLOYEE INFORMATION	
NAME Officer Eric Montano	ASSIGNMENT/DUTY STATION District 5/ NMSP
COMPLAINING/REPORTING PARTY INFORMATION	
NAME Jolene Montano	ADDRESS : 1353 Kaghan Lp. Belen, NM 87002
PHONE NUMBERS 505 864-2272	
NARRATIVE OF COMPLAINT	
Refer to IDC	
FINDINGS/CONCLUSIONS OF INVESTIGATION AND MISCELLANEOUS COMMENTS	
FINDINGS: ☐ Sustained ☐ Not Sustained ☐ Unfounded ☐ Exonerated	
ASSIGNED INVESTIGATOR: <u>H. Robert Duncan</u>	DATE COMPLETED: <u>11/21/06</u>
SIGNATURE OF REPORTING PARTY OR SUPERVISOR TAKING COMPLAINT: <u>Ramon N. Casaus Jr.</u>	

IN THE MAGISTRATE COURT

VALENCIA COUNTY

STATE OF NEW MEXICO

v.

MONTANO, ERIC, Defendant(s)
 226 Lisane Court, Los Lunas NM
 (1353 Kaghan Lp., Belen NM)
 DOB [REDACTED] 67 SOC [REDACTED]

No. MS9MR2006 00534Date Filed. 10/17/06

[Signature]
 #62467
 TPI

CRIMINAL COMPLAINT

CRIME: Counts I-III Battery On A Household Member
 (Common name of offense or offenses)

The undersigned, under penalty of perjury, complains and says that on or about the 16th day of **September**, 2006, in the County of **VALENCIA**, State of New Mexico, the above named defendant(s) did (here state the essential facts) :

*Count I-II: Battery on a Household Member, in that on or about the 16th day of September, 2006, in Valencia County, New Mexico, the above named defendant did unlawfully and intentionally touch or apply force to the person of Jolene Montano (*A household member, as defined in NMSA 1978, 30-3-11) and did so in a rude, angry, or insolent manner, contrary to NMSA 1978 30-3-15, A Misdemeanor.*

*Count III: Battery on a Household Member, in that on or about the 10th day of December, 2005, in Valencia County, New Mexico, the above named defendant did unlawfully and intentionally touch or apply force to the person of Jolene Montano (*A household member, as defined in NMSA 1978, 30-3-11) and did so in a rude, angry, or insolent manner, contrary to NMSA 1978 30-3-15, A Misdemeanor.*

Contrary to Section(s) 30-3-15 NMSA 1978.

✱ I SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT THE FACTS SET FORTH ABOVE ARE TRUE TO THE BEST OF MY INFORMATION AND BELIEF. I UNDERSTAND THAT IT IS A CRIMINAL OFFENSE SUBJECT TO THE PENALTY OF IMPRISONMENT TO MAKE A FALSE STATEMENT IN A CRIMINAL COMPLAINT.

Jolene Montano
 Complainant

Title(if any)

Approved/Title

[Signature] / SHILLING - LIEUTENANT
 NEW MEXICO STATE POLICE

THIS COMPLAINT MAY NOT BE FILED WITHOUT THE PRIOR PAYMENT OF A FILING FEE, UNLESS APPROVED BY THE DISTRICT ATTORNEY OR A LAW ENFORCEMENT OFFICER AUTHORIZED TO SERVE AN ARREST OR SEARCH WARRANT. APPROVAL OF THE DISTRICT ATTORNEY OR A LAW ENFORCEMENT OFFICER IN NOT OTHERWISE REQUIRED.

Distribution Instructions:

Original-Court

Copy-Defendant

Copy-Plaintiff

STATE OF NEW MEXICO

IN THE MAGISTRATE COURT

VALENCIA COUNTY

STATE OF NEW MEXICO

v.

No. _____

MONTANO, ERIC, Defendant(s)

STATEMENT OF PROBABLE CAUSE

The above named defendant(s) has been arrested without a warrant for the following reasons (set forth a plain, concise, and definitive statement of facts establishing probable cause):

On or about September 18, 2006 Jolene Montano made a complaint/report to New Mexico State Police Lieutenant Ramon Casaus concerning an incident that occurred on September 16, 2006 between herself and her ex-husband, Eric Montano. The case was referred to the New Mexico State Police Criminal Investigations for investigation.

On September 19, 2006, Jolene Montano came to the New Mexico State Police office in Albuquerque, NM and provided both a written and audio-taped statement concerning the allegations of Battery that occurred on September 16, 2006:

-Jolene was in attendance at a YAFL football game in Belen, NM. She became upset when her ex-husband's (Eric Montano) fiancée, Linda Rodriguez, yelled at her (Jolene's) youngest son, [REDACTED]. At the conclusion of the game, Jolene stated that Eric, who was also in attendance at the game, called for [REDACTED] to come to him, but [REDACTED] ran off towards Jolene. Jolene said Eric chased [REDACTED] grabbed him, and picked him up. Jolene said she approached Eric and told him to let [REDACTED] go and stop yelling at him. At this time, Jolene reported that Eric Montano pushed her.

-Jolene further stated that [REDACTED] began crying for her, and Eric, still holding [REDACTED] began walking away from Jolene. Jolene followed him and again demanded that Eric give her [REDACTED] when Jolene reports that Eric pushed her a second time.

*Jolene, at the time of the report, did not want to file criminal charges, but wanted it investigated administratively through the State Police. She did sign a waiver of prosecution at that time. On September 21, 2006, Jolene Montano contacted this writer and informed me that she changed her mind, and wished to pursue the criminal charges of Battery against Eric.

Through the course of this investigation, Jolene Montano reported to this writer that another incident of domestic violence occurred in December of 2005, when Jolene Montano and Eric Montano were still together. Jolene reported this incident to this writer on October 4, 2006.

-Jolene advised that during the morning hours, before the children were to go to school, she was cutting up fruit for one of the children to take to their respective Christmas party. Jolene reported that her and Eric began arguing, which escalated when Eric threw a full can of soda pop at her, which struck her in the face. The battery, according to Jolene, caused a laceration and swelling in her lip, and bleeding. Jolene said she did not seek medical attention for the injury.

-Jolene further provided the name of the school teacher who saw her and the injury on the morning of this incident. This writer contacted the teacher, Lynn Cannon, on October 4, 2006. Ms. Cannon did recall the visible injury on Jolene's face, and remarked that Jolene was upset so she (Ms. Cannon) asked Jolene what was wrong. Ms. Cannon said that Jolene told her that Eric had thrown a can of soda and hit her in the face. Ms. Cannon further stated that she encouraged Jolene to report the incident to law enforcement, but that Jolene didn't want to.

(continue on another sheet if necessary)

I DO SOLEMNLY DECLARE AND AFFIRM UNDER PERJURY THAT THE MATTERS AND FACTS SET FORTH IN THIS STATEMENT ARE TRUE TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

10-17-06
Date

Philip Montano

[Signature]
Arresting Officer

This form is to be used if the defendant was arrested without a warrant and the complaint or citation and any attachments to the complaint do not make a written showing of probable cause.

Distribution Instructions:

Original-Court

Copy-Defendant

Copy-Plaintiff

Criminal Form 9-215

DEPARTMENT OF PUBLIC SAFETY COVER SHEET

I N C I D E N T	OFFENSE:	BATTERY AGAINST A HOUSEHOLD MEMBER BATTERY ON A HOUSEHOLD MEMBER ABANDONMENT OR ABUSE OF A CHILD VIOLATION OF PROTECTION ORDER	INCIDENT NO.: 2006-16974
			CASE NO.: 06-23-3-0235
	DATE OF OFFENSE:	September 16, 2006	TIME: 12:30
	LOCATION OF OFFENSE:		COUNTY: Valencia

PERSON CODE	NAME	DOB	SSN#	ADDRESS	TELEPHONE
VICTIM	MONTANO, JOLENE A	1976	[REDACTED]	Address Type: PHYSICAL ADDRESS Road Type: OTHER (PRIVATE ROAD, ETC.) Street Address: 1353 KAGHAN LP City: BELEN State: NM Zip: 87002 County: VALENCIA Country: UNITED STATES	(505) 864-2272
SUSPECT	MONTANO, ERIC	1967	[REDACTED]		(505) 720-1178 (505) 841-9278

A T T A C H M E N T S	A - Original Offense Incident Report - Sgt. Robert Miller
	B - Copy Of Written Statement - Jolene Montano
	C - Copy of Waiver of Prosecution - Jolene Montano
	D - Temporary Order of Protection (2), Police Report, Witness Statements - Eric and Linda Vs. Jolene
	E - Temporary Order of Protection - Jolene Vs. Linda Rodriguez
	F - Criminal Complaint/Statement of Probable Cause - Jolene Montano Vs. Eric Montano
	G - Criminal Complaint and Documentation Provided - Eric Montano Vs. Jolene Montano
	H - Copy Request - 13th Judicial District Court
	I - Stipulated Orders of Protection Effective October 6, 2006
	J - Amended Los Lunas Police Report provided by David Chavez/Eric Montano
	K - New Mexico State Police Receipt for Evidence
	L - Photos of Khagen Residence Provided by Eric Montano

A D M I N	REPORTING OFFICER:	LIEUTENANT ROBERT SHILLING	CASE STATUS:	ACTIVE
	COPIES TO:	13th Judicial District Attorney's Office Criminal Investigations Section, Santa Fe DPS Records, Santa Fe		

DEPARTMENT OF PUBLIC SAFETY COVER SHEET

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	DATE OF OFFENSE: September 16, 2006				TIME: 12:30																			
	LOCATION OF OFFENSE:				COUNTY: Valencia																			
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A T T A C H M E N T S	M - Transcription, Eric Montano Interview																							
A D M I N	REPORTING OFFICER:		LIEUTENANT ROBERT SHILLING		CASE STATUS:	ACTIVE																		
	COPIES TO:		13th Judicial District Attorney's Office Criminal Investigations Section, Santa Fe DPS Records, Santa Fe																					

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ORIGINAL OFFENSE DATE 09/16/2006	SUPPLEMENTAL DATE 10/20/2006	CASE NUMBER 06-23-3-0235								
ORIGINAL OFFENSE REPORTED 1 - BATTERY AGAINST A HOUSEHOLD MEMBER										
ORIGINAL VICTIM'S NAME MONTANO, JOLENE A	DATE OF BIRTH 1976									
ORIGINAL VICTIM (BUSINESS)										
LOCATION OF OCCURRENCE										
OFFENSE / INCIDENT		FEL/ MISD.	ATTEM	COMP	DOM. VIOL.	SEX	CHILD	OFFENDER(S) SUSPECTED OF USING:		
1 BATTERY ON A HOUSEHOLD MEMBER		M		X	Y	N	N	ALCOH. N	DRUG N	COMP. N
STATUTE OR ORDINANCE 30-3-15										
UCR OFFENSE Battery Against Household Member		WEAPON								
CRIM. ACTIVITY Using / Consuming		WEAPON								
LOCATION Park		WEAPON								
OFFENSE / INCIDENT		FEL/ MISD.	ATTEM	COMP	DOM. VIOL.	SEX	CHILD	OFFENDER(S) SUSPECTED OF USING:		
2 ABANDONMENT OR ABUSE OF A CHILD		F		X	N	N	Y	ALCOH. N	DRUG N	COMP. N
STATUTE OR ORDINANCE 30-6-1										
UCR OFFENSE Abandonment or Abuse of Child		WEAPON								
CRIM. ACTIVITY Using / Consuming		WEAPON								
LOCATION Residence / Home		WEAPON								
OFFENSE / INCIDENT		FEL/ MISD.	ATTEM	COMP	DOM. VIOL.	SEX	CHILD	OFFENDER(S) SUSPECTED OF USING:		
3 VIOLATION OF PROTECTION ORDER		M		X	Y	N	N	ALCOH. N	DRUG N	COMP. N
STATUTE OR ORDINANCE 40-13-6										
UCR OFFENSE Domestic Violence (General)		WEAPON								
CRIM. ACTIVITY Using / Consuming		WEAPON								
LOCATION Highway / Road / Alley		WEAPON								
M.O. EVENT CODES : (AGENCY OPTIONAL USE) SUPPLEMENTAL REPORT #1 - C.I.S. CASE #06-23-3-0235								TOTAL VALUE STOLEN	TOTAL RECOVERED	
SYNOPSIS This report documents my involvement in this investigation. Refer to the narrative for details.										

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NARRATIVE

I N V E S T I G A T I V E S U M M A R Y

On September 18, 2006 Jolene Montano (Victim) reported an alleged domestic battery to Lieutenant Ramon Casaus (New Mexico State Police, Uniform Bureau, District #5, Albuquerque). Jolene Montano alleged that on Saturday, September 16, 2006, her ex-husband, Eric Montano (Suspect), pushed her two times. Both parties were in attendance at a YAFL football game at Heritage Park, in Valencia County, New Mexico.

The case was referred to the New Mexico State Police Criminal Investigations Section, Albuquerque, and adopted for investigation by me (Lieutenant Robert Shilling, New Mexico State Police, Criminal Investigations Section, Albuquerque). I assigned Sergeant Robert Miller (New Mexico State Police, Criminal Investigations Section, Albuquerque) the case on September 18, 2006.

On September 19, 2006, Sergeant Miller conducted a recorded interview with Jolene Montano at the New Mexico State Police Office, in Albuquerque, NM. He also obtained a written statement from Jolene. Refer to Sgt. Miller's original report for specific information concerning this interview/statement.

(Same Date) At the conclusion of Sgt. Miller's interview with Jolene Montano, she advised that she did not want to pursue criminal charges against Eric Montano at this time. Sgt. Miller presented Jolene with a "waiver of prosecution form", of which she signed.

(Same Date) Sgt. Miller contacted the 13th Judicial District Attorney's Office, Valencia County, and spoke to ADA Anthony Little. ADA Little was briefed on the case at this point, and advised of the signed waiver of prosecution. Sgt. Miller was advised that the District Attorney's office would not pursue the case since the victim/witness (Jolene Montano) would not pursue/testify in the case.

On September 20, 2006, Sergeant Miller telephone Jolene Montano and advised her of her rights and the protections afforded to her under the New Mexico Family Violence Protection Act (i.e. order of protection, restraining orders, etc.). Sergeant Miller left an envelope of the necessary forms, victim information, etc. at the State Police office in Albuquerque for her to pick up.

(Same Date) I reviewed the information gathered by Sergeant Miller up to this point and discussed the case with Lieutenant Ramon Casaus. During the course of this review, it was noted that Jolene Montano had made statements about the incident that implicated Eric Montano with respect to child abuse, when he grabbed [REDACTED] by the neck at the football game. Due to an upcoming special assignment and extended absence of Sergeant Miller, I took over the case from Sergeant Miller.

On September 21, 2006 (10:12 AM) I conducted another recorded interview with Jolene Montano at the New Mexico State Police office in Albuquerque, New Mexico. This interview was specifically focused on the allegation of child abuse against Eric Montano, specifically the incident at the YAFL football game on September 16, 2006.

Jolene described the incident between her and Eric at the football game. She detailed that Eric chased after [REDACTED] after the game, and that he grabbed him "...from behind the neck...", picked him up and squeezed him. Jolene further stated that on Sunday evening, September 17, 2006 her older son, [REDACTED] disclosed to her that Eric did

the same thing (grabbed [REDACTED] by the back of the neck) and threw him on a bed, later in the evening of Saturday, September 16. When asked, Jolene said she did not see any bruising or injury on [REDACTED] when they returned to her residence on the evening of September 17, 2006.

Based on the aforementioned information, a forensic interview was scheduled for [REDACTED] with All Faiths Receiving Home, in Albuquerque, New Mexico. Once the appointment was made, Jolene Montano was advised of the date/time of the interview.

On September 21, 2006, I received a telephone call from Jolene Montano. She advised that the Valencia County Sheriff's Office was at her residence in Belen, and had served her with a district court order/restraining order, ordering Jolene to vacate the residence immediately (which belongs to Eric Montano). At this time, Jolene Montano advised that she had changed her mind, and wished to pursue the domestic violence criminal charges against her ex-husband stemming from the incident on September 16, 2006. At this time I provided Jolene Montano with the phone number for the domestic violence shelter in Valencia County in case her and her children needed housing.

On September 22, 2006, I received another phone call from Jolene Montano. She stated that the special commissioner (Charles B. Sanchez, Valencia County Domestic Violence Commissioner) hearing the restraining order case(s) involving her and Eric had reversed his removal order and her and the children were back in the house.

Jolene further advised that Eric had violated his own restraining order against her by parking by her house and watching it. She said he also drove slowly by the residence (in his marked State Police car).

On September 26, 2006 an email was received from Linda Sanchez, 13th Judicial District Attorney's Office, in Los Lunas. The DA's office had been notified of the upcoming forensic interview, and advised that an ADA would be in attendance at the interview (this was later recanted, with the DA's office advising it would be a conflict).

On Tuesday, October 3, 2006 a forensic interview was conducted on [REDACTED] at the All Faiths Receiving Home. Yvonne Ulibarri, forensic interviewer, conducted the interview. [REDACTED]
[REDACTED]
[REDACTED]

On Wednesday, October 4, 2006 I received another phone call from Jolene Montano. Jolene described/reported another incident of domestic violence that had allegedly occurred in December 2005.

Jolene said that her and Eric were arguing in their house, as she was preparing some food for one of her son's Christmas parties at school. The argument escalated when Eric threw a full can of Pepsi at her, which struck her in the face. Jolene said the can hit her on the mouth, resulting in a "split lip" and bleeding.

Jolene further said that she left the residence and went to her son's school to deliver the food. Once there, her son's teacher, Ms. Cannon, observed the injury and asked Jolene what had happened. Jolene told Ms. Cannon about the incident.

(Same Date) At approximately 4:50 PM, I contacted Ms. Cannon (Lyn Cannon) at the Belen

Elementary School. Ms. Cannon recalled the incident, and further advised that she had encouraged Jolene to report the incident to law enforcement, but Jolene had refused.

(Same Date) I received another phone call from Jolene, wherein she advised that Eric Montano and Linda Rodriguez had filed battery charges on her, and she was summoned to appear before the Belen Magistrate Court on October 17, 2006.

(Same Date) I contacted the Central Intake, Children Youth and Families Department, State of New Mexico, and reported the above noted information concerning the allegations of domestic violence and child abuse, and advised CYFD that the family was a family in need of services, or 'FINS'.

On October 6, 2006 Jolene Montano left a voice message for me. She advised that Lemuel Martinez, District Attorney for the 13th Judicial District, had represented Eric Montano at the restraining order hearing in Los Lunas.

(Same Date) I returned Jolene's phone call. Jolene was sure that it was Lemuel Martinez, and he had intimidated her by telling her that she was going to stipulate in the orders to changing visitation, child support, and further threatened her that if she filed criminal charges on Eric, he would ensure that she was prosecuted on Eric's charge.

Jolene also advised that Eric admitted during the hearing that he had violated the initial restraining order he filed for by driving by and parking near Jolene's residence.

(Same Date) I received a phone call from Tammi Lambert, Office of the Governor, Victim's Advocacy. She was inquiring if the above noted incident on the October 6th had actually occurred. I conveyed to her what I had learned. Ms. Lambert requested that I have Jolene Montano contact her. I called Jolene immediately, and provided her with the phone number for Ms. Lambert.

On October 13, 2006, a recorded interview was conducted with Eric Montano. He was with his attorney, Mr. David Chavez. The interview was conducted at the Los Lunas State Police office.

Eric detailed the event(s)/incident(s) of September 16, and denied pushing or touching Jolene Montano. Eric further described that he never grabbed [REDACTED] by the neck, but instead took him by the arm(s) when he picked him up. He further denied ever throwing [REDACTED] onto a bed.

Eric described that Jolene had thrown an apple at him, which struck him in the back. He further detailed that Jolene had bumped into Linda, causing Linda to bump into him. Eric confirmed that both he and Linda Rodriguez had filed battery complaints against Jolene for the incident(s) on September 16, 2006.

(Same Date) I learned that Marco Banales, CYFD, had interviewed Eric Montano later in the afternoon. I contacted Mr. Banales, who advised me that the allegation of child abuse against Eric Montano would be 'Unsubstantiated', and he had no reason to keep Eric Montano from reestablishing his visitation rights with the children. Mr. Banales advised that he had left a message for Jolene Montano advising her of the same information.

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(Same Date) Eric Montano called me and advised that Jolene Montano had violated the restraining order by showing up at the school and upsetting the children. I advised Eric that he should report the incident to law enforcement.

(Same Date) Jolene Montano left a voice message for me, detailing that she was upset with the whole situation, and she didn't understand why and how Eric was allowed to get the children for the weekend.

(Same Date) An email was received from Linda Sanchez, 13th Judicial District Attorney's office, advising that if charges were filed as a result of this investigation, the DA's office would conflict the case to another jurisdiction.

On October 16, 2006, I returned the phone call to Jolene Montano. She reiterated that she wished to pursue the criminal charges against Eric.

On October 17, 2006, I met with Jolene Montano at the Belen Magistrate Court, in Belen, New Mexico. I presented Jolene with a Magistrate Court criminal complaint, charging Eric Montano with three (3) counts of Battery on a Household Member. Jolene was advised to read the affirmation before signing. Jolene Montano read the complaint, affirmation, and then signed the complaint as the 'complainant'.

Jolene was further presented with a statement of probable cause, detailing the above noted information in a more synopsisized version. Jolene was asked to read the document, read the affirmation, and sign the document acknowledging it was correct. Jolene read and signed the document.

At the conclusion of Jolene Montano's arraignment on the charges filed by Eric Montano and Linda Rodriguez, I conducted a recorded interview with Jolene concerning the allegation of battery stemming from the December, 2005 incident.

Jolene advised that she was in the kitchen, cutting up fruit to take to one of her son's Christmas parties at school. The children were already at school. Jolene advised that she and Eric had been arguing all morning. Jolene said that Eric went to the refrigerator and took out a full can of Pepsi. Their argument continued, and escalated when Eric threw the full can of soda at Jolene. Jolene said it struck her near her mouth, causing her upper lip to be lacerated, her gums and lip to bleed, and her lip to swell.

Jolene said she took the fruit to school, where her son's teacher, Lyn Cannon, confronted her. Jolene said that after leaving the school, she went to a friend's house, Michelle Shutco, who also observed the injury to her face.

(Same Date) The above noted complaint and statement of probable cause was filed in the Magistrate Court, Division II/III, in Los Lunas, New Mexico.

(Same Date) A copy of the recorded hearing of October 6, 2006 was requested from the District Court clerk. Copies of the complaints filed by Eric Montano and Linda Rodriguez against Jolene Montano were also obtained from the Belen Magistrate court.

On October 18, 2006, I received a phone call from Eric Montano. He advised that he wished to amend his complaint against Jolene from simple battery to battery on a household member. I advised Eric that I would assist him in filing charges involving

domestic violence/family protection, if he needed it. He advised that he would attempt to amend the complaint at the court. Eric further stated that he wished to pursue criminal charges against Jolene for using the telephone to threaten/harass him. I advised him that he could file the misdemeanor charge on the original complaint already filed, and that I would document in my report the recorded phone messages that Jolene had left him prior to the incident in September.

INVESTIGATIVE DETAILS

On Monday, September 18, 2006, I (Lieutenant Robert Shilling, New Mexico State Police, Criminal Investigations Section, Albuquerque) was contacted by Lieutenant Ramon Casaus (New Mexico State Police, Uniform Bureau, District #5, Albuquerque) in reference to an allegation of criminal wrongdoing on a uniformed officer stationed in District #5, Eric Montano. Lieutenant Casaus said that Eric's ex-wife, Jolene Montano, had made an allegation of domestic battery against him. The allegation surrounded an incident at a football game on September 16, 2006 (in Valencia County), wherein Eric Montano allegedly pushed Jolene Montano two times.

Lieutenant Casaus further stated that Jolene Montano had advised him that she did not want to pursue criminal charges against Eric, but wanted to report it to a supervisor because "...Eric had issues..." and needed help. Lieutenant Casaus was unable to immediately refer the complaint for an internal investigation, due to the criminal allegation made against Eric Montano. Department of Public Safety policy requires that criminal allegations be investigated before an internal investigation is commenced. Based on the aforementioned information, I adopted the case for criminal investigation, and assigned Sergeant Robert Miller (New Mexico State Police, Criminal Investigations Section, Albuquerque) as the case agent.

On September 19, 2006 Sergeant Miller conducted a recorded interview with Jolene Montano at the New Mexico State Police office in Albuquerque, New Mexico. Sergeant Miller also obtained a written statement from Jolene Montano (Attached).

*Refer to Sergeant Miller's original report for specific details concerning the interview and what was disclosed by Jolene Montano.

At the conclusion of the interview, Jolene Montano reiterated that she did not want to pursue criminal charges against Eric Montano. Sergeant Miller presented Jolene with a 'waiver of prosecution' form, of which she read and signed (Attached).

On the same date, Sergeant Miller contacted the District Attorney's office, Valencia County, and spoke to ADA Anthony Little concerning this case. ADA Little was briefed on the case, and advised of the signed waiver of prosecution. ADA Little advised that the district attorney's office would not adopt/prosecute the case without the cooperation of the alleged victim.

On Wednesday, September 20, 2006, Lieutenant Casaus was advised of the aforementioned information. Lieutenant Casaus inquired as to the status of the child abuse allegation. Since that allegation was not initially discussed, myself, along with Lieutenant Casaus and Sergeant Miller reviewed the statement(s) provided by Jolene Montano. In the statements provided to Sergeant Miller by Jolene Montano, she made reference to Eric

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Montano grabbing their son, [REDACTED] by the neck; as described by Jolene Montano it could have been done in an angry, rough manner and potentially injured the child.

I instructed Sergeant Miller to contact Jolene Montano and advise her that we would be investigating Eric Montano for an allegation of child abuse, regardless of her willingness to cooperate. I also advised Sergeant Miller to advise Jolene of her rights and the resources available to her under the Family Violence Protection Act, including providing her with the necessary forms for protection orders, etc.

Sergeant Miller contacted Jolene and advised her of the aforementioned information. She agreed to cooperate with the investigation, and agreed to come to the Albuquerque State Police office for another recorded interview. She also acknowledged the information provided to her by Sergeant Miller, and said she would be pursuing a restraining order on behalf of her children against Linda Rodriguez. Sergeant Miller also left her an envelope containing the standard forms and resource information with the District #5 secretary for Jolene to pick up at her convenience.

Sergeant Miller had been assigned to an extended special assignment prior to this case, and would be out of the office for the next two weeks. Based on this, I took this case over as the primary case agent.

On September 21, 2006, I conducted a recorded interview with Jolene Montano at the New Mexico State Police office in Albuquerque, New Mexico. The interview commenced at approximately 10:12 AM and concluded at approximately 10:44 AM. I used my issued, Olympus DM 10 digital voice recorder to record the interview. The original recording, at the conclusion of the interview, was downloaded onto a CD-R type compact disc, and logged into evidence at the State Police office, Albuquerque (Attached - Receipt for Evidence).

SYNOPSIS: INTERVIEW OF JOLENE MONTANO, 09/21/2006

Jolene again described how the argument erupted between her and Eric Montano at the YAFL football game in Belen, New Mexico. Her statement was consistent with her written and verbal statement provided to Sergeant Miller on September 19th.

Jolene described that Eric was chasing after [REDACTED] in an attempt to catch him, as [REDACTED] began running away from him (Eric), towards Jolene. Jolene said that when Eric caught up to him, he grabbed [REDACTED] by the back of the neck to stop him, and then picked him up, in a "...cradle hold..." and was squeezing him ([REDACTED]) and "telling him off".

Jolene said that when she got her two son's back on Sunday evening (from Eric), her oldest son, [REDACTED] disclosed to her that [REDACTED] had gotten in trouble when they (Eric, [REDACTED] and [REDACTED] had gotten home Saturday evening, and that Eric had again grabbed [REDACTED] by the neck, pushed him down, and then picked him up and threw him onto a bed.

When asked specifically about Eric grabbing [REDACTED] at the football game, Jolene was asked if [REDACTED] was hurt; did he say "ouch" or "that hurts"? Jolene said that all [REDACTED] said was "stop". When questioned about [REDACTED] crying, Jolene said that [REDACTED] didn't start crying until Eric picked him up and squeezed him.

Jolene was asked if she observed any injury or bruising on [REDACTED] when he returned home on Sunday. Jolene said she did not, and his neck was easy to see as [REDACTED] has a short haircut.

END OF INTERVIEW

On September 21, 2006 I contacted the All Faiths Receiving Home (505-271-0329), the regional forensic interviewing facility for the area to schedule a forensic interview for [REDACTED]. The interview was scheduled for October 3, 2006 at 8:30 AM. Jolene was advised of this appointment and she agreed to bring [REDACTED] in for the interview.

(Same Date) I received a telephone call from Jolene Montano. She advised me that the Valencia County Sheriff's Office was at her home, and served her with a restraining order and immediate eviction notice, which ordered that she immediately vacate the residence. I provided Jolene with the name and telephone number of the Valencia County Domestic Violence shelter, in case her and her children needed housing (Attached - copy of restraining order/eviction notice).

At this time, Jolene advised me that she has changed her mind with respect to the domestic violence allegations, and that she wished to file criminal charges against Eric for the pushing incident at the football game.

(Same Date) On or about September 21, 2006, I received a sealed envelope in my office from Eric Montano. The envelope contained a Los Lunas Police Department report (copy), a restraining order he had filed on Jolene Montano (copy), a restraining order Linda Rodriguez had filed on Jolene Montano (copy), a restraining order filed against Linda Rodriguez by Jolene Montano (copy), and a mini cassette allegedly containing threatening messages Jolene had left on Eric's answering machine, prior to the September 16th incident.

On September 22, 2006, I received another phone call from Jolene Montano. Jolene advised that the Domestic Violence Commissioner for Valencia County, Charles Sanchez, had reversed his eviction order, and that she and her children were back in the home.

Jolene further stated that Eric had violated his own restraining order that he had filed against her by slowing driving by her house, and sitting parked close to her house, watching them (in his marked police car).

On September 26, 2006, I received an e-mail message from Linda Sanchez, District Attorney's Office, Valencia County (Los Lunas). She advised that her office had been advised of the upcoming safe house interview of [REDACTED]. She was inquiring if the case involved Eric Montano. I replied to the e-mail that indeed it did. I received a reply e-mail that an ADA would be in attendance at the forensic interview.

On Monday, October 2, 2006, I received another e-mail from Linda Sanchez. The e-mail advised that it would be a conflict for their office to attend the forensic interview, and if any charges resulted from the investigation, the case would have to be "conflicted out" to another jurisdiction.

On Tuesday, October 3, 2006, a forensic interview was conducted with [REDACTED] at the All Faiths Receiving Home, 1709 Moon Street NE, Albuquerque, New Mexico, 87112. The

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SYNOPSIS - FORENSIC INTERVIEW OF [REDACTED] 10/03/2006

On Wednesday, October 4, 2006, I received a phone call from Jolene Montano. Jolene wished to report another incident of domestic violence, allegedly occurring in December 2005.

Jolene said that one of her son's teachers at the time, Ms. Cannon, observed the injury when she took some food to her son's school. Jolene provided me with the phone number to the Belen Elementary School. Jolene also said that one of her friends, Michelle, observed the injury on the date of the incident as well.

(Same Date) I contacted the Central Intake for the New Mexico Children, Youth, and Families Department (1-800-797-3260), and reported all of the above noted information concerning the allegations of domestic abuse and child abuse. I also advised CYFD that I felt the family was a "family in need of services", or FINS.

On October 6, 2006, I received a voice message from Jolene Montano. In the message, she alleged that the District Attorney for the 13th Judicial District, Lemuel Martinez, had "represented" Eric Montano and Linda Rodriguez at the restraining order hearing earlier

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that day.

I returned Jolene's phone call. Jolene was adamant that Lemuel Martinez had represented Eric at the hearing, and said that she knew who David Chavez was, and she was sure that it was Lemuel. Jolene further stated that Lemuel had intimidated her. Jolene said he first approached her in the hall before the hearing, and began telling her what she was going to stipulate to during the hearing. Jolene said that a legal advocate was with her, and witnessed the incident (Sonya Deloach).

Jolene also said that Eric had admitted during the hearing to violating his own restraining order that he had filed on her, by driving by her residence and parking and watching the residence.

At the end of the hearing, Jolene said she was further intimidated when Lemuel told her that she better not file criminal charges against Eric, or he would ensure that she was prosecuted on the charge Eric had filed on her.

Jolene was provided with the number to the Governor's Office of Victim Advocacy, specifically, Tammi Lambert, Director (841-2478). The legal service agency that had provided Jolene with an advocate at the hearing had apparently called the Office of Victim Advocacy in reference to the above noted incident. I received a phone call from Tammi Lambert, in which she requested that I have Jolene Montano call her.

On Friday, October 13, 2006, I conducted a recorded interview with Eric Montano at the New Mexico State Police office in Las Lunas, New Mexico. Present and representing Eric at the interview was David Chavez, attorney. The interview commenced at approximately 12:24 PM, and concluded at approximately 1:10 PM. The interview was recorded with my issued Olympus DM-10 digital voice recorder. The original recording, at the conclusion of the interview, was downloaded onto a CD-R type compact disc, and logged into evidence at the State Police office, Albuquerque (Attached - Receipt for Evidence).

SYNOPSIS - INTERVIEW OF ERIC MONTANO, 10/13/06

At my request, Eric gave a statement concerning the YAFL football game on September 16, 2006. Eric said that he observed [REDACTED] running around on the football field, and because of this he wasn't able to keep an eye on him. Eric said he chased [REDACTED] around the field and was finally able to get a hold of him. Eric said he picked him up as "you would hold a baby". Eric said he told [REDACTED] not to be running around and to stay next to him.

Eric said he put [REDACTED] down, and then said that prior to putting [REDACTED] down he heard Jolene coming towards him, yelling at him. Eric said that Jolene told him "...you don't need to be telling him [REDACTED] anything that, as she put it, that that bitch or whore said to him..."

Eric said that he told Jolene to leave them alone, and to back away. Eric said that he put [REDACTED] down, and when he went back to get there stuff to leave, he put his hand up and told Jolene to "...get the hell away from us..." Eric said that this is when he felt something hit him in the back. Eric said he continued to walk to get his stuff and leave.

Eric said he walked back to the huddle where the parents and kids were congregated.

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Eric said Linda had walked up to him, and was standing beside him. Eric said Jolene came right up next to Linda, and bumped into her, causing Linda to bump into Eric.

Eric said he told Jolene that she needed to get away from them, and said that at this point he walked away to get the rest of their belongings so they could leave. Eric said Jolene was starting to leave the park as well, and was telling the boys to go with her. Eric said he told his boys to go ahead and go with their mom. A few moments later, Eric said the boys came running back to him. Eric said they then left the park.

Eric said that once they got to Linda's house, they reported the incident to the Los Lunas Police Department, in order to report a battery on each of them (Eric and Linda).

When questioned, Eric said he learned that it was an apple that Jolene had thrown at him which struck him in the back (Eric did not witness this). Eric said that Linda Rodriguez also witnessed it, along with the other witnesses who provided written statements to the Los Lunas Police Department (Attached).

Eric was questioned about his initial statement, in that it didn't describe any physical contact between him and Jolene, other than the apple hitting him in the back. Eric said that there was other physical contact, that he felt someone pulling at him, and that Jolene was behind him and he had turned his back on her.

I asked Eric if he thought the pulling he described was directed at him or [REDACTED] and he said "...probably both, but I put [REDACTED] down..." and further described that the pulling was at the back of his shirt.

I asked Eric if at any point Jolene approached him in an aggressive or other manner causing him to put his hand up to keep her away. Eric said he didn't put his hand(s) up, and went on to describe that he was 'cradling' [REDACTED] and therefore wasn't able to put his hands up. Eric said that when Jolene approached him, he put [REDACTED] down and told Jolene to leave them alone and get "...away from me..." Eric said he raised his hands, but not at her, as she was to the side of him. Eric said he started to walk away and that's when he felt the grabbing.

Eric was asked if Jolene ever tried to strike at him during the incident, either open or closed hand, and he said that other than the reaching at him, the apple was the only thing.

Eric was asked which specific incident prompted him to file the criminal complaint against Jolene: the apple or the bumping incident when Jolene bumped into Linda and caused Linda to bump into him.

David Chavez answered this question, and said that the complaint was for "both", hitting Eric with the apple and bumping into him, and pulling at his shirt. David Chavez said that an offer was made, at the hearing on October 6, to Jolene to possibly "nolo" the battery charge against her, in exchange for her staying away, not filing charges on Eric, and agreeing to some changes in custody of the children.

With respect to the allegations of child abuse on Eric concerning [REDACTED] Eric denied grabbing [REDACTED] by the neck. Eric said he grabbed [REDACTED] by both of his arms, and then picked him up. With respect to later in the evening, Eric said he didn't recall grabbing [REDACTED] by the neck, but "...may have..." saying he didn't remember grabbing

██████ by the neck or throwing him on the bed.

Eric was asked about the allegation of domestic violence alleged against him in December of 2005. Eric did not recall any incident of this type. He did not recall Jolene having any injury (from another cause), and offered no explanation with respect to Jolene's allegation. Eric said he was sure in December that they had several arguments, but he never hit her with a can of soda.

Eric was asked about the tape he provided to me, which allegedly contain harassing/threatening phone calls he had received from Jolene prior to the September 16 incident. David Chavez answered the question and advised that it was his recommendation that charges not be filed at this time (NOTE - the tape provided to me was inaudible). Eric did say that he wanted to keep the tape/charges as an option for any kind of criminal proceedings, and he mentioned 'false reporting' charges on Jolene Montano, for reporting him for battery.

When asked, Eric said he and Jolene have had several domestic disputes, and she has injured him in the past but he has never hurt her. Eric was asked why he has never reported, to law enforcement, any of the incidents. Eric offered that he hasn't reported her because Jolene would do "anything in her power" to keep him from seeing his children.

END OF INTERVIEW

On October 13, 2006, after learning that Eric Montano was scheduled to be interviewed by Marco Banales, CYFD, I telephone Mr. Banales to inquire as to the status of their investigation. Mr. Banales advised that he has interviewed the children and Eric Montano, and the allegation of child abuse against Eric Montano would be "unsubstantiated". Mr. Banales further advised that there was no reason Eric Montano could not re-establish his visitation rights with the children. Mr. Banales advised that he had left a voice message for Jolene Montano, advising her of the same information.

(Same Date) At approximately 4 PM, I received a phone call from Eric Montano. He was alleging that Jolene was violating the restraining order by being at the children's school. I advised Eric to contact either local law enforcement or the State Police and have an officer take a report. Knowing that Marco Banales, CYFD, had not made personal contact with Jolene in reference to Eric's visitation rights, it appears there was no intentional violation of that order, as Jolene was unaware of CYFD's decision concerning the child abuse allegations.

(Same Date) Jolene Montano left a voice message for me, inquiring why Eric was able to get the children back, and expressing her dissatisfaction with the outcome of CYFD's investigation. Jolene also detailed that visitation is set out in a district court order out of San Miguel county, and that the stipulation in the restraining order concerning visitation is therefore invalid.

On October 16, 2006, I telephoned Jolene Montano. I advised Jolene that I had completed the preliminary investigation, and that she had the right to file criminal charges against Eric Montano for Battery. Jolene advised that she did wish to pursue the charges.

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On October 17, 2006, I met with Jolene Montano at the Belen Magistrate Court in Belen, New Mexico. I presented Jolene with a magistrate court criminal complaint, alleging three counts of battery on a household member:

- Counts 1 and 2 surrounded Jolene's allegations of being pushed twice by Eric Montano at the football game on September 16, 2006.
- Count 3 surrounded Jolene's allegation of being hit in the face with a can of soda, thrown by Eric Montano.

Jolene was advised to read the charges, and read the affirmation at the bottom of the document concerning perjury. Jolene read the document and then signed it as the complainant.

Jolene was then presented with a statement of probable cause, which synopsized the above noted information. Jolene was again instructed to read the document, and also read the affirmation at the bottom of the document. Jolene read the document, and then signed it.

At the conclusion of her arraignment on the charges filed against her by Eric Montano and Linda Rodriguez, I conducted a recorded interview with Jolene Montano concerning the allegation of domestic battery against Eric Montano stemming from the December 2005 incident. I utilized my issue Olympus DM-10 digital voice recorder. The original recording of the interview was placed onto a CD-R compact disc and logged into evidence at the New Mexico State Police Criminal Investigations Bureau evidence facility in Albuquerque, New Mexico.

SYNOPSIS - INTERVIEW OF JOLENE MONTANO, 10/17/06

Jolene said that she was in the kitchen, cutting up fruit, and her and Eric had been arguing already, all day. Jolene said the kids were already at school.

Jolene said Eric came into the kitchen, went to the fridge, and got a Pepsi. Jolene said more words were exchanged between the two. Jolene said that she turned towards Eric, when he threw the Pepsi at her and it hit her in the face. Jolene said her top lip was cut, and her gums were bleeding, and that she also got a bruise.

Jolene said she left to school, to take the fruit to the Christmas party. Jolene said Ms. Cannon asked her what was wrong. Jolene said she told Eric had thrown the can and busted her lip. Jolene said Ms. Cannon told her she should report it.

Jolene said she left the school, and called her friend, Michelle. She said she then went to her friend Michelle's house, where Michelle saw the injury and asked her what had happened.

During this interview, Jolene began bringing up other incidents that had occurred in the past involving her and Eric:

- In Santa Rosa, Jolene had gone to Gary Gold's (State Police Officer) house after Eric had pushed her into a wall switch, causing a cut on her back (Jolene advised approximately 1997, 1998, or 1999).
- In Los Lunas, Eric was grabbing her by the hair and pulling it (1999?), when she had called her brother crying.
- Eric tried to throw her out of a moving truck, in Santa Rosa. Jolene said they were arguing, when Eric opened the passenger door, and got her by the hair and tried to throw her out of the truck (2005?).

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END OF INTERVIEW

On October 17, 2006, I filed the signed criminal complaint and statement of probable cause in the Division II/III Magistrate Court in Los Lunas, New Mexico. The complaint/case was assigned case number M59-MR-200600534 (Attached).

(Same Date) I telephoned Eric Montano and left a voice message on his phone advising him of the filed criminal charges.

(Same Date) At the Valencia County District Court, in Los Lunas, New Mexico, I made a public records request for the recording of the restraining order hearing held on October 6, 2006, in reference to Jolene's allegation of Lemuel Martinez representing Eric, and Eric admitting he violated a restraining order (Attached).

(Same Date) Copies of the criminal complaint(s) filed by Eric Montano and Linda Rodriguez were obtained from the magistrate court in Belen. The court clerk assisting me advised that their copy machine had broken, but that Eric's complaint was exactly the same as Linda's complaint. I was only provided Eric's complaint and attached documentation (Attached).

On October 18, 2006, I received a telephone call from Eric Montano. Eric said that he wished to amend the complaint he had filed against Jolene from simple battery to battery on a household member. I advised Eric that I would assist him in any way, but that he should be able to amend the complaint with the court without any problems, and that if he had any problems to contact me. Eric said that he also wished to pursue criminal charges against Jolene for the harassing messages she had left on his answering machine. I advised Eric that he could file the charge(s) himself at the magistrate court, or include the charge(s) in his amended complaint.

On October 19, 2006 I received a CD-R compact disc audio recording from the District Court Clerk, Valencia County. The CD-R contained the recording of the hearing conducted on October 6, 2006. I reviewed the audio recording, and found no where on the recording where Lemuel Martinez is mentioned by name, or speaks. The attorney's voice on the recording I recognized as David Chavez', from the interview conducted on October 13, 2006.

No further information at this time, and although charges have been filed in the matter, this case is OPEN/ACTIVE. Any further information will be documented on supplemental reports.

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I WILL PROSECUTE / TESTIFY
SHOULD THE OFFENDER

Y	N
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I UNDERSTAND IT IS A CRIMINAL COMPLAINTANT / VICTIM
OFFENSE TO FILE A
FALSE REPORT TO POLICE. X
CERTIFICATION
SIGNATURE

DATE

REPORTING OFFICER

ROBERT SHILLING

RANK

LIEUTENANT

I.D. NO

2004

10/20/2006

ASSISTING OFFICER

APPROVING OFFICER

DETECTIVE / FOLLOW-UP OFFICER / REFERRED TO

PROCESSED BY

DATE

DATA ENTRY PERSON

RSHILLING

10/21/2006

INCIDENT STATUS

ACTIVE

C.I.A.

C.I.E.

X

EXCEPTIONAL CLEARANCE CODE

AGENCY OPTIONAL USE (DISTRIBUTION, OTHER OFFICERS, ETC.)

CASES CLEARED BY THIS ARREST

Case No.

Case No.

Case No.

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				AGENCY ALBUQUERQUE - CRIMINAL		COUNTY Valencia											
OCCURRENCE DATE(S) ON OR BETWEEN				DATE REPORTED		GEOGR. CODE		OPTIONAL USE (CASE NO., ETC.)		BURGLARY Force No F	NO. OF						
MM/DD/YYYY		MM/DD/YYYY		MM/DD/YYYY		0501A		06-23-3-0235		☐							
09/16/2006		09/16/2006		09/18/2006													
TIME	DAY	TIME	DAY	TIME	DAY	HATE / BIAS MOTIVATION				GANG REL. Yes No							
12:30	SAT	12:40	SAT	12:30	MON	No Hate/Bias motivation apparent				☐	☒						
ADDRESS/LOCATION OF INCIDENT																	
OFFENSE / INCIDENT 1 BATTERY AGAINST A HOUSEHOLD MEMBER STATUTE OR ORDINANCE 30-3-15 (A) UCR OFFENSE Battery Against Household Member CRIM. ACTIVITY LOCATION Park FEL/ MISD. ☒ ☐ ATTEM. ☐ ☐ COMP. ☒ ☐ DOM. VIOL. ☒ ☐ SEX ☒ ☐ CHILD ☒ ☐ WEAPON None WEAPON WEAPON OFFENDER(S) SUSPECTED OF USING: <table border="1" style="font-size: small;"> <tr> <td>ALCOH.</td> <td>DRUG</td> <td>COMP.</td> </tr> <tr> <td>N</td> <td>N</td> <td>N</td> </tr> </table>												ALCOH.	DRUG	COMP.	N	N	N
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PERSON CODE VICTIM		TYPE CODE INDIVIDUAL		INJURY CODE NONE													
1- NAME (LAST, FIRST, MIDDLE) MONTANO, JOLENE A				SOCIAL SECURITY NO.		DOB		AGE SEX RACE: WHI BLK ASIA IND UNK									
						1976 30 F		☒									
OCCUPATION N/A				VICTIM OF OFF. NO		HEIGHT WEIGHT HAIR EYES		ETHNIC		AGG ASSAULT							
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EMPLOYER / SCHOOL N/A				VICT. OF SUSP. NO. RELATIONSHIP													
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GANG AFFILIATION N/A																	
ARREST/CITATION NO. F.B.I. NO		S.I.D. NO.		NCIC NO.		Type of Arrest		ON VIEW CITED CUST.		Residential Status: RES NON							
IDENTIFICATIONS DL		NM		0320													
Address Type: PHYSICAL ADDRESS Road Type: OTHER (PRIVATE ROAD, ETC.)																	
Street Address: 1353 KAGHAN LP																	
City: BELEN State: NM Zip: 87002																	
County: VALENCIA Country: UNITED STATES																	
TELEPHONES		Home Phone		505 864 2272													
PERSON CODE SUSPECT		TYPE CODE INDIVIDUAL		INJURY CODE NONE													
2- NAME (LAST, FIRST, MIDDLE) MONTANO, ERIC				SOCIAL SECURITY NO.		DOB		AGE SEX RACE: WHI BLK ASIA IND UNK									
						1967 38 M		☒									
OCCUPATION STATE POLICE OFFICER				VICTIM OF OFF. NO		HEIGHT WEIGHT HAIR EYES		ETHNIC		AGG ASSAULT							
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IDENTIFICATIONS DL		NM		3827													
TELEPHONES		Home Phone		505 720 1178													
TELEPHONES		Work Phone		505 841 9278													
M.O. EVENT CODES: (AGENCY OPTIONAL USE) CIS CASE NUMBER: 06-23-3-0235; SERGEANT ROBERT E. MILLER JR.										TOTAL VALUE STOLEN							

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TIME RECOVERED					
SYNOPSIS					
This case is in reference to a battery against a household member. Mr. Eric Montano was the reported suspect in the case, Ms. Jolene Montano was the reported victim. Refer to my report narrative for further details surrounding this investigation.					

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NARRATIVE

On Monday, September 18, 2006, at approximately 12:45 P.M., I was instructed by Lieutenant Robert Shilling of the New Mexico State Police, Criminal Investigations Section, Albuquerque, to investigate allegations of battery against a household member.

I was told that Officer Eric Montano of the State Police Uniformed Division, Los Lunas, was the reported suspect. I was further advised that his Ex-wife, Jolene Montano was the reported victim and also the reporting party.

BRIEFING by Lieutenant Robert Shilling

Lieutenant Shilling further informed me that the incident took place at or near the Belen High School Football field, where Mr. and Ms. Montano's son had been playing football. The date of the incident was on Saturday, September 16, 2006. While at the game, Ms. Montano had been watching one of her son's play his football game, and that her younger son was playing with other children playing with a football.

An incident then came to light with Ms. Montano and Eric Montano's girlfriend Linda Rodriguez.

Ms. Montano saw that Ms. Rodriguez was yelling at her son whom had been playing with a football with other children.

During the incident, Mr. Eric Montano became involved, and pushed his Ex-wife (Jolene) away from him. This was reported (pushing) to have happened two times.

It was also reported that there were numerous witnesses who saw the incident between Ms. Montano, Linda Rodriguez and Eric Montano.

Lieutenant Shilling further informed me that Ms. Montano had called the State Police Uniformed Division's Lieutenant, Ramon Casaus, and he took the initial information. He (Lt. Casaus) then forwarded the information to our division for a criminal investigation to begin.

END OF BRIEFING

(Same Date) I contacted Ms. Montano and spoke with her about the incident. She was very adamant about not pursuing charges of battery against Mr. Eric Montano. She said that she lives in his house in Belen, and when he learns of this information, he will kick her and the children out into the street.

I told her that I have to follow up on these allegations and continue on with her complaint. I asked her to come into my office the next day (Tuesday, September 19, 2006) for an interview. If she still felt that she didn't want to continue with charges of battery, we could talk about that tomorrow.

Ms. Montano was scheduled for an interview at 10:00 A.M. and this concluded the telephone conversation with her.

On Tuesday, September 19, 2006, at approximately 10:15 A.M., Ms. Montano came to the Albuquerque State Police Office, 2501 Carlisle Blvd. NE. for her interview. Ms. Montano was still adamant about not seeking the battery charges against Mr. Eric Montano.

I spoke to Mrs. Montano for a few minutes, in reference to Mr. Montano from time to time

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telling her that he would have her arrested if she didn't follow the Divorce Decree about the children. I informed her that a Divorce Decree is a civil matter and that it doesn't necessarily violate criminal statutes. I did show her the statute that does violate criminal statute if violated, and that is statute, 30-4-4; Custodial Interferences. I informed her that if she would maliciously take, detain, conceal or entice, or fail to return children without good cause and with intent to deprive permanently or for a protracted time towards Mr. Montano, then she would be in violation of State Law.

I also informed her that if there was a valid protective order in effect bound together with the divorce decree, stating that the children must go with Mr. Montano, then she would be in violation of State Law.

After discussing the incident involving Ms. Montano, I asked her to write out a detailed statement for me. I discussed that she needed to be very concise and accurate while writing it. She was then escorted to the interviewing room, where she was left to complete her statement.

After Ms. Montano was finished writing her statement, I went through it for the recorded interview to follow. I asked Ms. Montano if she was ready for a recorded interview of the incident. She agreed to the interview.

Synopsis of statement with Ms. Jolene Montano.

On Saturday, September 16, 2006, at approximately 12:30 P.M., I went to watch my son [REDACTED] play in a football game at the Belen High School. When I arrived, my other son [REDACTED] came up to me and told me that he was playing with his friends.. I told him to be careful and stay close, so I could watch him.

I asked [REDACTED] where his dad was, since it was his time to have the children. [REDACTED] said that his dad was helping with the football game.

I sat down and while watching the game, I would look at [REDACTED] to check on him. [REDACTED] was playing with another little boy and they were playing with footballs.

When I looked again, I noticed that Linda, Eric's girlfriend was yelling at my son. [REDACTED] then came running to me. He told me that Linda was yelling at him for wanting to get his football out of a mudpuddle.

I started walking towards Linda, asking her who she thought she was yelling at my son. I told her she isn't his mother, and never to yell at him again. She (Linda) was walking away, while telling me something. I then helped my son get his football out of the water. I told him to just stay by me.

When the game was ending, Linda was talking with Eric, then I saw [REDACTED] playing and Eric went to get him, yelling at him because of Linda. [REDACTED] took off running to me, and Eric was running after him.

I told Eric to leave him alone and Eric told me to "Shut Up." I told Eric no, and told him to "Shut Up".

Eric then grabbed [REDACTED] by the neck and then picked him up like you would hold a baby,

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under the arms and around the stomach, still yelling at him.

I told Eric, not to yell at him, Eric told me to mind my own business, and he pushed me.

I told Eric "no" I don't have to, [REDACTED] is my son and you don't even know what's going on. You are just listening to what your "tramp" is telling you. He was walking away with my son crying and calling for me. I told Eric to give him to me, Eric said "get the hell out of here" and he pushed me for a second time. I told Eric that I didn't have to leave. I then heard Linda telling me to "shut up", I told her "don't hide behind Eric, you want to say something, come on."

At this time I was becoming really upset. When I saw [REDACTED] I told him good job about the game. I told him, let's go, my son [REDACTED] was already running to my car. At that time, Eric came up to me and said my weekend isn't over. I told him "the hell if it's not". They (the kids) are not going to be with you if you are going to treat them this way.

I started walking away to my car, with [REDACTED] [REDACTED] was waiting on the sidewalk for us. [REDACTED] said "mom he's going to get you in trouble, because it's his weekend". I told [REDACTED] that's ok. [REDACTED] then said "I don't want you to get into trouble." I told them then to go with Eric, and I will see them tomorrow. I told [REDACTED] that you have to go with your dad and he said that he didn't want to. I told him not to be bad, and if his dad starts yelling at him or hits him, just to call me. He still didn't want to go, so I told him, "Do you want Mama to go to jail? He said no. I told him that he needed to go with his dad then. He then went running to his dad, and left.

End of statement

After taking the statement which was recorded onto my Olympus digital recorder, I again asked Ms. Montano if she still didn't want to proceed with the battery against a household member charges. She stated her decision was to not pursue the case.

I then issued a waiver of prosecution to her, and she signed and dated the form, waiving any and all charges against Mr. Eric Montano.

Ms. Montano said that Eric needs counseling for his issues that he is carrying around.

I asked Mrs. Montano if there were any witnesses that she could identify. She said that she didn't know anyone that was there. She did say that the coach of her son's football team, would know many people that were at the game. She also said that she had to fill out a form with her name, address and contact information in order for her son to play football. She said that people from the game could be tracked down this way.

This ended the meeting with Mrs. Montano.

I called the District Attorney on call for Valencia County, (505) 865-9643, and spoke with A.D.A. Anthony Little. I discussed the case with him, and advised that Mrs. Montano didn't want to proceed with the battery charges, and that she signed a waiver of prosecution form. He said that without a witness, there was little that could be done and their office wouldn't prosecute. He further explained that if a witness would testify, that this case would probably have to be heard in another jurisdiction.

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Since no charges were officially filed by Mrs. Montano, and the prosecution from the District Attorney's office was declined, this case is going to be closed.

Mrs. Montano was advised that she could seek a protective order for her and her children, through the Valencia District Court if she felt one was needed. She commented that she would seek one against Linda Rodriguez for herself and her children. A packet for domestic violence, brochure and business card were supplied to Mrs. Montano.

Case Status: Closed, no further investigation will be taken.

"I WILL PROSECUTE / TESTIFY
SHOULD THE OFFENDER

Y	N
---	---

"I UNDERSTAND IT IS A CRIMINAL COMPLAINTANT / VICTIM
OFFENSE TO FILE A
FALSE REPORT TO POLICE."

CERTIFICATION
SIGNATURE

X

DATE

REPORTING OFFICER

ROBERT E MILLER JR

RANK

SERGEANT

I.D. NO

2064

09/19/2006

ASSISTING OFFICER

APPROVING OFFICER

ROBERT SHILLING

LIEUTENANT

2004

10/20/2006

DETECTIVE / FOLLOW-UP OFFICER / REFERRED TO

PROCESSED BY

DATE

DATA ENTRY PERSON

RMILLER

09/20/2006

INCIDENT STATUS

ACTIVE

C.I.A.

X

C.I.E.

EXCEPTIONAL CLEARANCE CODE

09/19/2006

AGENCY OPTIONAL USE (DISTRIBUTION, OTHER OFFICERS, ETC.)

CASE AGENT IS LT. ROBERT SHILLING

CASES CLEARED BY THIS ARREST

Case No.

Case No.

Case No.



New Mexico State Police

Criminal Investigations Section

Lt. Robert W. Shilling

841-9218 Office

robert.shilling@state.nm.us

CIS CASE # 06-23-3-0235

Battery on a Household Member
Abandonment or Abuse of A Child
Violation of Protection Order

Suspect – Eric Montano

Victim – Jolene Montano

Victim – [REDACTED]

ATTACHMENT 'B'

2017
11/1/2017

on about 12:30pm on
Saturday - I Jolene Monks
Went to see my son [REDACTED]
[REDACTED] Play his football
GAME. When I got there
my son [REDACTED]
ran up to me and said
he mom I'm playing with
my friends, I told them
to be careful and stay
close so I can watch
him. I then asked him
where is your dad, he said
over there helping. I went
to sit down to watch
the game. Every little
while I would look
back to see if [REDACTED]
was there playing with
a little boy. They were
playing with footballs.
Later on I looked back
and saw Linda, Eric's
girlfriend yelling at my
son so I said to myself
oh hell no she is not
yelling at my son, At that

time [REDACTED] came running to me that Lenda was yelling at him because he wanted to get his football out of the water. I told [REDACTED] I know I heard her. So I started walk towards her telling who does she think she is yelling at my son. I started you are not his mother and don't you ever yell at him again. She was walking away telling me something. I than help my son [REDACTED] get his football out of the water. I told him to just by me, well when I went back the game was ending. Lenda was talking to Eric. Than I saw [REDACTED] playing and his Dad went to get him, telling him off because of Lenda. So [REDACTED] took off running to me, Eric was running after him. I told Eric

Eric told me to shut up
- I told him no ~~you shut up~~
he grab my son ~~by the neck~~
by the neck and then
picked him up ~~by~~ telling him
off. - I told ~~him~~ don't you
~~you~~ be telling him off, he
told me to mind my
own business and pushed me
- I told him no - I don't have
to keep my son and you
don't even know what's
going on you are just
listening to what your tramp
is telling you. He was walking
away ~~with~~ my son ~~by the neck~~
crying calling me mom. so
- I told Eric give him to
me he said get the hell
out of here and pushed
me again - I told him - I
don't have to. Here
comes Linda telling me
to shut up - I told her
Don't hide behind Eric, you
want to say something
come on. At that time

- I was already getting really mad so - I saw my son [REDACTED] and - I told him good job, I told him lets go, my son [REDACTED] was already running to my car. At that time Eric come up to me Dadd my weekend Psnit over - I Dadd the hell of ~~what~~ not. They ARE not going to be with you if you are going to treat them right. He said something - I don't know, I just started walking to my car with [REDACTED] [REDACTED] was waiting on the sidewalk for us. Than [REDACTED] said mom he's going to get you trouble because its his week and - I told ^{him} that's okay. Than [REDACTED] said - I don't want you to get into trouble. So I told ^{him} than go with him and I'll see you tomorrow. - I told [REDACTED] you have to go with your dad he said no. - I told him not to be

yelling at him or ~~hits~~ hits
him just to call me. He still
didn't want to go. So I told
him do you want mama to
go to jail he said no, then
you have to go with dad. So
he went running towards
his dad. And left.

DEPARTMENT OF PUBLIC SAFETY

NEW MEXICO STATE POLICE



Bill Richardson
Governor

John Denko Jr.
Cabinet Secretary

Faron W. Segotta
Chief / Deputy Secretary—Operations

Roxanna M. Knight
Deputy Secretary—Administration

Timothy W. Manning
Deputy Secretary—Emergency Services

WAIVER OF PROSECUTION

In the matter of the complaint filed by yourself with the New Mexico State Police against Eric Montano, on September 16, 2006, for the offense of

Battery against a household member; 30-3-15 (A)

STATEMENT

I, Jolene Montano, voluntarily and without any threats or promises or any type of coercion, wish to state that I am the complaining witness in this case, who caused a complaint to be filed with the New Mexico State Police. At this time I do not wish to press charges or appear in court to testify in this matter. I further request that the investigation be terminated by the New Mexico State Police. I will not hold the New Mexico State Police, the State of New Mexico, or any Agent acting in their behalf for any court action which may be brought against me in the future as a result of this Waiver.

Signed: Jolene Montano

Date/Time: 09/19/2006 11:55 am

Witness: Robert E. Miller Jr. *Sergeant*

Witness: _____

Office of the Secretary 827-3370	Office of the Chief New Mexico State Police 827-9002	Office of Emergency Management 476-9600	Technical and Emergency Support 827-9133
Special Investigations 841-8053	Training and Recruiting 827-9251	Information Technology 827-9115	Motor Transportation 827-0321
			Support Services 827-9016

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