

ALBUQUERQUE POLICE DEPARTMENT  
CITIZEN POLICE COMPLAINT FORM

Rec'd 2/22/13  
Official Use Only:  
Date/Time Received: 2-22-13  
Received By: [Signature]  
CPC#: 030-16  
Assigned To: Paul

INSTRUCTIONS:

This form should only be completed if you wish to initiate a complaint against the Department or an employee(s). According to City Ordinance, written complaints must be filed within ninety (90) calendar days of the incident to be accepted. If you would rather attempt to resolve this issue with the employee's supervisor, you may contact the employee's supervisor directly. For assistance, please contact the Internal Affairs Unit at (505) 768-2880 during business hours.

IF YOU DECIDE TO FILE A COMPLAINT:

Please complete the complainant information and statement portions below. Once the form is completed and signed it may be delivered to the Independent Review Office/Police Oversight Commission at 600 2<sup>nd</sup> St. NW, Room 813, Albuquerque, NM, 87102, or mailed to PO Box 1293, Albuquerque, NM 87103. Please notify the Independent Review Office if your address or phone number changes prior to the resolution of your complaint.

COMPLAINANT INFORMATION

NAME: Ruben [Signature] ENCISO  
(First) (Middle) (Last)  
ADDRESS: [Redacted]  
(Street Name and Number)  
Albuq. N.M. [Redacted]  
(City) (State) (Zip Code)  
TELEPHONE: Home: [Redacted] Cell/Work: \_\_\_\_\_  
Date and Time of Incident: 2-21-13 1:47 AM (approx)  
Address where incident happened: 4115 EDITH AVE.

NOTE: This complaint form along with other necessary documentation will be forwarded to the Independent Review Office for evaluation and investigative direction. Your complaint may be investigated by the Independent Review Office or assigned to APD's Internal Affairs Unit for investigation. The Independent Review Office also will review the completed investigation and will submit findings to the Chief of Police. You will be notified by certified mail, at your above-listed address, of the final disciplinary findings (normally within 60 days after the complaint has been filed.)

PD-1102 (Revised 01/07)

### STATEMENT

Please describe both the incident and the specific nature of your complaint as completely as possible. Be sure to give the names, addresses and phone numbers of any witnesses of which you are aware. Be as specific as possible about the details such as exactly what was said, time and dates of incident. Identify the exact location of the incident, identification of the officers involved, if known. If officer's names are not known, please include detailed descriptions of officers. Be specific, it is important to provide as much information as possible. Attach additional sheets if necessary. Please feel free to include any other relevant information or items (pictures, witness statements, etc.)

On Thursday 2/21/13 approx 1:45-2 AM - Driving  
on Edith going south - turn High beam off  
lights went off - & turn on - Police officer  
Parked over - After driving short distance, behind me  
turn his lights - walk over, I rolled window down  
he ask for license - I handed to him - Asked  
me "Why ARE you driving so fast" - I  
hesitated in my response, My response "I  
was going fast," He walked away for a  
min. - came back, I still in car, ask me to  
stare at his finger & ask "sobriety test?"  
walked to Officer walk back, his car  
had sobriety, told me to blow into - I  
did, and "2nd time - told me harder/longer"  
Return to his car - back to my car - open  
my door ask for "to step out - As I started  
my seat belt still on, he grab me, attempted  
to pull me out - He said "If you are resisting,  
I told him "I submit, I submit, seat belt



(Statement continued)

stuck" He took hands off me, Allowing me to unhook seat belt, I step out of car. Officer told me "Your F — A — is going to jail / impounding my car" I asked what was being arrested for (note: from previous page)

\* At time of finger eye test + Sobriety, Officer kept telling me "I know you are under drug or alcohol, What kind of drugs have you've been doing. I answered I have not been doing anything —  
— Sobriety test did not read alcohol —  
Officer became Angered —

He asked / told me turn around put hands on my car, before I could turn - he told me "Stop resisting" Verbal Abuse - grabs me push against car, + hitting me, at some point he hit me in my genital area, I was so scared, I urinated on myself

(Statement continued)

I was crying - As I kept telling him I submit! He was attempting to take down to ground. I might have resisted, by pushing him - I turn my back to him. He handcuff me, extreme tight handcuff - had blue hand, when arrived @ moc

I want to say what this officer did - brought up my childhood physical / sexual abuse, felt terrorize powerless, at his Anger + demeaning attitude toward me.

I was driving faster than I should have, but did nothing to be arrested, or Abuse

1. Officer Jeremy Dear 5224 APD

No other officers involved

No other traffic in area as far as I can remember -

Only other person came by tow truck driver - who might have been there at time of incident

(Statement continued)

WITNESSES:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

(If more, please list on a separate sheet.)


Names of officers you are complaining about: Jeremy Dear

Would you be interested in mediation to resolve this complaint: UNSURE

End of Statement

The information provided in this statement is true and factual to the best of my knowledge. I understand that I may be required to appear in the Independent Review Office or the Internal Affairs Office for further interview or to provide other investigative assistance as necessary.

Ruben Enciso  
Complainant's Signature

Complainant's Date of Birth: 

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Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

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Address: \_\_\_\_\_

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Address: \_\_\_\_\_

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Names of officers you are complaining about: Jeremy Dear

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End of Statement

The information provided in this statement is true and factual to the best of my knowledge. I understand that I may be required to appear in the Independent Review Office or the Internal Affairs Office for further interview or to provide other investigative assistance as necessary.

Ruben Enciso  
Complainant's Signature

Complainant's Date of Birth: 

**Garcia, Francisca M.**

CPC 046-13

Diane

**From:** webmaster=cabq.gov@mailgun.org on behalf of webmaster@cabq.gov  
**Sent:** Tuesday, March 19, 2013 2:06 PM  
**To:** [REDACTED]  
**Cc:** Garcia, Francisca M.; Hammer, Robin  
**Subject:** Online Police Complaint Form Submission

Your Name

George White Jr.

Your Mailing Address

[REDACTED]

Albuquerque, NM [REDACTED]

Your Phone Number

[REDACTED]

Your Email Address

[REDACTED]

Date the Incident Occurred

3-17-2013

Your Date of Birth

[REDACTED]

Your Complaint

My friend Chris and I were waiting for our friends to finish using the restroom before leaving the Qbar at approximately 1:30 on 3-17-2013. A guy in a white shirt walked up holding on to an older woman. He said "You want to get with me?" She replied "me jito, my son. You're my son." My friend Chris said "Whoa!" The guy in the white shirt said "she's not really my mom." "You want to fight or what?" I stepped in and said "No you don't". At the same time another guy in a vest said "NO we don't need to fight, were leaving." We all walked out toward the parking lot. The guy walking in front of us in the white shirt then said "I should just pull out my strap and shoot everybody." My friend Chris grabbed his hands, apparently to stop him from pulling out a gun. The guy in the vest then starts punching Chris in the face and head along with the guy in the white. I yelled "Stop" and pushed the guy in the vest off of Chris. Someone pushed me from behind. I rolled into a large bush and the guy in the vest jumped on my back. He put me in a rear choke hold; I was now positioned on my side facing the courtyard I told him again to "Stop!" He yelled to someone "get this fat F\*\*\*er." At that point a third person ran over and kicked me in the face twice. Since I was trying not to get choked out I could not block my face and took the full brunt of the blows. I rolled to my stomach and attempted to thrust the person on my back into the concrete to release the hold. Security arrived and removed the person from my back. My friend Kaylina, who is a nurse tended to my wounds until the paramedics from Albuquerque ambulance arrived.

While Kaylina was tending to me, the police were questioning the three other guys involved. Officer JJ Dear came over first while the other officer was still talking to the other group. I told him that I wanted to press charges. He said, "I wouldn't advise that, fighting in a liquor establishment is a felony and you'll get arrested." I told him "If you are not willing to file the report I want your supervisor present." He stated again "I'm just saying you shouldn't do it." My friend Chris said "He works for the county he knows his rights." Officer Dear said "What's your supervisor's name, so I can notify them you were fighting?" I said "why do you need to know who my supervisor is?" He just turned his head as to avoid the question. Officer C. Maxwell stepped in front of him and asked me what happened. I again stated I want to press charges. Officer Dear said "Whatever." After I told the officer all of the details of the

incident they walked over and escorted out the other group while the club security stood over us. When the officers came back I asked why the other men were allowed to leave if I was pressing charges. Officer Maxwell stated that they would have to witness the incident for an arrest to occur. I then said "I have not signed a statement and I want to press charges." Officer Maxwell said, "I recorded everything and we will get back with you." They escorted us to the lobby where I requested to use the bathroom to wash up as I had blood covering my entire face and hands. After we were done in the restroom they escorted us to the doors of the hotel.

We walked to our cars which were parked in the North parking lot. We were about 50 feet from the car when I heard there goes the f\*\*\*ers right there. When I looked back there were the two main instigators of the altercation and two other guys standing by a blue car parked immediately behind us. I yelled to our group to get in the car. My sister, Estella said "call the police!" The guy in the white that was originally involved in the altercation said "He is the police, badge #442." Another guy with them said "grab the quiet!" I know this means gun. We quickly got in the car as the guy in the white shirt and the guy in the vest ran toward the car. My brother-in-law backed up quickly and sped out of the parking lot. The guy in the white shirt was jumping and saying "What? What?" (Like a challenge to fight). The guy in the vest ran toward the road and grabbed rocks from the landscape and threw them at the car. We were all attempting to dial 911. We sped around the corner and parked at the shell station down the street. I finally got through to 911 dispatch and they said they would send a car. About 10 minutes later officer Maxwell and Officer Dear arrived at the gas station. My friend Chris, who was behind us in another car was mad and asked the officers why they didn't protect us. Officer dear then said "I would shut up if I were you. We looked at the tapes and you were the aggressor." I told Chris to cool out and sit down which he did. The officers then walked over to our car to assess the damage. I asked the officers "why weren't they escorted off the property?" Officer Dear said "we can't watch them if they choose to come back." I said "they didn't come back they never left." He then said "well we had to deal with you guys we can't be everywhere" He again said "what's your supervisors name so I can notify them." I told him I don't work for BCSO or APD I don't need to give you my supervisor's name." He said, "Yeah you do." I said, "Why do you keep threatening me with calling my supervisor? I told him I don't have to tell him anything and his supervisor will be informed of this.

I think it is unprofessional for an officer to advise someone not to invoke their rights to seek legal recourse and threaten them with action if they do. I have concerns that the reason this officer did not want me to press charges is that the person in the vest may in fact be a member of APD.

Your Signature

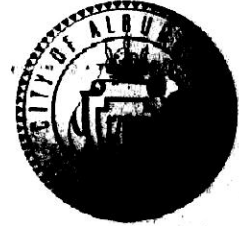
GEORGE RAYMOND WHITE JR.

Today's Date

Mar 19, 2013



# CITY OF ALBUQUERQUE



## POLICE OVERSIGHT COMMISSION

*David Cameron, Chair*

*Jonathan Siegel, Vice Chair*

*Jennifer Barela*

*William Barker*

*Dr. Carl Foster*

*Jeffrey Peterson*

*Richard Shine*

*Robin S. Hammer, Independent Review Officer*

August 9, 2013

George White Jr.

[REDACTED]

[REDACTED] NM [REDACTED]

Re: CPC #046-13

Dear Mr. White:

Your complaint against an Albuquerque Police Department (APD) officer was received in our office on March 19, 2013, regarding an incident which occurred on March 17, 2013. I assigned your case to an Independent Review Office (IRO) Investigator to conduct an investigation into your Complaint.

The Independent Review Office thoroughly and impartially investigated your complaint. I, as Independent Review Officer, made findings of whether the police officers involved violated Standard Operation Procedures (SOPs) based on a preponderance of the evidence. A preponderance of the evidence means that one side has a greater weight of evidence that is more credible and convincing than the other side. Another way of saying it is more than 50% of the credible evidence. If the credible evidence is 50-50, the proper finding is Not Sustained.

Since officers are compelled to cooperate in the investigation, Sections 9-4-1-13 and 9-4-1-14 of the Police Oversight Ordinance mandate that their statements will not be made public. I am only allowed to summarize the conclusions I reached from their compelled statements.

Below is a summary of the investigation and my findings:

### I. THE COMPLAINT

Mr. White stated that he and a friend were involved in a fight with a group of men at a local hotel bar on St. Patrick's Day, March 17, 2013. Two officers were dispatched to the fight. When Officer D. arrived, Mr. White told Officer D. that he wanted to press charges against the other group, but Officer D. told Mr. White he advised against it. Mr. White's friend told Officer D. that Mr. White knew his rights because Mr. White worked for the County. Mr. White alleged that Officer D. then demanded to know the name of Mr. White's supervisor so that Officer D. could notify Mr. White's supervisor that Mr. White was in a fight. Mr. White alleged that it was not relevant to the investigation for Officer D. to know the name of his supervisor.

PO Box 1293

Albuquerque

NM 87103

[www.cabq.gov](http://www.cabq.gov)

Mr. White stated that the officers allowed the other group involved in the fight to leave, despite the fact that Mr. White desired to see them charged. Mr. White's group left soon after, and the other group was still in the parking lot and started a second altercation. The other group threw rocks at Mr. White's vehicle, damaging it. Mr. White stated that one of the men in the other group claimed to be a police officer. Mr. White and his friends drove to a gas station and called police. The same two officers responded. Mr. White and his friend criticized the officers for not ensuring their safety. Officer D. again asked Mr. White for the name of his supervisor. Mr. White alleged that Officer D. told Mr. White and his friend to "shut up" and accused them of being the aggressors, based on the hotel surveillance video.

## **II. INVESTIGATION BY INDEPENDENT REVIEW INVESTIGATOR**

The Independent Review Office (IRO) Investigator interviewed George White Jr. Mr. White explained he and his friends were involved in an altercation just outside the Q bar inside the Hotel Albuquerque. Hotel security separated the parties before two APD officers (Officer M. and Officer D.) arrived. Mr. White said he told Officer D. he wanted to press charges against the other group, but Officer D. recommended against it because everyone would be arrested if charges were pursued. Mr. White stated Officer D. was dismissive towards him when he pushed the issue. Mr. White stated he told Officer M. his version of events and thought Officer M. should have had him write out a statement.

Mr. White stated when he asked for the officers' supervisor so that Mr. White could press charges, neither of the officers responded. When Mr. White's friend, Chris Olivas, mentioned Mr. White worked for the County, Officer D. asked several times for his supervisor's information, which Mr. White knew he did not have to provide. Officers escorted the other group out first and then the officers told Mr. White and Mr. Olivas to leave. In the parking lot, the group they had the altercation with was near their car and instigated another confrontation with Mr. White and Mr. Olivas. The other group threw rocks at the car Mr. White was in. Mr. White said one man in the other group claimed he was a police officer.

Mr. White said that after his friend's car was damaged by the rocks, Mr. White and his friends drove to a nearby gas station and called police. Officer M. and Officer D. responded. Mr. White stated when Mr. Olivas admonished the officers for not ensuring their safety, Officer D. told Mr. Olivas to shut up because Mr. Olivas was the instigator, according to the officers' review of the surveillance video. In response to Mr. Olivas' complaint about letting the confrontation occur, Officer D. claimed officers could not be everywhere at once and could not help it if the other group did not leave. Mr. White told Officer D. he should have called for backup if officers needed more help. Mr. White complained that Officer D. again asked for his supervisor, which Mr. White refused to provide the information and took Officer D.'s insistence to be a threat.

The IRO Investigator interviewed Chris Olivas. Mr. Olivas and his friend, George White Jr., were involved in an altercation at the Q bar. Security separated the groups and Mr. Olivas was detained in handcuffs when APD arrived. According to Mr. Olivas, Mr. White told the officers he wanted to press charges. Mr. Olivas stated that he and Mr. White told

the officers that Mr. White knew his rights because he worked for the County. Mr. Olivas complained that Officer D. went off, demanding to know Mr. White's supervisor so that Officer D. could notify his supervisor. Mr. Olivas claimed Mr. White told Officer D. his supervisor did not need to be notified. Mr. Olivas complained that Officer D. was disrespectful and rude. Mr. Olivas believed the other group was treated better than his group was, but Mr. Olivas was inconsistent in his interview as to whether that was hotel security or APD that treated the other group better.

Mr. Olivas explained that when he left to go to his car, Mr. Olivas was in a different car than Mr. White, so he did not see the altercation that occurred in the parking lot. Mr. Olivas met up with Mr. White at the gas station and they waited for police. Mr. Olivas stated the same two officers showed. Mr. Olivas admitted he scolded the officers for not ensuring the other party left to avoid confrontations. Mr. Olivas claimed Officer D. told him to shut his "fucking mouth" because Mr. Olivas was the aggressor. Then Mr. Olivas was not sure if Officer D. used profanity, but knew he was told to shut up, and it was derogatory. Mr. Olivas disagreed with Officer D.'s assessment that he was the aggressor. Mr. Olivas stated Officer D. was very rude at the gas station as well.

The IRO Investigator interviewed Officer M. concerning the events of March 17, 2013. Officer M. was dispatched as the primary officer to a fight in progress at the bar in the Hotel Albuquerque. Officer M. explained that when he arrived, hotel security already had the parties separated. Security did not know who started the fight. According to Officer M., when Mr. White told him he wanted to press charges, Officer M. thought he told Mr. White he would have to review the surveillance footage to see if anyone would receive a criminal summons because the altercation took place outside of law enforcement's presence.

Officer M. stated he was not personally familiar with the statute that gave him the authority to arrest everyone, but Officer M. did not think that would have been the best use of resources anyway. Officer M. stated he did not need a written statement from Mr. White because Officer M. video recorded what each party said. Officer M. said that most of the individuals were intoxicated and some were injured, so Officer M. did not want to delay things further.

Officer M. stated that Mr. White and Officer D. argued about contacting Mr. White's supervisor. Officer M. stated he was not interested in contacting Mr. White's supervisor, and that it was Officer D.'s decision. Officer M. stated he did not hear Mr. White request an APD supervisor. Officer M. issued criminal trespass notices to all the involved individuals in both groups. Officer M. stated he did not recognize anyone as law enforcement and he heard no one say that they were law enforcement.

Officer M. said that Officer D. escorted the first group out of the hotel and then he and Officer D. escorted the second group. Officer M. stated he observed Mr. White and his group get in their vehicle. Officer M. stated he did not see the other group in the area. Officer M. and Officer D. went back into the hotel and watched the surveillance video. Officer M. stated the video showed that Mr. White and his group were not jumped as they indicated. The first group walked out rolling up their sleeves, followed by Mr. White and

Mr. Olivas, who bumped one of the other individuals in the group forward. Officer M. stated he and Officer D. received a second call for service at the gas station down the street. Officer M. stated Mr. White claimed the other group threw rocks at their vehicle in the parking lot.

According to Officer M., Mr. White was agitated and not listening. Officer M. did not know if Officer D. told anyone to shut up. Officer M. heard Officer D. ask for Mr. White's supervisor again. Officer M. tried to just talk to the owner of the car. Officer M. stated the woman estimated the repair amount, but in order for anything to happen with the case, he needed an actual estimate to go forward with the case, which the woman never provided. Officer M. explained the first altercation was his discretion to not arrest just one side for a battery outside of his presence, and the second altercation he took the information, but needed follow-up from the vehicle owner.

The IRO Investigator interviewed Officer D. concerning the events of March 17, 2013. Officer D. was the backup officer to the altercation at Hotel Albuquerque. Officer D. stated most of the individuals were heavily intoxicated and the parties were separated when he arrived. Officer M. conducted the interviews and Officer D. stood by the parties not currently being interviewed by Officer M. Officer D. stated Mr. White and some of his group were verbally abusive towards him and Officer M.

Officer D. stated that Mr. White wanted to press charges, but Officer D. cautioned Mr. White against pressing charges because the officers did not know who the primary aggressor was. Officer D. stated that he told Mr. White that without knowing who the primary aggressor was, everyone involved, including him, would face charges for fighting in a liquor establishment. Officer D. stated Mr. White argued with him about knowing the law. Officer D. said that he was not the primary officer on the call, but if he had been, he would have taken everyone to jail. Mr. White claimed he worked for the jail, so Officer D. asked Mr. White who his supervisor was in order to notify his supervisor that Mr. White was involved in an altercation. Officer D. stated that he had always contacted a jail employee's supervisor if they were involved in a fight, but acknowledged that APD had no policy that required calling another individual's supervisor.

Officer D. stated he did not recognize anyone as being an officer and everyone involved received criminal trespass notices, to his knowledge. Officer D. stated if there was any difference in his treatment to individuals, it was due to the other group being more respectful than Mr. White and some of his group. Officer D. stated he escorted the other group out and told them to leave the property. Officer D. returned and then after Mr. White and others went to the restroom, Officer D. escorted them to the parking lot.

Officer D. and Officer M. returned to talk to management and watched the surveillance video. According to Officer D., he saw on video that Mr. White and Mr. Olivas followed the other group out and it looked like everyone was preparing to fight. Officer D. said that he and Officer M. were then dispatched to a gas station down the road reference Mr. White. Officer D. stated that Mr. White claimed the other group threw rocks at their car. According to Officer D., Mr. White was very angry and hostile. Officer D. did not remember telling anyone to shut up, but might have if individuals refused to listen and kept



interrupting him. Officer D. agreed he asked for the name of Mr. White's supervisor again. Officer D. stated that Mr. White criticized them for not making sure the other group was gone, but there were people everywhere and Officer D. did not notice the first group hanging around. Officer D. said that the night was very busy, so he and Officer M. did the best they could with the manpower available.

The IRO Investigator reviewed both officers' lapel videos, which captured the majority of the situation. The video showed that Officer D. got information from Mr. White about his version of events. Officer M. spoke to the other group and got their version of events and information. Officer M. then spoke to individuals in Mr. White's group. The video showed Officer M. spoke to a sergeant. The sergeant said it was all misdemeanor level offenses, if anything. Later Officer M. told Officer D. the sergeant said no one should be arrested.

The video showed Mr. White stated that he worked for the Bernalillo County DWI program and he wanted to press charges against the other group. Officer D. told him if charges were filed, it would be against all of them for fighting in a liquor establishment. Mr. White disagreed and said it was not a liquor establishment and he knew the law. Mr. White mentioned people he knew in APD and that his sister knew people in the DA's office. The video showed that Officer D. said he was not going to argue and asked for Mr. White's supervisor information. Mr. White suggested Officer D. contact Officer D.'s supervisor because, in Mr. White's opinion, Officer D. did not know the law. The video showed that Mr. White did not request a supervisor specifically to talk to him.

The video showed that Mr. Olivas complained to Officer M. about Officer D. The videos showed that there were a lot of people in the area and the officers dealt with a lot of different issues, not just the fight involving Mr. White. The video did not show that trespass orders were issued to several individuals. Officer D. escorted the group that fought with Mr. White out the door and told them to leave the premises.

The video showed that later at the gas station, a woman explained to the officers that the other group was parked behind them and had not left. Mr. Olivas complained that the officers should have walked the other group out. Officer D. told Mr. Olivas that he should watch it because the officers watched the video and saw that Mr. Olivas was the main instigator. Mr. Olivas disagreed with Officer D. Officer D. did not tell anyone to shut up, according to the video. Mr. White told his version of events.

The owner of the car, a woman in the group, said she wanted a report and to press charges against the others for damaging her car. Mr. White was angry that the other group was not escorted off the property. Officer D. told Mr. White the other group was escorted off, but they were only two officers. Mr. White said the officers should have called for backup if that was the case. Officer D. asked for Mr. White's supervisor information again. Mr. White and Officer D. argued about the necessity of contacting Mr. White's supervisor. Mr. White eventually sat in the car while the officers finished up with the owner of the car.



The IRO Investigator looked up the names of the other individuals in the fight with Mr. White. No one from the other party was an officer with the Albuquerque Police Department.

### **III. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING OFFICER M.'S CONDUCT**

(A) I, as the Independent Review Officer, reviewed Albuquerque Police Department General Order 1-02-2(D) (1) regarding Officer M.'s conduct, which states:

*When sworn employees of this department are faced with a situation where discretion can be exercised, they must evaluate the circumstances, consider the available resources, and rely on their training, department policies, department procedures, statutory law and supervision in making the appropriate decision.*

Mr. White wanted to press charges against the combatants in the other group since he claimed the others instigated the fight. Mr. White claimed he asked for a supervisor when the officers were reluctant to file charges.

Officer M. was the primary officer to a call involving a fight in progress at the Hotel Albuquerque. Security already had the parties separated and did not know who initiated the altercation. Both sides claimed the other was at fault and gave conflicting information. Because Officer M. did not know who the primary aggressors were, and it was outside of law enforcement's presence, Officer M. decided not to arrest anyone. In regards to the statute that would give police authority to arrest everyone, Officer M. did not think taking several people to jail for this situation was the best use of police resources. After Officer M. watched the surveillance video, which was a brief segment in camera view, it appeared both groups anticipated fighting, so Officer M. decided he would not be issuing summons for anyone regarding the fight. In reference to the later damage to the vehicle, Officer M. was waiting for the necessary information from the owner of the vehicle.

The videos showed that both parties gave their versions of what happened, which each group placed blame on the other. Security did not know who started the altercation. Most individuals were intoxicated. The video showed Officer M. discussed the situation with one of the sergeants, who agreed it was not appropriate to arrest anyone.

I find Officer M.'s conduct to be **EXONERATED** regarding the allegation of a violation of this SOP, which means the incident that occurred was lawful or proper.

(B) I, as the Independent Review Officer, reviewed Albuquerque Police Department General Order 1-04-2(A) regarding Officer M.'s conduct, which states:

*Albuquerque Police Department personnel will not give special consideration, privilege, or professional courtesy to other Albuquerque Police Department personnel or to personnel from other law enforcement agencies when such personnel are alleged to be involved in a violation of any law.*

Mr. White claimed that one member of the other group that fought with them claimed to be a police officer and shouted out a badge number. Mr. White thought that explained why the APD officers were reluctant to take any enforcement action against the other group.

Officer M. did not recognize anyone as a law enforcement officer and no one made that claim to him. As the primary officer, Officer M. treated the groups equally, as each of the combatants received a criminal trespass notice to not return. Neither party was charged, even though all could have been. It was an all-or-none situation when it came to arrests.

Research was conducted into whether any of the individuals in the other group were APD officers, and none were. The individuals all received the same level of enforcement and the lapel videos showed they were treated equally. There was no indication anyone was an officer.

I find the allegation of a violation of this SOP against Officer M. was **UNFOUNDED**, which means the allegation is false or not based on valid facts.

(C) I, as the Independent Review Officer, reviewed Albuquerque Police Department General Order 1-04-4(A) regarding Officer M's conduct, which states:

*Personnel shall constantly direct their best efforts to accomplish the functions of the department intelligently and efficiently.*

Both Mr. White and Mr. Olivas complained that officers did not ensure their safety by escorting the other group off the property to prevent additional incidents. Because the officers failed to do this, a second incident occurred. This resulted in damage to one of their group's vehicle.

Officer M. stated he had Officer D. escort the first group off the property. He did not know how far Officer D. escorted them. Officer M. then escorted Mr. White's group out a different exit and observed them get into their vehicle. Officer M. did not see the other group hanging around. Officers went back inside to review the surveillance video.

It was a busy night since it was St. Patrick's Day and the lapel videos showed there were a lot of people in the area. The officers had to deal with more than just the altercation Mr. White was involved in. The lapel videos showed Officer D. escorted the first group out the main exit, told them to leave and remained for a moment at the door watching. Several minutes passed before officers escorted Mr. White and his group. Their departure was not captured on video all the way to the end. At the gas station, the owner of the car understood the officers did their job and did not hold them at fault for what happened afterwards. Officer M. took reasonable steps to prevent additional altercations and it was unfortunate it did not work out that way, but this was not a violation of policy.

I find Officer M.'s conduct to be **EXONERATED** regarding the allegation of a violation of this SOP, which means the incident that occurred was lawful or proper.

**IV. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD  
OPERATING PROCEDURES REGARDING OFFICER D.'S CONDUCT**

(A) I, as Independent Review Officer, reviewed Albuquerque Police Department General Order 1-04-1(F) regarding Officer D.'s conduct, which states:

***Personnel shall conduct themselves both on and off duty in such a manner as to reflect most favorably on the department.***

The lapel videos showed Officer D. and Mr. White arguing about whether Mr. White's supervisor needed to be contacted. There is no policy that instructs APD to contact a person's supervisor. Only if the person is a member of law enforcement is the APD officer supposed to contact the APD Chain of Command. The lapel video confirmed that Officer D. did not tell anyone to shut up. When Mr. Olivas became argumentative at the gas station, Officer D. told him he would watch it, because they watched the video and that Mr. Olivas appeared to be an instigator. Officer D.'s arguing regarding on contacting Mr. White's supervisor did escalate the situation and did not reflect favorably on the department.

I find the allegation of a violation of this SOP against Officer D. was **SUSTAINED**, which means the allegation is supported by sufficient evidence.

(B) I, as the Independent Review Officer, reviewed Albuquerque Police Department General Order 1-04-4(A) regarding Officer D.'s conduct, which states:

***Personnel shall constantly direct their best efforts to accomplish the functions of the department intelligently and efficiently.***

Both Mr. White and Mr. Olivas complained that officers did not ensure their safety by escorting the other group off the property to prevent additional incidents. Because the officers failed to do this, a second incident occurred. This resulted in damage to one of their group's vehicle.

Officer D. stated he escorted the first group out the door and watched them start to walk off the property. It was too busy for him to babysit and make sure they did not turn around and return. It was several minutes before he and Officer M. escorted Mr. White's group, because they went to the bathroom to clean up and stopped to talk to individuals. Officer D. observed them get into their vehicle and did not see the other group hanging around. Officers went back inside to review the surveillance video.

It was a busy night since it was St. Patrick's Day and the lapel videos showed there were a lot of people in the area. The officers had to deal with more than just the altercation Mr. White was involved in. The lapel videos showed Officer D. escorted the first group out the main exit, told them to leave, and remained for a moment at the door watching. Several minutes passed before officers escorted Mr. White and his group. Their departure was not captured on video all the way to the end. At the gas station, the owner of the car understood the officers did their job and did not hold them at fault for what happened

Letter to Mr. White  
August 9, 2013  
Page 9

afterwards. Officer D. took reasonable steps to prevent additional altercations and it was unfortunate it did not work out that way, but that was not a violation of policy.

I find Officer D.'s conduct to be **EXONERATED**, which means that the incident complained of was lawful or proper.

Chief Schultz agreed with these findings. The Complaint and these findings are made part of Officer M. and Officer D.'s permanent records.

The Police Oversight Commission agreed with these findings.

You have the right to appeal this decision. Section 9-4-1-9(A) of the Police Oversight Ordinance allows any person who has filed a citizen complaint and who is dissatisfied with the findings of the IRO or the Chief may appeal that decision to the POC within ten business days of the receipt of this letter.

If you have a computer available, we would greatly appreciate your completing our survey form at <http://www.cabq.gov/iro/survey>.

Thank you for participating in the process of civilian oversight of the police, ensuring officers are held accountable, and improving the process. Please contact me if you have any questions or concerns.

Sincerely,



Robin S. Hammer, Esq.  
Independent Review Officer  
(505) 924-3770

CC: Police Oversight Commission  
Albuquerque Police Department Chief of Police

.....

*Assign in rotation. 2nd. 3/27/2012*

**ALBUQUERQUE POLICE DEPARTMENT  
CITIZEN POLICE COMPLAINT FORM**

Official Use Only: 03-23-12P01:58 RCVD

Date/Time Received:

Received By:

CPC#:

Assigned To:

**INSTRUCTIONS:**

This form should only be completed if you wish to initiate a complaint against the Department or an employee(s). According to City Ordinance, written complaints must be filed within ninety (90) calendar days of the incident to be accepted. If you would rather attempt to resolve this issue with the employee's supervisor, you may contact the employee's supervisor directly. For assistance, please contact the Internal Affairs Unit at (505) 768-2880 during business hours.

**IF YOU DECIDE TO FILE A COMPLAINT:**

Please complete the complainant information and statement portions below. Once the form is completed and signed it may be delivered to the Independent Review Office/Police Oversight Commission at 600 2<sup>nd</sup> St. NW, Room 813, Albuquerque, NM, 87102, or mailed to PO Box 1293, Albuquerque, NM 87103. Please notify the Independent Review Office if your address or phone number changes prior to the resolution of your complaint.

**COMPLAINANT INFORMATION**

NAME: Brian P Garcia  
(First) (Middle) (Last)

ADDRESS: [REDACTED]  
(Street Name and Number)  
Alb. NM [REDACTED]  
(City) (State) (Zip Code)

TELEPHONE: Home: [REDACTED] Cell/Work: [REDACTED]

Date and Time of Incident: 3-20-12 10:30 pm

Address where incident happened: [REDACTED] Alb. NM

**NOTE:** This complaint form along with other necessary documentation will be forwarded to the Independent Review Office for evaluation and investigative direction. Your complaint may be investigated by the Independent Review Office or assigned to APD's Internal Affairs Unit for investigation. The Independent Review Office also will review the completed investigation and will submit findings to the Chief of Police. You will be notified by certified mail, at your above-listed address, of the final disciplinary findings (normally within 60 days after the complaint has been filed.)

PD-1102 (Revised 01/07)

M004342



## STATEMENT

Please describe both the incident and the specific nature of your complaint as completely as possible. Be sure to give the names, addresses and phone numbers of any witnesses of which you are aware. Be as specific as possible about the details such as exactly what was said, time and dates of incident. Identify the exact location of the incident, identification of the officers involved, if known. If officer's names are not known, please include detailed descriptions of officers. Be specific, it is important to provide as much information as possible. Attach additional sheets if necessary. Please feel free to include any other relevant information or items (pictures, witness statements, etc.)

Date: 3-20-12 Time: 10:30pm

Location: [REDACTED] A.B. NM [REDACTED]

Situation: My downstairs neighbor complained about stamping, officers Dear 5229 and Aragon 5235 arrived at my apartment at 10:30 trying to kick my door down. Myself, My daughter (Meriah 3yr old) and my girlfriend (Nicole 29) were in the back room and we were scared that some one is pounding and trying to kick our door down. I came to the door and heard them call out apd. I was in shock that apd came to my apartment. The younger of the two (I don't know which is which) pull me out of my apartment and detained me. Then illegally searched my apt, knocked on doors and pointed gun at my girlfriend and daughter, as if this was a drug raid. He pulled them outside our apartment, dressed improperly, pushed himself against my girlfriend's Boob. He did not let me speak, taking away my first amendment. (He, referring to the younger of the 2 officers). He threatened me with false documents to evict me, He falsified noise ordinance laws, claiming they are ~~judgemental~~ Judgemental. →

(Statement continued)

I explained to him that the neighbors downstairs are using security and now apt to harass us.

The noise is coming from my 3 year old daughter Meriah who runs down the hall to ask Mommie for a bottle then runs back. This is not excessive, and the apartments are thin, but we have to live, and move around in our apartment. And I am not going to be spanking my daughter to meet the downstairs neighbor's needs. He (referring to the younger officer of the 2.) recommended that "I Do Use force on my daughter," Just as he does to his kids. To keep them quiet. He may be abusive to his kids, but I will not be to mine. He only issued a verbal warning.

I feel that "He" abused his power, over reacted, broke laws by falsifying laws, taking away my right to speak. He finally let me ask 3 questions after he calmed down. I questioned him about the noise ordinance law, he became angry and threatened to cite me for \$300. I knew he was lying that's why I questioned him.

Also on the report that was filed, he claimed I ~~answered the door~~ <sup>answered the door</sup> ~~with a gun~~ <sup>with a gun</sup>, which "I would be dead if so." He is lying. Nobody in their right mind answers the door when cops are knocking.

PD-1102 (Revised 01/07) I feel that he wrote that to justify his actions,

(Statement continued)

My Apartment Complex Manager is already aware  
that my neighbor is harassing us and using the  
law to harass us. They are trying to move  
or evict them as of today.

(Statement continued)

**WITNESSES:**

Name: Nicole Michelbach

Address: [REDACTED]

Phone Number: 505 [REDACTED]

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

(If more, please list on a separate sheet.)

Names of officers you are complaining about: Dear 5224, Aragon 5235

Would you be interested in mediation to resolve this complaint: \_\_\_\_\_

**End of Statement**

The information provided in this statement is true and factual to the best of my knowledge. I understand that I may be required to appear in the Independent Review Office or the Internal Affairs Office for further interview or to provide other investigative assistance as necessary.

Bm [Signature]  
Complainant's Signature

Complainant's Date of Birth: [REDACTED]

**ALBUQUERQUE POLICE DEPARTMENT  
INTERNAL AFFAIRS UNIT  
STATISTICAL FORM**

The Internal Affairs Unit is asking the complainant to fill out information requested below.

**NOTE:** This particular information will not become a part of your complaint. The Albuquerque Police Department is requesting this information for statistical purposes only.

The information contained on this form may be incorporated into the Internal Affairs Quarterly and Yearly Reports. It may also be used to conduct studies or respond to surveys.

**STATISTICAL INFORMATION**

**RACE:** White: \_\_\_\_\_ Native American: \_\_\_\_\_  
Hispanic: X Oriental: \_\_\_\_\_  
Black: \_\_\_\_\_ Other: \_\_\_\_\_

**GENDER:** Male: X Female: \_\_\_\_\_

**AGE:** 32



# CITY OF ALBUQUERQUE



## **POLICE OVERSIGHT COMMISSION**

*Linda Martinez, Chair*

*Bambi Folk, Vice Chair*

*David Adkins*

*David Cameron*

*Bob Francis*

*Richard Shine*

*Jonathan Siegel*

*Richard Sobien*

*Valerie St. John*

*Robin S. Hammer, Independent Review Officer*

November 8, 2012

Brian Garcia

Albuquerque, New Mexico

Subject: CPC # 053-12

Dear Mr. Garcia:

PO Box 1293

The complaint you filed was received in our office on March 23, 2012 for an incident which occurred on March 20, 2012.

Albuquerque

The Independent Review Office thoroughly and impartially investigated your complaint. I, as Independent Review Officer, made findings of whether the police officers involved violated Standard Operation Procedures (SOPs) based on a preponderance of the evidence. A preponderance of the evidence means that one side has greater than fifty percent credible and convincing evidence to prove its position. If the credible evidence is 50-50, the proper finding is Not Sustained.

NM 87103

www.cabq.gov

Since the officers are compelled to cooperate in the investigation, Sections 9-4-1-13 and 9-4-1-14 of the Police Oversight Ordinance requires that their statements will not be made public. I am only allowed to summarize the conclusions I reached from the officers's compelled statements.

Below is a summary of the investigation and my findings.

### **THE COMPLAINT**

Mr. Garcia alleged that two officers came to his apartment because his downstairs neighbors complained of loud noises coming from his apartment. Mr. Garcia alleged that the two officers tried to kick down his door, while the officers were calling out "APD." Mr. Garcia alleged that when he answered the door, one officer pulled Mr. Garcia out of his apartment, while the other officer illegally searched his apartment. Mr. Garcia alleged that one officer pointed a gun at his girlfriend and three-year old daughter, who were also

in the apartment. Mr. Garcia alleged that an officer brushed against his girlfriend's "boob." Mr. Garcia alleged that at some point the officers did not allow him to speak. Mr. Garcia alleged that he did explain to the officers that the neighbor's complaints were based on his three-year old running down the hallway of the apartment. Mr. Garcia alleged that the officer "claimed I answered the door with a gun, which I would be dead if so." Mr. Garcia alleged that the officer who wrote the report was lying regarding Mr. Garcia's use of a gun. Mr. Garcia stated in his complaint that, "Nobody in their right mind answers the door with a gun when the cops are knocking." Mr. Garcia alleged that an officer told him to spank his child.

### **INDEPENDENT REVIEW OFFICE INVESTIGATION**

An Independent Review Office (IRO) Investigator interviewed Mr. Brian Garcia, Officer A., Officer D., and reviewed the Computer Aided Dispatch (CAD report) printout. There was no police report written in this matter.

The CAD report indicated that Officer A. and Officer D. were dispatched on March 20, 2012 at 10: 25 pm. to Mr. Garcia's apartment to investigate residents who live upstairs are "banging on the floors, on going problem." Officer D. arrived at Mr. Garcia's apartment 10:30 pm and Officer A. arrived at 10:33 pm. Officer D. indicated on the CAD system that the subject (later identified as Mr. Garcia) was causing a disturbance and answered the door with a gun. The CAD report indicated both officers left Mr. Garcia's apartment at 11:26 pm.

On May 31, 2012, an IRO investigator interviewed Mr. Brian Garcia at the IRO office. Mr. Garcia reiterated the basic facts that he had written in his complaint. Mr. Garcia told the investigator that Mr. Garcia was sitting in the bedroom with his daughter and girlfriend when someone began to kick his front door. Mr. Garcia got up and retrieved his pistol and walked towards the front door. He stated he was afraid of who it was since they were "horse kicking" the door. As he approached he heard someone yell out "APD," so he put the gun down on the kitchen counter and opened the door.

Mr. Garcia stated two officers were standing there with weapons drawn and pointed at him. The younger officer grabbed him and made him sit down on the ground. He stated they did not search him but that he was only wearing a t-shirt and sweats. The officers asked about the gun and he stated it was on the counter. The officers asked him who was in the apartment and he told them his girlfriend and young three-year-old daughter. The younger officer kept his weapon drawn and entered the apartment. He went down the hall and told his girlfriend to exit the bedroom.

Mr. Garcia stated that he explained that his daughter runs down the hallway and caused noise which the downstairs neighbors complained about.

**Letter to Brian Garcia**  
**November 8, 2012**  
**Page 3**

When the IRO investigator asked Mr. Garcia why the police officers would have thought that he had a gun, Mr. Garcia stated that he guessed the officers heard him cock the gun as he approached the door.

Mr. Garcia told the investigator that his girlfriend did not wish to be interviewed regarding his complaint against the police.

On June 4, 2012, an IRO investigator interviewed Officer A.. Officer A. said that he and Officer D. responded to a call for noise at an apartment complex. When he and Officer D. arrived, they spoke to the neighbor who had called the police. The neighbor said the upstairs neighbors were making too much noise, especially their child jumping off of furniture.

Officer A. said that they then went upstairs to speak to the tenants of the apartment. The officers knocked and no one answered the door, so they knocked louder. Officer A. said that he then heard the click of a gun being cocked, so both officers immediately drew their weapons. The officers yelled through the closed door that they were "APD" and ordered the person(s) inside to put down the weapon.

Officer A. stated that the man later identified as Brian Garcia was standing at the door. Mr. Garcia had put down his weapon prior to opening the door, so both officers put their weapons in their holsters. Officer A. said that Officer D. sat Mr. Garcia down on the floor by the front door. Officer A. stayed with Mr. Garcia, while officer D. entered the apartment to look through the rooms for other possible occupants. Officer D. returned with a woman and a small child following him. Officer A. permitted Mr. Garcia to stand up with his family. Officer A. said that Officer D. then spoke with the family.

According to Officer A., Officer D. and Mr. Garcia spoke about kids making noise. Mr. Garcia was upset and wanted to argue with Officer D. Officer A. said that he and Officer D. were both parents and understood that children do make noise. According to Officer A., Officer D. did speak with Mr. Garcia about citing him for a noise ordinance violation, but no citation was issued to Mr. Garcia. Officer A. said that Officer D. argued a little bit with Mr. Garcia, but Officer D. was not loud or unprofessional. Officer A. said that neither officer told Mr. Garcia to spank his child.

On June 12, 2012 an IRO Investigator interviewed Officer D. at the IRO Office. Officer D. said that he and Officer A. could hear a television on in the upstairs apartment, but did not hear any loud noise at that time. Officer D. knocked on the door and announced "APD." When no one answered, he repeated this. Officer D. then stated he heard the distinct sound of a gun being cocked, so both officers drew their weapons. Officer D. yelled out, "This is the Albuquerque Police Department! Do not answer the door with a gun!" Mr. Garcia opened the door and was not holding a gun. Officer D. patted down Mr. Garcia and had him sit down just outside the door.

Officer D. stepped into the apartment to clear it as he stated they needed to be positive that no one else was holding the weapon. Officer D. saw the gun, a Glock he believed, lying on the counter. Officer D. went inside the apartment and asked a woman a female and a small child to step outside. They complied. Officer D. stated he stood in the hallway while the woman and child walked past him.

Mr. Garcia wrote in his written complaint that the officer "brushed against his girlfriend's boob." Officer D. stated the hallway was small and they may have brushed against each other as she walked past him. Officer D. stated that he never touched her breast and the woman did not say anything at any time regarding touching her. Officer D. stated he had not heard anyone complain about inappropriate touching until he received a copy of Mr. Garcia's the written complaint from the IRO office.

Officer D. stated that he attempted to speak to Mr. Garcia about the noise complaint and Mr. Garcia was not happy. Officer D. said he told Mr. Garcia to be quiet until Officer D. was finished talking, after which Mr. Garcia could talk. They discussed the noise ordinance. Officer D. stated he never told Mr. Garcia to spank his child as alleged in the written complaint. Officer D. never issued a citation to Mr. Garcia. Officer D. and Officer A. left the residence and Mr. Garcia and his family then went back inside.

#### **CONCLUSIONS REGARDING OFFICER D.'S CONDUCT:**

- 1) Standard Operating Procedure 1-02-2B2 states: Make only those arrests, searches, and seizures which they know or should know are legal and in accordance with departmental procedures.

Mr. Garcia alleged that Officer D. entered Mr. Garcia's residence and conducted an illegal search. Officer D. stated that after he heard a gun get cocked, Mr. Garcia opened the door. Officers then sat Mr. Garcia down. Officer D. walked through the apartment checking for other people because he did not know if someone else held the weapon which was cocked or had another weapon. In this circumstance, it was appropriate Officer D. to walk through the apartment for officer safety. Mr. Garcia had a gun which he cocked and both officers needed to make sure they and everyone else in the apartment were safe.

I find Officer D. to be **EXONERATED** with respect to this allegation, which means that the incident complained of was lawful or proper.

- 2) Standard Operating Procedure 1-04-1F states: Personnel shall conduct themselves both on and off-duty in such a manner as to reflect most favorably on the department.

Mr. Garcia complained that both Officer D. and Officer A. had their weapons drawn when he opened his door and that Officer D. was not professional in how he treated Mr. Garcia.

Mr. Garcia's written complaint failed to mention the fact that he picked up his gun as he went to the door and that he cocked his gun. In his interview, Mr. Garcia admitted that the officers must have heard him cock his gun. Mr. Garcia failed to write in his complaint that he set his gun down to open the door after the officers yelled at him to set down the gun and that they were APD. Both officers stated they heard the distinct sound of the gun being cocked and so they drew their weapons. Based on the fact the officers heard the gun being cocked, they are certainly allowed to draw their weapons. Mr. Garcia admitted to holding and cocking his gun during his interview, which was consistent with the officers' statements to the IRO investigator.

I find Officer D. to be **EXONERATED** with respect to this allegation, which means that the incident complaint of was lawful or proper.

#### **CONCLUSIONS REGARDING OFFICER A.'S CONDUCT:**

- 1) Standard Operating Procedure 1-04-1F states: Personnel shall conduct themselves both on and off-duty in such a manner as to reflect most favorably on the department.

Mr. Garcia complained that both Officer D. and Officer A. had their weapons drawn when he opened his door. Mr. Garcia's written complaint failed to mention the fact that he picked up his gun as he went to the door and that he cocked his gun, and admitted that the officers heard it. Mr. Garcia failed to write in his complaint that he sat his gun down to open the door after the officers yelled at him to set down the gun and that they were APD. Both officers stated they heard the distinct sound of the gun being cocked and so they drew their weapons. Based on the fact the officers heard the gun being cocked, they are certainly allowed to draw their weapons. Mr. Garcia admitted to holding and cocking his gun during his interview, which was consistent with the officers' statements to the IRO investigator.

I find Officer D. to be **EXONERATED** with respect to this allegation, which means that the incident complaint of was lawful or proper.

Chief Schultz agrees with these findings.

The Police Oversight Commission (POC) agrees with these findings.

Your complaint and these findings are made part of Officer D. and Officer A.'s permanent record.

You have the right to appeal this decision. Section 9-4-1-9(A) of the Police Oversight Ordinance allows any person who has filed a citizen complaint and who is dissatisfied with the findings of the IRO or the Chief to appeal that decision to the POC within ten business



**Letter to Brian Garcia**  
**November 8, 2012**  
**Page 6**

days of receipt of this letter. Please promptly communicate your desire to appeal in a signed writing to the undersigned and include your CPC number.

If you have a computer available, we would greatly appreciate your completing our client survey form at <http://www.cabq.gov/iro/survey>.

Thank you for participating in the process of civilian oversight of the police, ensuring officers are held accountable, and improving the process.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. S. Hammer', written over the printed name.

Robin S. Hammer  
Independent Review Officer  
505-924-3770

CC: Police Oversight Commission

*Assign in station. JWD. 4/23/2012*

**ALBUQUERQUE POLICE DEPARTMENT  
CITIZEN POLICE COMPLAINT FORM**

Official Use Only: 04-23-12P12:55 RCVD

Date/Time Received:

Received By:

CPC#:

Assigned To:

**INSTRUCTIONS:**

This form should only be completed if you wish to initiate a complaint against the Department or an employee(s). According to City Ordinance, written complaints must be filed within ninety (90) calendar days of the incident to be accepted. If you would rather attempt to resolve this issue with the employee's supervisor, you may contact the employee's supervisor directly. For assistance, please contact the Internal Affairs Unit at (505) 768-2880 during business hours.

**IF YOU DECIDE TO FILE A COMPLAINT:**

Please complete the complainant information and statement portions below. Once the form is completed and signed it may be delivered to the Independent Review Office/Police Oversight Commission at 600 2<sup>nd</sup> St. NW, Room 813, Albuquerque, NM, 87102, or mailed to PO Box 1293, Albuquerque, NM 87103. Please notify the Independent Review Office if your address or phone number changes prior to the resolution of your complaint.

**COMPLAINANT INFORMATION**

NAME: William B. Driver  
(First) (Middle) (Last)

ADDRESS: [REDACTED]  
(Street Name and Number)

Albuquerque NM [REDACTED]  
(City) (State) (Zip Code)

TELEPHONE: Home: — Cell/Work: 505 [REDACTED]

Date and Time of Incident: 4/17/12; 22:03

Address where incident happened: I-25 at Concha (Stopped at Concha + Alexander)

**NOTE:** This complaint form along with other necessary documentation will be forwarded to the Independent Review Office for evaluation and investigative direction. Your complaint may be investigated by the Independent Review Office or assigned to APD's Internal Affairs Unit for investigation. The Independent Review Office also will review the completed investigation and will submit findings to the Chief of Police. You will be notified by certified mail, at your above-listed address, of the final disciplinary findings (normally within 60 days after the complaint has been filed.)

PD-1102 (Revised 01/07)

M004354

### STATEMENT

Please describe both the incident and the specific nature of your complaint as completely as possible. Be sure to give the names, addresses and phone numbers of any witnesses of which you are aware. Be as specific as possible about the details such as exactly what was said, time and dates of incident. Identify the exact location of the incident, identification of the officers involved, if known. If officer's names are not known, please include detailed descriptions of officers. Be specific, it is important to provide as much information as possible. Attach additional sheets if necessary. Please feel free to include any other relevant information or items (pictures, witness statements, etc.)

*Please see attached supplement and documents.*

(Statement continued)

**WITNESSES:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

(If more, please list on a separate sheet.)

Names of officers you are complaining about: Jeremy Dear (5224)

Would you be interested in mediation to resolve this complaint: yes

**End of Statement**

The information provided in this statement is true and factual to the best of my knowledge. I understand that I may be required to appear in the Independent Review Office or the Internal Affairs Office for further interview or to provide other investigative assistance as necessary.

W. B. Davis  
Complainant's Signature

Complainant's Date of Birth: [REDACTED]

**ALBUQUERQUE POLICE DEPARTMENT  
INTERNAL AFFAIRS UNIT  
STATISTICAL FORM**

The Internal Affairs Unit is asking the complainant to fill out information requested below.

**NOTE:** This particular information will not become a part of your complaint. The Albuquerque Police Department is requesting this information for statistical purposes only.

The information contained on this form may be incorporated into the Internal Affairs Quarterly and Yearly Reports. It may also be used to conduct studies or respond to surveys.

**STATISTICAL INFORMATION**

**RACE:** White: ☒ Native American: \_\_\_\_\_

Hispanic: \_\_\_\_\_ Oriental: \_\_\_\_\_

Black: \_\_\_\_\_ Other: \_\_\_\_\_

**GENDER:** Male: ☒ Female: \_\_\_\_\_

**AGE:** 32



**Albuquerque Police Department  
Citizen Police Complaint Form  
Statement Supplement**

**Complainant: William B. Driver**  
[REDACTED]

**Albuquerque, NM** [REDACTED]

**Date and Time of Incident: 4/17/2012; 22:03**

**Incident Address: I-25 and Comanche (stopped at Comanche and Alexander)**

**Statement:**

On the evening of April 17, I was on my way home, traveling north on I-25 in the far right lane to exit at Comanche when an APD unit traveling well above the speed limit sped by me on the left and hurtled into my lane without using a turn signal, cutting me off at close range. I was traveling slightly faster than the speed limit, about 68 mph, and so I estimated the officer was going at least 75 or 80. I exited the freeway well behind him, and as there are two left-hand turn lanes onto Comanche, I pulled up to the stoplight in the far left lane and came to a stop next to him in the turn lane to the right. I decided I'd seen too many APD units fail to use their blinkers while driving recklessly at high speeds with little or no concern for drivers around them, so I exercised my right to freedom of speech under the First Amendment and gave him the middle finger, without turning my head to make eye contact with him. I did not know if he saw me or not, nor what his reaction might be.

When the light turned green we both turned left and then came to another stop at a red light at the southbound frontage road, under the freeway overpass. Once again we were side by side, he in the far right lane and me in the middle one, and I again used the

opportunity to salute him with my middle finger. As before, I did not make eye contact with him or turn my head in his direction. I continued to face forward.

The light turned green and we proceeded through the intersection, and very shortly I saw flashing lights in my rearview, directly behind me. I signaled, checked my blind spot, and proceeded into the far right lane. I ended up behind another vehicle which had its right turn signal on as well, and that vehicle and I both took the next right onto Alexander, both of us still using our turn signals. The APD unit followed, though its lights were too bright for me to see whether or not the officer was using his turn signal. All three vehicles pulled up to the curb, the vehicle in front of me apparently thinking it was the one being pulled over, but soon enough it discovered that there was another civilian vehicle behind it (me) and slowly pulled away.

I put my pickup's manual transmission in neutral with my foot on the brake, rolled my window down and waited patiently, not attempting to reach for my glove box or make any sudden movements that might alarm the officer. I also didn't feel the need to start collecting my registration and insurance information before I found out why I'd been pulled over and if it would in fact be necessary to do so.

After some time, he at last approached my window from behind with his flashlight aimed at my face. I turned back slightly, looking into the light as best I could, and greeted him, saying, "Good evening, officer." This, I would find out at the end of our lengthy interaction, was Officer Jeremy Dear, who said, "Why were you flipping me off back

there?" Because Dear hadn't yet told me his reasons for pulling me over, I denied flipping him off, and said, "I wasn't flipping you off." Dear: "Oh really? What were you doing then?" I rested my arm on the passenger seat in a demonstration and said, "Resting my arm on the passenger seat like this." Dear: "Well, I have you on video flipping me off, and so you're gonna sit here and lie to me about it?" (I will be requesting that Internal Affairs verify the validity of his statement about the video.) Me: "Well, maybe it was because you cut me off on the freeway without using your turn signal, and I see APD doing it all the time." Dear did not make any attempt to refute this assertion. Instead, he said, "Oh yeah? Well you didn't use your turn signal when I pulled you over just now." . Me: "Yes I did." Dear: "No, you didn't." (I'll also be requesting that Internal Affairs review any other video Dear has of this incident to corroborate this and every claim made by him that night. In addition, I would ask that Internal Affairs review any and all audio recordings of the incident, as it is my understanding that it is protocol for officers to record every stop. It would be very telling to witness his antagonism and false charges in contrast to my cooperation and compliance with him and the law.)

At this point Officer Dear still had not informed me why he'd pulled me over, but he asked for my driver's license, registration and insurance. I reached in my pocket and handed him my Washington State driver's license, which he took from me and looked over while I opened my glove box and began to search for my registration. It was located at the bottom of the box, under a cluster of electronic equipment I use to plug my iPod into my stereo. There was also a thick envelope in the glove box that contains all my insurance information along with a host of other forms, which I also had to move out of

the way to find my registration. While I was looking for it he made a comment along the lines of, "Do you know it's illegal to have anything covering up your registration?" Still searching, I said, "Excuse me?" to which he made no reply. I politely apologized for having to move the equipment and the insurance envelope to find my registration, but found the document without too much trouble. I'm estimating it took me under 20 seconds to find it (which recorded evidence would also help corroborate). Once I had it in hand and was looking over it to make sure it was the correct piece of documentation, Officer Dear hastily claimed I hadn't "produced it on demand" and turned back to his vehicle without looking at it. While I was waiting for him to return, I searched for my insurance cards in my insurance envelope and was unable to locate them. So I opened my laptop, the action of which instantly wakes it up from sleep mode, and opened my insurance documents, which I always keep ready and available as PDF files on the desktop as a backup just in case I can't locate the printed versions of my cards. (Later that night I located them in the envelope; the reason I couldn't find them during my interaction with Dear was because they were on a folded 8-by-10 print-out of my temporary cards, while I had been looking for the permanent 2-by-3 cards that I normally carry with me).

When Dear returned after some time, I showed him my registration again, which he at last accepted and reviewed, and then he asked for my insurance, which I began to show him on my laptop screen, explaining I couldn't find the printed versions. Without so much as a glance, he said, "Nope, it has to be a form," and then made some comment

about me possibly getting my vehicle towed for "not having insurance." He handed me my registration and once again went back to his vehicle.

While I waited this time, I decided to turn off my vehicle and headlights, put the transmission in gear and engage the parking brake since it appeared the interaction might take longer than I originally thought it would. Since I had the time, I again went through my insurance envelope looking for my cards, but decided to keep my laptop open in case he decided to look at my policy that way. Back in December I was pulled over in Texas for speeding and the officer graciously reviewed my policy on my laptop, but was kind enough to explain that he'd been able to look it up from his unit with no problem and that verifying I had a copy of it in my vehicle was just a formality. I was hopeful Officer Dear had the same capability. If he did, then he at that point knew that I was all three things: licensed, registered and insured, since he'd already seen my license and registration. Also, I have yet to find anything in New Mexico's traffic regulations regarding proof of insurance stating that electronic proof of insurance is unacceptable, and a brief chat with someone in Internal Affairs later confirmed that some officers will accept electronic proof while others will not; it's at the officer's discretion (or in other words, electronic proof is acceptable).

Officer Dear returned and handed me my driver's license, which I put back in my pocket. He then handed me a clipboard with two citations and told me to sign both of them, explaining that doing so wasn't an admission of guilt but rather to verify that I'd received them. He also showed me the section explaining the court date for my traffic arraignment.



He had hurriedly explained the charges against me, and I hadn't understood them, so I asked for clarification and he said they were for not being able to produce my registration on demand and for not having insurance. I said, "But I've shown you my registration and my insurance, they're both right here." He interrupted me, saying, "I don't have time for you to rummage through your papers and get out your laptop looking for your insurance, now sign the documents or I will take you to jail." This was the second threat he'd made to me during our interaction, the first being that he would try to have my vehicle towed.

I signed the forms and handed the clipboard back to him. He then gave me my copies of the citations and proceeded to leave. I asked him his name, which he gave me along with his ID number, but because he said them so fast and garbled I asked him to repeat them. He said, "They're on your citation. I should only have to tell you once," and walked away. I said, "All right, thank you." I turned on my vehicle and headlights, took off the emergency brake, put on my blinker, checked my blind spot and made a k-turn to backtrack and get back to Comanche. Officer Dear chose to turn around in the nearby parking lot of American Warehouse Plus. While I was waiting at the stop sign he pulled up behind me. Before making a right turn onto Comanche, I saluted him with my middle finger again, this time for a different reason than the original—for using his position of authority to antagonize a law-abiding citizen.

While traveling the speed limit down Comanche, Officer Dear tailed me. I put on my blinker and got into the left lane. We both pulled up next to each other at the stop light at Comanche and Edith. I waved to him and gave him the finger one last time.

The light turned green and we proceeded through the intersection. Because the right lane merges into the left, Officer Dear once again got behind me and tailed me to the stoplight at 2<sup>nd</sup> Street. He waited behind me in the right lane, and when the light turned green, I proceeded forward and he sped off to the right.

This entire incident is disturbing to me on several levels, and Officer Dear deserves intense oversight and scrutiny for several reasons, first and foremost for his reckless driving. The citizens of Albuquerque make up the hardworking taxpayers who pay for those incredibly expensive vehicles, and Officer Dear and every other officer in the department needs to understand that each time they fail to operate them correctly, with the most basic elements of courtesy, it's a slap in the face to everyone around them. It's aggravating to pay for property that's then put in the hands of irresponsible employees who can't visibly demonstrate that they know how to operate them correctly or perform the simplest tasks of driving, like using a turn signal. I see this all the time with APD.

Secondly, Officer Dear never stated why he pulled me over, and this should always be the first item of information he offers at every stop. I still don't know what his reasons were. I'm requesting that Internal Affairs discover his reasons and provide them to me. I have a right to know why I was stopped.

Lastly, and most importantly, Officer Dear's gross abuse of state-sanctioned power needs to be addressed. When I attend my traffic arraignment on April 24, I'll be showing the

court the exact same registration and insurance documents I showed him that night. This is to say that it will be as clear to the court that I'm not guilty of anything as it was to Officer Dear that night, and that it's plainly evident Officer Dear was going to any means necessary to find a reason, regardless of its validity, to issue me a citation as an act of recompense for what he felt was a personal slight, going even so far as to bend the law to yield to his will. He by no means gave me sufficient time to retrieve my documents, and his broad interpretation of "on demand" is specious at best. If there is recorded evidence of how much time he gave me, it will be painfully clear that I found the documents in what anyone would readily consider a reasonable and fair amount of time. As a result of Officer Dear's clumsily staged and falsified charges against me, he has not only wasted my time and money, he's insured that he will waste more of my time and money and that of the court's by arranging for me to appear for an arraignment, and in the process he's wasted time that he should have been spending addressing real crime, which is what he's paid to do—not address his own personal grievances. In the end, again it's the taxpayers of Albuquerque footing the bill for a reckless public servant's wanton use of time.

What's most disturbing about Officer Dear's actions is that they are, at best, an outward expression of road rage. If I had flipped off a civilian for the same offense committed by Dear and that person had confronted me by getting out of his vehicle and approaching me in mine, like Dear did, it would easily be considered aggression. Remember that I never made eye contact with him until he pulled me over. It was Officer Dear who chose to engage me, escalate the situation, and turn it into a combative confrontation in which a person of authority, Dear, was able to use his resources to sanction a harmless offender.

What's more, Dear did nothing to diffuse the situation when he stopped me. When he found out what my reasons for saluting him were, he could have chosen to use his skills as a public peace keeper to resolve our differences, but instead he chose a different path and missed a valuable opportunity to repair some of the bad relations that APD has engendered with the community. Officer Dear chose to use his authority as a police officer to confront me for an act that offended him personally, and this is abuse of power in its most basic form. While my hand signal might have offended, it did not harm. Officer Dear's actions did. He easily could have looked the other way, brushed it off, or ignored it. Instead he chose to respond. Granted, I can completely understand if Officer Dear perceived my hand signal as an indication that I might be a dangerous person, or that I might be violent, or in the process of committing some crime. But his actions once he pulled me over clearly demonstrate that he had none of those suspicions, that he did nothing to vet me, to ask questions which might ease his conscience or to assure himself that I was not a threat. It was clear that he was simply looking for the quickest excuse to cite me.

Internal Affairs must ask these questions: Did Officer Dear accomplish anything by charging me with not being able to produce registration "on demand" or for clearly ignoring the fact that I'm insured and had evidence of it? Did he make Albuquerque a safer place by pulling me over and issuing me a citation for not being able to retrieve my registration from my glove box as quickly as he would have liked? Did he perform any public service that will bring merit and honor to the activities of APD? The answer is resoundingly "no."

Currently, with the embarrassing national perception of APD as an aggressive and mismanaged organization for its disproportionate number of police shootings (higher than New York City), APD absolutely needs to start presenting a better face to the public and the citizens it's charged with protecting. Aggressive, antagonistic, vengeful employees like Officer Dear only give APD the reputation it has so far done everything in its power to earn—a collection of angry, trigger-happy, citation-loving, reckless, above-the-law, undereducated hotheads who have no regard for their community and who are belligerently pitted against those they've sworn to protect. And Officer Dear wonders why I flipped him off. This is not to say I've never been treated well by APD; I've come into contact with some fine officers who are serious about their jobs. But in this case, Dear's actions on the night of April 17 exemplify the kind of behavior in APD that needs to be addressed and checked immediately at the source.

Am I proud of myself for losing my cool and flipping him off? Absolutely not. Did I commit any crime in doing so? Absolutely not. Did Officer Dear commit an actionable offense when he failed to signal his lane change? Absolutely. Did he own up to it or apologize for it? No. Individuals and organizations only falter when they fail to admit their mistakes and go to great lengths to cover them up. If APD defends its members for abusing their power, acting recklessly, antagonizing citizens for acting on their First Amendment rights, mishandling taxpayers' time and money and falsifying information to exact restitution for petty personal slights, then the department deserves its low standing in the community and the even lower morale that comes with it. But if APD will admit its

**mistakes and take steps to rectify undesirable behavior from within, it stands a chance of making Albuquerque a better place.**



ALBUQUERQUE POLICE  
DEPARTMENT

COUNTY CODE

AGENCY CODE

☐ NTC

MICROFILM NUMBER, DO NOT PRINT ABOVE THIS LINE

02

200

5894269

9

STATE OF NEW MEXICO  
UNIFORM TRAFFIC CITATION

NAME (LAST) <b>DRIVER</b>		NAME (FIRST) <b>WILLIAM</b>		CITY <b>ALBUQUERQUE</b>		STATE <b>NM</b>		ZIP CODE <b>87102</b>	
ADDRESS <b>[REDACTED]</b>		DATE OF BIRTH <b>[REDACTED]</b>		SOCIAL SECURITY NUMBER <b>[REDACTED]</b>		SEX <b>M</b>		HEIGHT <b>5' 10"</b>	
STATE OR <b>[REDACTED]</b>		VEH YR <b>2003</b>		COLOR <b>SIL</b>		TYPE <b>PASSENGER</b>		WEIGHT <b>150</b>	
LICENSE PLATE NUMBER <b>[REDACTED]</b>		HAZ MAT PL <b>PASS 16+</b>		DOT NUMBER <b>[REDACTED]</b>		MAKE <b>TOYT</b>		MODEL <b>PICKUP</b>	
CMV <b>NO</b>		LICENSE TYPE <b>A</b>		ROAD <b>DRY</b>		LIGHT <b>DARK</b>		ACCIDENT <b>NO</b>	
TRAFFIC <b>MEDIUM</b>		WEATHER <b>CLEAR</b>		MVA # (Municipal) <b>[REDACTED]</b>		STATUTE <b>66-7-301</b>		ORDINANCE <b>[REDACTED]</b>	
<input type="checkbox"/> STATUTE 66-7-301 SPEEDING MPH IN A ZONE		<input type="checkbox"/> C2 <input type="checkbox"/> RH <input type="checkbox"/> SC		<input type="checkbox"/> STATUTE 66-5-206 NO INSURANCE		<input checked="" type="checkbox"/> STATUTE <b>66-3-13</b>		<input type="checkbox"/> STATUTE 66-7-372 NO SEAT BELTS	
DATE <b>04/17/12</b>		TIME <b>22:03</b>		IDENTIFICATION <b>5224</b>		DISTRICT <b>[REDACTED]</b>		MILE POST <b>[REDACTED]</b>	
LOCATION <b>I-25 AT COMANCHE</b>		OFFICER'S PRINTED NAME <b>DEAR, J.</b>		OFFICER'S SIGNATURE <b>[Signature]</b>		TRIAL LAND <input type="checkbox"/>			
VIOLATION: EVIDENCE OF REGISTRATION TO BE SIGNED AND EXHIBITED ON DEMAND									
Essential Facts: <b>VEH AT LISTED IN TRAFFIC LANE. DRIVER WAS THROWING MIDDLE FINGER, AFTER STOP HE STATED THAT I DIDNT USE MY TURN SIGNAL SO HE WOULD FLIP ME OFF. NO INS OR REG ON DEMAND</b>									
<input type="checkbox"/> PENALTY ASSESSMENT: I acknowledge my guilt of the offense charged and my options as explained to me by the officer. I agree to remit by mail the penalty assessment of OFFICER MAY NOT ACCEPT PAYMENT									
<input checked="" type="checkbox"/> TRAFFIC ARRAIGNMENT: You are hereby ordered to appear in <b>METROPOLITAN COURT</b> 401 LOMAS BLVD NW, RM 320, 841-8181 ALBUQUERQUE 87102 on <b>04/24/2012</b> at <b>08:00</b> . My failure to appear will result in the issuance of a warrant for my arrest, my license being suspended and I will be required to pay <b>an additional \$100.00 warrant fee</b> . I acknowledge receipt of this citation and without admitting guilt, I will appear as ordered.									
<input type="checkbox"/> COURT APPEARANCE: I acknowledge receipt of this notice and without admitting guilt agree to appear in									
<input type="checkbox"/> WARNING NOTICE: I acknowledge receipt of this notice and agree that a violation of the law has been committed. No further action is required.									

I agree to the above marked determination.

Signature X

02 200 5894269 9

☐ Booked☐ Unable to Sign

## INSTRUCTIONS TO MOTORIST

REFUSAL TO ACCEPT AND SIGN THIS CITATION WILL REQUIRE THAT YOU BE DETAINED IMMEDIATELY AND HELD IN CUSTODY UNTIL TAKEN TO APPEAR BEFORE A JUDGE, WHEN ONE BECOMES AVAILABLE.

PENALTY ASSESSMENT: If this is a penalty assessment notice, your signature constitutes an acknowledgement of guilt and no court appearance is required. You must remit the prescribed penalty amount indicated on the face of this citation within thirty days of the date of issuance. Failure to remit the penalty amount within the required time frame will result in the suspension of your driver's license and driving privileges and subject you to payment of an additional reinstatement fee.

Insure proper credit for payment by enclosing this copy of the citation with your check or money order made payable to the Motor Vehicle Division (or applicable jurisdiction indicated below) and mail to the address given below. DO NOT SEND CASH!

TRAFFIC ARRAIGNMENT: If this notice is a notice to appear in arraignment court, signing this citation is acknowledging receipt of the court's order to appear and not an admission of guilt. My FAILURE TO APPEAR will result in the issuance of a warrant for my arrest, my license being suspended and I will be required to pay an ADDITIONAL \$100.00 WARRANT FEE. I acknowledge receipt of this citation and without admitting guilt, I will appear as ordered.

COURT APPEARANCE: If this is a notice to appear in court, signing this citation is only an agreement to appear and not an admission of guilt. Failure to appear is a misdemeanor subjecting you to another prosecution in addition to the offense alleged on this citation. Also, failure to comply with your signed promise to appear will result in the suspension of your driver's license and driving privileges by the licensing jurisdiction. You are required to appear in court within the time frame specified by the officer.

WARNING NOTICE: If this is a warning notice, it does not require an appearance in court or payment of a penalty. However, the officer is warning you that a violation has been committed and that convictions for offenses of this nature would result in the posting of the violation against your driving record, notification to the licensing jurisdiction and possible subsequent adverse action against your driving privileges.

STATE PENALTY ASSESSMENT ADDRESS		LOCAL PENALTY ASSESSMENT ADDRESS	
MOTOR VEHICLE DIVISION DRIVER SERVICES BUREAU P.O. BOX 1028 SANTA FE, NM 87504-1028		Please remit payment amount indicated on face of this citation to:	

\*022005894269\*

DEFENDANT'S COPY

ALBUQUERQUE POLICE  
DEPARTMENT

COUNTY CODE

AGENCY CODE

☐ NTC

02

200

5894268

1

STATE OF NEW MEXICO  
UNIFORM TRAFFIC CITATION

NAME (LAST) DRIVER		NAME (FIRST) WILLIAM		MI B	
ADDRESS		CITY		STATE	ZIP CODE
STATE OR	DRIVER LICENSE NUMBER	DATE OF BIRTH	SOCIAL SECURITY NUMBER	SEX M	HEIGHT 5' 10"
LICENSE PLATE NUMBER		STATE	VEH YR 2003	COLOR SIL	TYPE PASSENGER
CMV NO	LICENSE TYPE A	HAZ MAT PL	PASS 16+	DOT NUMBER	MAKE TOYT
TRAFFIC MEDIUM		WEATHER CLEAR		ROAD DRY	LIGHT DARK
<input type="checkbox"/> STATUTE 66-7-301 SPEEDING MPH IN A		<input type="checkbox"/> CZ RH SC		<input checked="" type="checkbox"/> STATUTE 66-6-206 NO INSURANCE	
ZONE		<input type="checkbox"/> STATUTE 66-7-372 NO SEAT BELTS		66-6-206B	
DATE 04/17/12	TIME 22:03	IDENTIFICATION 5224	DISTRICT	MILE POST	TRIBAL LAND
LOCATION: I-25 AT COMANCHE					
OFFICER'S PRINTED NAME DEAR, J.			OFFICER'S SIGNATURE 		
VIOLATION: HAVING NO CAR INSURANCE					
Essential Facts: VEH AT LISTED IN TRAFFIC LANE. DRIVER WAS THROWING MIDDLE FINGER, AFTER STOP HE STATED THAT I DIDNT USE MY TURN SIGNAL SO HE WOULD FLIP ME OFF. NO INS OR REG ON DEMAND					
<input type="checkbox"/> PENALTY ASSESSMENT: I acknowledge my guilt of the offense charged and my options as explained to me by the officer. I agree to remit by mail the penalty assessment of OFFICER MAY NOT ACCEPT PAYMENT					
<input checked="" type="checkbox"/> TRAFFIC ARRAIGNMENT: You are hereby ordered to appear in METROPOLITAN COURT 401 LOMAS BLVD NW, RM 328, 841-8181 ALBUQUERQUE 87102 on 04/24/2012 at 08:00 My failure to appear will result in the issuance of a warrant for my arrest, my license being suspended and I will be required to pay an additional \$100.00 warrant fee. I acknowledge receipt of this citation and without admitting guilt, I will appear as ordered.					
<input type="checkbox"/> COURT APPEARANCE: I acknowledge receipt of this notice and without admitting guilt agree to appear in					
on (or by) at					
<input type="checkbox"/> WARNING NOTICE: I acknowledge receipt of this notice and agree that a violation of the law has been committed. No further action is required.					

I agree to the above marked determination.

Signature X

02 200 5894268 1

☐ Booked☐ Unable to Sign

0220058942681\*

## INSTRUCTIONS TO MOTORIST

REFUSAL TO ACCEPT AND SIGN THIS CITATION WILL REQUIRE THAT YOU BE DETAINED IMMEDIATELY AND HELD IN CUSTODY UNTIL TAKEN TO APPEAR BEFORE A JUDGE, WHEN ONE BECOMES AVAILABLE.

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STATE PENALTY ASSESSMENT ADDRESS	LOCAL PENALTY ASSESSMENT ADDRESS
MOTOR VEHICLE DIVISION DRIVER SERVICES BUREAU P.O. BOX 1028 SANTA FE, NM 87504-1028	Please remit payment amount indicated on face of this citation to:

DEFENDANT'S COPY

OREGON

PASSENGER REGISTRATION

PLATE NUMBER [REDACTED]	TITLE NUMBER [REDACTED]	PROCESS DATE 112211	EXPIRATION DATE MAR 01, 13	FUEL TYPE GASOLINE	EQUIPMENT NO. [REDACTED]
YEAR 1998	MAKE TOYT	STYLE PU	MODEL TAC	VEHICLE IDENTIFICATION NUMBER [REDACTED]	WEIGHT/LENGTH [REDACTED]
TITLE BRANDS - NONE -				ODOMETER READING [REDACTED]	ODOMETER DATE [REDACTED]
				ODOMETER MESSAGE [REDACTED]	

OWNER /  
LESSEE

DRIVER, WILLIAM B  
[REDACTED]  
[REDACTED]

NEW  
ADDRESS

COUNTY OF  
RESIDENCE

COUNTY OF  
USE

MULTNOMAH

*Proof of Vehicle registration, shown to Officer J. Dear on  
4/17/2012.*

M004371

Policy Number: [REDACTED]  
April 23, 2012  
Policy Period: Oct 26, 2011 - Apr 26, 2012

## Insurance ID Cards

Keep these cards in  
your vehicle

If you are in an accident, call Progressive. Our  
claims service number is **1-800-274-4499**

*Proof of insurance, shown  
to Officer J, Dear on 4/14/2012*

### Insurance Identification Card Oregon

**PROGRESSIVE**  
DIRECT

Progressive Universal Insurance Co

Policy Period: Oct 26, 2011 to Apr 26, 2012

Policy Number: [REDACTED]

Named Insured  
William B Driver

Year Make  
1998 Toyota

Model  
Tacoma

Vehicle Identification No.  
[REDACTED]

### Insurance Identification Card Oregon

**PROGRESSIVE**  
DIRECT

Progressive Universal Insurance Co

Policy Period: Oct 26, 2011 to Apr 26, 2012

Policy Number: [REDACTED]

Named Insured  
William B Driver

Year Make  
1998 Toyota

Model  
Tacoma

Vehicle Identification No.  
[REDACTED]

### Insurance Identification Card Oregon

**PROGRESSIVE**  
DIRECT

Progressive Universal Insurance Co

Policy Period: Oct 26, 2011 to Apr 26, 2012

Policy Number: [REDACTED]

Named Insured  
William B Driver

Year Make  
1998 Toyota

Model  
Tacoma

Vehicle Identification No.  
[REDACTED]

PROGRESSIVE  
P.O. BOX 31260  
TAMPA, FL 33631

**PROGRESSIVE**  
DIRECT

WILLIAM B DRIVER  
[REDACTED]  
PORTLAND, OR 97211

**Policy Number:** ~~44444444~~

Underwritten by:  
Progressive Universal Insurance Co  
November 9, 2011  
Policy Period: Oct 26, 2011 - Apr 26, 2012  
Page 1 of 2

**progressive.com**

**Online Service**

Make payments, check billing activity, update  
policy information or check status of a claim.

**1-800-PROGRESSIVE (1-800-776-4737)**

For customer service and claims service,  
24 hours a day, 7 days a week.

## Auto Insurance Coverage Summary

This is your Declarations Page  
Your policy information has changed

Your coverage began on October 26, 2011 at 12:01 a.m. This policy expires on April 26, 2012 at 12:01 a.m.

This coverage summary replaces your prior one. Your insurance policy and any policy endorsements contain a full explanation of your coverage. The policy contract is form 9610D OR (06/06). The contract is modified by forms Z357 (01/07), 4884 (10/08), Z538 (10/08) and Z616 OR (08/09).

### Policy changes effective October 29, 2011

Premium change: -\$56.00

Changes: A Paid in Full discount has been added to your policy.

### Drivers and household residents

WILLIAM B DRIVER

#### Additional information

Named insured, SR22 driver filing

**Outline of coverage**

1998 Toyota Tacoma

VIN [REDACTED]

Garaging ZIP Code: 97211

Primary use of the vehicle: Commute

	Limits	Deductible	Premium
Liability To Others			\$203
Bodily Injury Liability	\$25,000 each person/\$50,000 each accident		
Property Damage Liability	\$25,000 each accident		
Personal Injury Protection	\$15,000	\$0	23
Uninsured/Underinsured Motorist	\$25,000 each person/\$50,000 each accident		3
Uninsured Motorist Property Damage	\$25,000 each accident	\$200	5
		\$300 hit & run	
Comprehensive	Actual Cash Value	\$250	16
Collision	Actual Cash Value	\$100	88
Rental Reimbursement	up to \$30 each day/maximum 30 days		13
Roadside Assistance			9
<b>Subtotal policy premium</b>			<b>\$360.00</b>
SR22 driver filing fee			15.00
<b>Total 6 month policy premium and fees</b>			<b>\$375.00</b>

**Premium discounts**

Policy

Three-Year Safe Driving, Paperless, Online Quote, Five-Year Accident Free,  
Continuous Insurance: Diamond and Paid in Full



# CITY OF ALBUQUERQUE



## POLICE OVERSIGHT COMMISSION

*David Cameron, Chair*

*Jonathan Siegel, Vice Chair*

*Jennifer Barela*

*William Barker*

*Jeffrey Peterson*

*Richard Shine*

*Robin S. Hammer, Independent Review Officer*

*Dr. Carl Foster*

*Richard Sobien*

April 15, 2013

William Driver

Albuquerque, NM

**Re: CPC # 072-12**

Dear Mr. Driver:

The complaint you filed against the Albuquerque Police Department (APD) was received in our office on April 23, 2012. I assigned your case to an Independent Review Office (IRO) Investigator, who conducted a preliminary investigation into your complaint.

The Independent Review Office thoroughly and impartially investigated your complaint. I, as Independent Review Officer, made findings of whether the police officers involved violated Standard Operation Procedures (SOPs) based on a preponderance of the evidence. A preponderance of the evidence means that one side has greater than fifty percent credible and convincing evidence to prove its position. If the credible evidence is 50-50, the proper finding is Not Sustained.

Since officers are compelled to cooperate in the investigation, Sections 9-4-1-13 and 9-4-1-14 of the Police Oversight Ordinance requires that their statements will not be made public. I am only allowed to summarize the conclusions I reached from the officer's compelled statements.

Below is a summary of the investigation and my findings.

### **I. THE COMPLAINT**

Mr. Driver complained that on April 17, 2012 at about 10:03 PM, while on I-25 approaching Comanche, he was passed by an APD police car and the driver of the police car was exceeding the speed limit and changed lanes without using a turn signal and he cut Mr. Driver off. The two exited the freeway and came to a stoplight side by side and Mr. Driver extended his middle finger towards Officer D.. The two proceeded to the next stop light where Mr. Driver again extended his middle finger towards Officer D.. After leaving that stop light the APD officer pulled Mr. Driver over. Officer D. contacted Mr. Driver and asked him why he had flipped him off. Mr. Driver told Officer D. that he did not flip him off.

Mr. Driver did eventually admit to flipping off Officer D. and he told Officer D. that he flipped him off because Officer D. cut him off without using his turn signal. Officer D. told Mr. Driver that it was illegal for him to have anything covering up his registration sticker referring to a license plate bracket that was allegedly covering that portion of the license plate. Mr. Driver claimed that he produced his driver's license and registration and insurance

when asked but that he had a difficult time finding his registration. He also only had his proof of insurance on his lap top computer.

Officer D. cited Mr. Driver for not providing proof of insurance or registration on demand. When Mr. Driver questioned the citations, he was threatened with arrest if he did not sign them. At some point he was also told by Officer D. that he could tow his vehicle for not having proof of insurance.

Mr. Driver also alleged that Officer D. did not cordially provide his name to Mr. Driver when he asked. Mr. Driver signed the citations and as he drove away he extended his middle finger towards Officer D. twice more.

Mr. Driver alleged that he had not committed any violations and was pulled over only because he flipped Officer D. off. He claimed that Officer D. acted officiously by citing him for not providing proof of insurance and registration on demand. He alleged that Officer D.'s conduct was threatening and antagonistic in that Officer D. threatened to arrest him and tow his vehicle. Lastly he alleged that Officer D. did not cordially provide his name to Mr. Driver when Mr. Driver asked for it.

## **II. INDEPENDENT REVIEW OFFICE INVESTIGATION**

The IRO Investigator interviewed Mr. Driver. Mr. Driver reiterated what he had written in the Complaint he submitted to our office. The IRO Investigator interviewed Officer D. and the citations issued in this case. Officer D. did not record the incident.

Officer D. told the IRO Investigator that on the date and time this incident had occurred, he was on his way to briefing. He said that he gets off at the Comanche exit. Mr. Driver alleged that he was driving faster than the posted speed limit. Officer D. said that he was driving faster than the posted speed limit possibly 5-10 miles an hour above the limit. Officer D. said that he doesn't like for anyone to be on the side of him because it is an officer safety issue.

Officer D. said that he remembered switching lanes and got off at the exit. He was stopped at Griegos for the light. He saw Mr. Driver's truck pull up next to him. Mr. Driver had one hand on the steering wheel and he was flipping off Officer D. with the other hand. He said that Mr. Driver would look at him and then look forward and then look at him again and then look forward and the entire time he was flipping off Officer D..

Officer D. said that Mr. Driver drew attention to himself by not keeping two hands on the steering wheel, which the Officer D. said was against the law. [Which is not true.] Officer D. said that he started looking for potential violations on Mr. Driver's vehicle. He immediately noticed that Mr. Driver had a license plate surround that was blocking the registration sticker from view.

Officer D. said that he remembered that Mr. Driver didn't use his turn signal when he pulled over. Officer D. decided to pull Mr. Driver over based on the violations that he observed. Officer D. sat in his car for a while because he discovered his lapel camera was apparently dead. He said that he pushed the button and it just flashed blue and would not record. Officer

D. said he did not have a belt tape recorder with him at the time, but that he does carry one now as a back-up in case his camera doesn't work.

Officer D. said that he approached Mr. Driver and asked him for his license, registration, and proof of insurance. He said that he asked Mr. Driver if everything was okay. He said that Mr. Driver had a real bad attitude towards him. He said that he did ask Mr. Driver why he was flipping him off. Mr. Driver told him that he did not use his turn signal when changing lanes. Officer D. said that he told Mr. Driver that he did not remember whether he did or did not use his signal when changing lanes. He then got his license and he told Mr. Driver that he pulled him over because his registration sticker on his plate was obscured by the license plate frame.

He asked Mr. Driver for his registration and proof of insurance again and Mr. Driver could not produce them right away. He kept digging through the papers that he had out. Officer D. asked Mr. Driver if he still lived in Oregon. He said that he did and that he lived here in New Mexico also. Officer D. told Mr. Driver that under the law that if he is going to reside in New Mexico that he has a certain time period to change his Mr. Driver's license and plates over to New Mexico and failure to do that would be against the law.

Mr. Driver still could not find his registration and proof of insurance by that time, so Officer D. returned to his car. Prior to doing so, Officer D. told Mr. Driver that if he found the documents to hold them out the window so he could see them.

Officer D. said that he ran Mr. Driver through the computer. Officer D. looked up and saw that Mr. Driver had not held anything out of the window, so he wrote out and printed two citations. Officer D. took the citations and went back up to the vehicle at that time. He told Mr. Driver that he was going to issue him two citations: one for no proof of insurance and one for no registration provided on demand.

Mr. Driver became argumentative again according to Officer D.. Officer D. told him that his signing the citations was not an admission of guilt but that he could appear in court. Before signing the citation, Mr. Driver told him that he had insurance. Officer D. asked him for the proof. Mr. Driver told him that he had it on his computer and he pulled it up on his computer. Officer D. told Mr. Driver that he needed a paper copy of the insurance rather than something on a computer screen. Officer D. said that he was aware that people have been going onto computers and making their own proof of insurance and he said that he felt better having a proof that was printed out.

He said that he told Mr. Driver that. Then Mr. Driver told him that he had his registration and Officer D. asked him why he had not held it out the window for him to see. Officer D. told Mr. Driver that he had written out the citations already and that Mr. Driver did not produce the items on demand. Mr. Driver told Officer D. that he was not going to sign the citations. Officer D. told him that if he did not sign the citations he would be arrested and taken to jail and that his car would be towed.

Mr. Driver became argumentative again and Officer D. told him again that he needed to sign the citations and Mr. Driver did sign them. Officer D. gave him his copies and asked him if he

had any questions. He said that Mr. Driver asked him, "What's your name and badge number?"

He said that he told Mr. Driver, "My name is officer Officer D. and it is right here on the citation." He pointed out on the citation where his name and identification number were. Mr. Driver said okay and at that point he flipped off Officer D. again. Officer D. said he did tell Mr. Driver that when he went to court if he could show them the proof of insurance and the registration that the tickets would be dismissed.

Officer D. went and got back in his car and started to leave and Mr. Driver flipped him off again. Officer D. said that he did not deliberately follow Mr. Driver after that. They just happened to be going the same way. At some point Mr. Driver turned off.

Officer D. denied that it took Mr. Driver only 20 seconds to find the registration. He said that he waited for Mr. Driver to find the registration and he couldn't find it or proof of current insurance and that was when he went back to the car to write out the citations. He said that he waited for Mr. Driver to find the documents for 45 seconds to a minute. He said that he told Mr. Driver that if he found it to hold it out the window and that he would come back. Mr. Driver never held anything out the window.

Officer D. said that he only threatened to take Mr. Driver to jail after Mr. Driver objected to signing the tickets. Officer D. also said that he was on his way to the substation and did not realize that his camera was dead. He said that he thought it was charged, but it must not have been.

The IRO Investigator questioned Officer D. if being flipped off by Mr. Driver influenced his decision to cite Mr. Driver for the offenses. Officer D. denied this. He said that he writes a lot of citations. Officer D. told Mr. Driver that if he did not have valid insurance that his vehicle could be towed. He said that it was not a threat but he was stating what is true.

### **III. ANALYSIS OF APPLICABLE STANDARD OPERATING PROCEDURE**

A) I reviewed Albuquerque Police Department General Order 1-04-1(N), which states:

*Personnel shall operate official vehicles in a careful and prudent manner and shall obey all laws and all department orders pertaining to such operation.*

Officer D. admitted that he was operating his vehicle above the speed limit while on his way to work the night this incident occurred. He was not on a call and was not authorized to exceed the speed limit at that time.

I find this issue to be SUSTAINED, which means there is sufficient evidence to support the allegation.

B) I reviewed Albuquerque Police Department General Order 1-02-2(B)(2) which states:

*Officers shall familiarize themselves with and have working knowledge of all laws of the State of New Mexico and the Ordinances of the City of Albuquerque which they are required to enforce. Officers shall:*

2. *Make only those arrests, searches, and seizures which they know or should know are legal and in accordance with departmental procedures.*

The evidence shows that Mr. Driver attracted Officer D.'s attention by extending his middle finger towards Officer D. at least twice while at a stop light. While that action is constitutionally protected speech, it is behavior that is somewhat uncommon. Officer D. looked at Mr. Driver's truck and immediately noticed that his registration sticker on his license plate was obscured by the license plate frame. That sticker must be fully visible. It was not. The evidence shows that although D was concerned about being "flipped off", he initiated the traffic stop of Mr. Driver based on the fact that Mr. Driver's registration sticker was obscured by the license plate frame.

The evidence further shows that Officer D. asked Mr. Driver for his Driver's License, Registration, and Proof of Insurance. Mr. Driver could initially only provide his license to Officer D. and had to search through his papers for his registration. While the time it took Mr. Driver to produce the registration is disputed, it is clear from the evidence in this case that the registration and proof of insurance was not readily available or produced for Officer D. when he asked for it.

Officer D. then went back to his car and wrote out the citations for not being able to produce the registration and proof of insurance on demand. While it is disputed as to when Mr. Driver did produce his registration, it is not disputed that he produced proof of insurance on his laptop that he had with him in his vehicle. There was no way for Officer D. to verify if that was a true and correct copy of his proof of insurance or simply something that could have been created in the computer.

Officer D. felt that because he had already written the citations out that it was best if Mr. Driver produced the proper documents to the court for verification. Those types of citations are usually dismissed when proof is submitted in court and the citations issued to Mr. Driver were in fact dismissed.

Whether or not Mr. Driver produced the documents in a reasonable amount of time is for the court to determine. Officer D. believed that Mr. Driver committed violations of the law and he issued citations for those perceived violations.

I find this issue to be EXONERATED, which means the incident that occurred/complained of was lawful and proper.

C) I reviewed Albuquerque Police Department General Order 1-04-4(N) which states:  
*Personnel shall not act officiously or permit personal feelings, animosities, or friendship to influence their decisions.*

Mr. Driver complains that Officer D. only issued him citations that night as an act of recompense for being flipped off. Officer D. denied that accusation and said that he writes many tickets for various violations and that being flipped off had nothing to do with his



decision to write out and issue the citations. He said that he issued the citations because Mr. Driver was not able to produce the documents on demand.

While Mr. Driver feels that the citations were issued because Officer D. felt slighted there is no way to prove that. There is also no way to prove that Officer D. didn't issue the citations because he was slighted by Mr. Driver's actions. There is simply insufficient information available to show exactly what Officer D.'s motivations were when he decided to issue the citations.

I find this issue to be NOT-SUSTAINED, which means there is insufficient evidence to prove or disprove the allegation.

- D) I reviewed Albuquerque Police Department General Order 1-04-1(F) which states:  
*Personnel shall conduct themselves both on and off-duty in such a manner as to reflect most favorably on the department.*

Mr. Driver complained that Officer D. was antagonistic and unprofessional in his dealings with Mr. Driver. Officer D. denied that accusation. He claimed that Officer D. threatened him with arrest and threatened to tow his vehicle.

Officer D. admitted that he did threaten Mr. Driver with arrest but only after Mr. Driver protested signing the citations. Officer D. also admitted that he told Mr. Driver that his vehicle could be towed without sufficient proof of insurance. The vehicle was not towed and Mr. Driver did sign the citations.

Unfortunately, there is no belt tape or lapel camera video of the incident. Mr. Driver felt Officer D. was unprofessional and Officer D. denied that he was.

I find this issue to be NOT-SUSTAINED, which means there is insufficient evidence to prove or disprove the allegation.

- E) I reviewed Albuquerque Police Department General Order 1-02-3(A) which states:  
*Officers shall cordially furnish their name and employee number to any person requesting such information when they are on duty or while acting in an official capacity ...*

Mr. Driver alleged that Officer D. did not cordially provide him with his name and man number when asked. He alleged that when he did ask Officer D. for that information that Officer D. told him that it was on the citations and that he should only have to tell him once.

Officer D. denied that allegation and said that when he was asked for his name and man number that he verbally provided it to Mr. Driver and he also pointed out where it was on the citations. Whether or not Officer D. did that cordially is the issue.

Again, without a belt tape or some other independent evidence to prove or disprove the allegation as to whether the information was provided cordially, it becomes another instance



of Officer D.'s word against Mr. Driver. There is no way to determine whether or not the information was provided cordially.

I find this issue to be NOT-SUSTAINED, which means there is insufficient evidence to prove or disprove the allegation.

- F) I reviewed Albuquerque Police Department General Order 1-39-1(A)(5) which states:  
*Personnel will use issued tape/digital recorders to document the incidents listed below:*  
*5. Those contacts where there is reason to believe a complaint could result*

and Albuquerque Police Department General Order 1-39-3 (B) which states:  
*Personnel utilizing a tape recorder will ensure that the issued recorder is functioning properly, has adequate batteries for the entire shift, and is equipped with tape cassettes.*

Officer D.'s attention was directed to Mr. Driver because Mr. Driver repeatedly flipped Officer D. off. That action alone should have indicated that any contact Officer D. was going to have with Mr. Driver would most likely result in a complaint.

Officer D. said that he did try to utilize his recorder before he got out of his car but that it was not working. He stated that he charged the recorder before going to work but that he did not check it to see if it was operational until the stop itself. A belt tape or video from a lapel camera would have been extremely helpful in proving or disproving the allegations made by the complainant.

Officer D. did not ensure that his belt tape or video tape recorder was working before the beginning of his shift.

I find this issue to be SUSTAINED, which means there is sufficient evidence to prove the allegation.

Chief Schultz agrees with these findings. The Complaint and these findings are made part of the officer's permanent record.

The Police Oversight Commission agrees with this finding.

You have the right to appeal this decision. Section 9-4-1-9(A) of the Police Oversight Ordinance allows any person who has filed a citizen complaint and who is dissatisfied with the findings of the IRO or the Chief may appeal that decision to the POC within ten business days of the receipt of this letter.

**Letter to Mr. Driver**  
**April 15, 2013**  
**Page 8**

We would greatly appreciate your completing our citizen survey form at <http://www.cabq.gov/iro/survey>.

Thank you for participating in the process of civilian oversight of the police, ensuring officers are held accountable, and improving the Albuquerque Police Department. Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. S. Hammer', written over a horizontal line.

Robin S. Hammer, Esq.  
Independent Review Officer  
(505) 924-3770

cc: Police Oversight Commission  
Albuquerque Police Department Chief of Police



04-08-14A10:03 RCVD

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## Thank You

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**Your complaint has been filed.**

Your Name

Matthew Gonzales

Your Mailing Address

Albuquerque, NM

Your Phone Number

Your Email Address

Gender

Male

Your Date of Birth

Demographic Information

Hispanic or Latino

How Did You Hear About this Form?

Law Enforcement Representative

Your Complaint

Officer J. Dear Man # 3224 pulled me over on a stop at Louisiana and Central. The officer was very aggressive from the get go. The officer stated that I must be on something and asked if I had somebody to pick me up. I proceeded to call my friend who when he got there asked the officer what happened and was very calm and rational. The officer then proceeded to dismiss my friend and take me into custody. I endured 4 hours of testing and was left in a very bad mood. The officer had my vehicle towed with my phone (my only form of communication), my apartment keys, along with my wallet which houses my spare truck and apartment key. When confronted with this the response I got was "Well that sounds like your problem." My response was "It wouldn't be a problem if you would have let me get my things."

I have been disabled for 4 years with problems like depression, Fibromyalgia (which causes an incredible amount of chest pains), and degenerative discs in my back. The second officer who performed the tests was very respectful and nice until I confronted the first one about the lack of my belongings and ability to get

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City of Albuquerque  
@cabq

21m

Learn CPR for free at Barelas Senior Center Thursday. Call to register: [ow.ly/vfot](#)

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4/8/2014

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into my apartment and access to my wallet and so forth and was threatened with booking.

#### Report Misconduct by the Police

Independent Review Office of the  
Police Oversight Commission

Police Oversight Commission  
Ordinances

The incident revolved around the officers quick action to try to pull me over for what he claimed to be "reckless driving" when there was not recklessness on my part. He stated I came up very quickly on him and was a danger to hitting him and said I swerved at the last minute to avoid an accident. Now, when I pulled up near the rear of the officer I had my signal on and was changing lanes to turn onto Central. The officer proceeded to turn from the middle lane to pull me over. The thing just escalated from there. While in "custody" the more respectful officer kept taking my pulse throughout the night he then proceeded to say "You are on something. Your pulse is fluctuating. It should be more level." Obvious of the fact that I reminded him why I am on the pain killer medication that I am on. I stated to the officers that the last time I had taken my pain meds was at 7 PM that evening. Both officers continued to exclaim to me that the medication has impaired my abilities despite my ability to complete the sobriety tests. The event cost me over \$140 dollars in fees just to be able to get my truck and belongings back. I have not yet received any fee's or anything from APD so the tab remains open on this event.

The event has left a very distasteful feeling with APD with both me and my family.

#### Date the Incident Occurred

Apr 06, 2014

#### Your Signature

MATTHEW BENJAMIN GONZALES

#### Today's Date

Apr 08, 2014

*Matthew Gonzales*

Print this

#### City News

Released: Summer 2014 Seasonal  
Resource Guide

Photo of the Week: Anthony Cherry

Here Vulture Chick Hatches at Zoo

Photo of the Week: Floating Away

Big Thanks to Park Volunteers

More...

#### City Events

Revived, An Urencia Art Show

Spring Pascale Flower Show

Free CPR Class

Air Quality Control Board Meeting

Sensory - A Personal Journey  
Exhibition

More...

#### Contact Information

Robin Hammer

Independent Review Officer

Independent Review Office

(505) 924-3770

[robinhammer@cabq.gov](mailto:robinhammer@cabq.gov)

Full contact information

#### Report Graffiti, Potholes & More

See graffiti, potholes, or abandoned vehicles?

Report them to [ABO311.com](http://ABO311.com)

### Resident Resources

#### Make a Payment

Use the tool below to make a payment today:

Please select an option below ▼

#### Find a City Service

Use the tool below to find a city service:

Please select an option below ▼

#### Most Requested Pages

Use the tool below to find the most requested website pages:

Please select an option below ▼

#### Make a Comment

Use the tool below to send us feedback:

Please select an option below ▼

### Search Our Site

<http://www.cabq.gov/iro/police-complaint-form>

4/8/2014

Thank You — City of Albuquerque

Search All Departments

## Translate Our Site

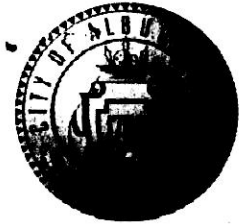
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# CITY OF ALBUQUERQUE



## INDEPENDENT REVIEW OFFICE

Robin S. Hammer, Esq., Independent Review Officer  
(505) 924-3770

October 3, 2014  
Via Certified Mail

[REDACTED]  
Matthew Gonzales

[REDACTED]  
Albuquerque, NM [REDACTED]

**RE: CPC # 073-14**

Dear Mr. Gonzales:

The Complaint you filed against the Albuquerque Police Department (APD) was received by our office on April 8, 2014, for an incident which occurred on April 6, 2014. I assigned your Complaint to be investigated by an Independent Review Office (IRO) Investigator. The Independent Review Office thoroughly and impartially investigated your complaint. I, as Independent Review Officer, made findings of whether the police officers involved violated Standard Operating Procedures (SOPs) based on a preponderance of the evidence. A preponderance of the evidence means that one side has a greater weight of evidence that is more credible and convincing than the other side. Another way of saying it is more than 50% of the credible evidence. If the credible evidence is 50-50, the proper finding is Not Sustained.

Since officers are compelled to cooperate in the investigation, Sections 9-4-1-13 and 9-4-1-14 of the Police Oversight Ordinance mandate that their statements not be made public. Further, the contract between the Albuquerque Police Officers' Association and the City of Albuquerque sets forth guidelines on the information which I may disclose to you. Below is a summary of the complaint, my findings and any discipline imposed.

### **I. THE COMPLAINT**

Mr. Gonzales complained that Officer D. was very aggressive with him. Mr. Gonzales wrote that Officer D. accused him of being on something. Officer D. told Mr. Gonzales to call someone to pick him up. Mr. Gonzales wrote his friend, Mr. Wood, asked Officer D. reasonable questions. Mr. Gonzales wrote that Officer D. became angry and arrested him instead. Mr. Gonzales wrote Officer D. forced him to leave his property in his vehicle. Mr. Gonzales wrote that when he was released, he had no means to call anyone or get home. Mr. Gonzales alleged that Officer D. told him that was "his problem." Mr. Gonzales complained that he was wrongfully accused of Reckless Driving. Mr. Gonzales wrote that both officers claimed he was impaired by the medications he was taking.

PO Box 1293

Albuquerque

NM 87103

[www.cabq.gov](http://www.cabq.gov)



The IRO Investigator interviewed Mr. Gonzales. Mr. Gonzales reiterated his allegations that he had written in his Complaint. Mr. Gonzales added that Officer G. insulted him by accusing him of being a "cutter." Mr. Gonzales stated that Officer G. threatened to take him to jail, but did not tell him for what charge. Mr. Gonzales stated that he asked both officers their names and neither officer responded.

The IRO Investigator also interviewed Mr. Gonzales' friend, Mr. Wood. Mr. Wood agreed that Officer D. was aggressive and unprofessional. Mr. Wood also claimed Officer D. used profanity and moved his hand for his weapon.

## **II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING OFFICER D.'S CONDUCT**

I reviewed the investigation conducted by the IRO Investigator, which included review of the Complaint, police reports, SOPs, lapel video from Officer D., Computer-Aided Dispatch (CAD) report, and interviews of Mr. Gonzales, Mr. Wood, Officer D. and Officer G.

(A) I, as Independent Review Officer, reviewed Standard Operating Procedure Order 1-04-1(F) regarding Officer D.'s conduct, which states:

***Personnel shall conduct themselves both on and off duty in such a manner as to reflect most favorably on the department.***

Mr. Gonzales stated that Officer D. was argumentative and aggressive from the start. Mr. Wood said Officer D. lost control. Mr. Gonzales stated that he asked several times about his property. Mr. Gonzales stated at the substation when he complained about not having his property, Officer D. said that was Mr. Gonzales' problem.

The video at the scene showed Officer D. was professional with Mr. Gonzales. The video showed Officer D. sternly told Mr. Wood to go back to his car because Mr. Wood initially did not follow Officer D.'s directions. The video showed Officer D. turned away from Mr. Wood and it did not look like he motioned towards his weapon, but that could not be seen with certainty. The video showed Officer D. told Mr. Gonzales to leave his phone while he had Mr. Gonzales complete the sobriety tests. Mr. Gonzales did not protest or ask about any property on any of the recordings. The video at the scene ran through when Mr. Gonzales was put in the back of the car. At the substation, only the beginning portion was recorded. During the portion that was recorded, which was most of the contact, Officer D. was professional, but the contact at the end was not captured.

I find the allegation of a violation of this SOP against Officer D. was **NOT SUSTAINED**, which means there is insufficient evidence to prove or disprove the allegation.

(B) I, as Independent Review Officer, reviewed Standard Operating Procedure Order 1-02-2(B)(2) regarding Officer D.'s conduct, which states:

*Officers shall familiarize themselves with and have working knowledge of all laws of the State of New Mexico and the Ordinances of the City of Albuquerque which they are required to enforce. Officers shall: 2. Make only those arrests, searches and seizures which they know or should know are legal and in accordance with departmental procedures.*

Mr. Gonzales maintained he was not impaired and everything he had taken was prescribed to him. Mr. Gonzales claimed he did not almost rear-end Officer D. Mr. Gonzales stated he passed the field sobriety tests.

Officer D.'s lapel video showed Mr. Gonzales was slow to respond to Officer D.'s presence at the window. The video showed Mr. Gonzales admitted to almost rear-ending Officer D.'s police car and apologized more than once. The video showed Officer D. had Mr. Gonzales perform a seated Horizontal Gaze Nystagmus (HGN) and the results prompted Officer D. to ask Mr. Gonzales what substances he had been taking. The video showed Mr. Gonzales admitted to taking Hydrocodone about an hour before. At the substation, Mr. Gonzales admitted to taking additional medications. All the medications Mr. Gonzales reported to the officers have warnings about driving while taking the medications. Officer D.'s video captured the field sobriety tests. Mr. Gonzales made several errors in the performance of the tests, documented on Officer D.'s APD DWI report. Officer D. arrested Mr. Gonzales for driving while impaired.

I find Officer D.'s conduct to be **EXONERATED** regarding the allegation of a violation of this SOP, which means the incident that occurred was lawful or proper.

(C) I, as Independent Review Officer, reviewed Standard Operating Procedure Order 1-04-4(P) regarding Officer D.'s conduct, which states:

*Personnel shall not use coarse, violent, profane or insolent language or gestures.*

Mr. Wood claimed that Officer D. called him a "fucking idiot." The videos showed that Officer D. did not call anyone a "fucking idiot." The videos showed the entire contact with Mr. Wood. Officer D. did not swear at Mr. Wood or anyone else on the recording.

I find the allegation of a violation of this SOP against Officer D. was **UNFOUNDED**, which means the allegation is false or not based on valid facts.

(D) I, as Independent Review Officer, reviewed Standard Operating Procedure Order 1-02-3(A) regarding Officer D.'s conduct, which states:

*Officers shall cordially furnish their name and employee number to any person requesting such information when they are on duty or while acting in an official capacity except: (exceptions did not apply)*

Mr. Gonzales claimed that he asked Officer D. for his name towards the end of the contact at the substation. Officer D. did not provide the information, but said it would be on the paperwork. Mr. Wood stated he asked Officer D. his name while he was at the scene. Mr. Wood stated Officer D. provided his name, but refused to provide his badge number when asked.

The first seconds of the videos at the scene were silent due to the system, so it is unknown if Officer D. introduced himself. During Mr. Wood's contact that had sound, Mr. Wood did not ask for Officer D.'s information. There was no video at the substation. It could not be proven that Officer D. provided his information.

I find the allegation of a violation of this SOP against Officer D. was **NOT SUSTAINED**, which means there is insufficient evidence to prove or disprove the allegation.

(E) I, as Independent Review Officer, reviewed Standard Operating Procedure Order 2-48-3(E) regarding Officer D.'s conduct, which states:

***Officers will make arrangements to ensure that the driver and other occupants are not left stranded. A relative, friend or a taxi may be called via Communications or by a supervisor with a Department-issued cell phone to have the subject(s) picked up. Should the subject refuse the officers efforts of arranging transportation, the officer must indicate such information on their report.***

Mr. Gonzales stated that he asked to take his property with him, such as his wallet and phone, but Officer D. would not let him. At the substation when he was told he was allowed to leave, he complained to Officer D. about not having his phone to call anyone or have money for a taxi. Officer D. ultimately offered him use of the phone at the substation, but did not offer him a ride. He was so angry he walked away after being released from custody pending the DRE blood test results. Officer D. failed to document in the report the offers made to Mr. Gonzales and Mr. Gonzales' refusal.

I find the allegation of a violation of this SOP against Officer D. was **SUSTAINED**, which means there is sufficient evidence to prove the allegation.

(F) I, as Independent Review Officer, reviewed Standard Operating Procedure Order 1-39-1(A)(5) regarding Officer D.'s conduct, which states:

***Personnel will use issued tape/digital recorders to document the incidents listed below. It will be the responsibility of the primary officer to ensure that the incident will be recorded in its entirety. If at any time the primary and secondary officer(s) should become separated, it will be the responsibility of the secondary officer(s) to record all their contact and/or actions during that incident. In such incidents where the primary officer tags a recording and secondary officer(s) also have a recording:***

*all recordings will be tagged into evidence. If the primary officer tags a complete recording or there is an outside source recording tagged into evidence and no secondary recording exist; this shall serve as meeting the requirements for this section. 5. Those contacts where there is reason to believe a complaint could result.*

Officer D. knew early on that Mr. Gonzales was unhappy over the situation. Officer D. knew Mr. Gonzales was especially dissatisfied with the situation at the substation. Officer D. had a recording of everything at the scene and early on at the substation, but not the end of the contact. The policy states the contact will be recorded in its entirety, which this was not. Officer D. did not turn on his lapel camera prior to approaching Mr. Gonzales. This resulted in the first 30 seconds of both Officer D.'s contacts with Mr. Gonzales to have no audio recorded.

I find the allegation of a violation of this SOP against Officer D. was **SUSTAINED**, which means there is sufficient evidence to prove the allegation.

### **III. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING OFFICER G.'S CONDUCT**

(A) I, as Independent Review Officer, reviewed Standard Operating Procedure Order 1-04-1(F) regarding Officer G.'s conduct, which states:

*Personnel shall conduct themselves both on and off duty in such a manner as to reflect most favorably on the department.*

Officer G. was the on-call Drug Recognition Evaluation (DRE) officer and was called to the Southeast substation to conduct a DRE evaluation of Mr. Gonzales. Mr. Gonzales stated Officer G. was "nice for the most part." However, when Officer G. noticed scratches on his arm, Mr. Gonzales stated that Officer G. accused him of being a "cutter." Officer G. persisted he was "on something," which Mr. Gonzales did not understand since he only took his prescribed medications. When he complained about not having his property, such as his phone, wallet or keys, Officer G. said he could book him instead, but Officer G. never told him for what. Mr. Gonzales took offense at some of Officer G.'s questions. Officer G. stated his questions were asked in a straightforward manner and he was professional. There was no video of the conversation between Officer G. and Mr. Gonzales.

I find the allegation of a violation of this SOP against Officer G. was **NOT SUSTAINED**, which means there is insufficient evidence to prove or disprove the allegation.

(B) I, as Independent Review Officer, reviewed Standard Operating Procedure Order 1-02-3(A) regarding Officer G.'s conduct, which states:

*Officers shall cordially furnish their name and employee number to any person requesting such information when they are on duty or while acting in an official capacity except: (exceptions did not apply)*

Mr. Gonzales claimed he asked Officer G. his name towards the end of the contact at the substation. Officer G. ignored him and did not provide the information. Both officers said the information was provided. There was no video at the substation. It could not be proven that Officer G. provided his information.

I find the allegation of a violation of this SOP against Officer G. was **NOT SUSTAINED**, which means there is insufficient evidence to prove or disprove the allegation.

(C) I, as Independent Review Officer, reviewed Standard Operating Procedure Order 1-39-2(B) regarding Officer G.'s conduct, which states:

*All sworn department personnel will record each and every contact with a citizen during their shift that is the result of a dispatched call for service, arrest warrant, search warrant service or traffic stop. Personnel will activate the recorder prior to arriving at the call or prior to citizen contact on non-dispatched events (within the safety parameters of 1-39-1B) and will record the entirety of citizen contact. Uniformed civilian personnel issued digital recorders will also comply with this section. The recordings will be saved for no less than 120 days.*

Officer G. did not run a lapel video. He was off duty and called out so he did not have his camera with him. Officer G. conducted his DRE evaluation at the Southeast Substation. Officer G. could have asked for an audio recorder to use from the substation. Officer G. knew he did not have his camera. He also could have asked Officer D. to remain with him and have Officer D. record the encounter while Officer G. conducted his DRE investigation. Officer G. should have had his lapel camera with him and recorded the interaction at the substation

I find the allegation of a violation of this SOP against Officer G. was **SUSTAINED**, which means there is sufficient evidence to prove the allegation.

Chief Eden agreed with these findings. Your complaint and these findings are made part of Officer D. and Officer G.'s Internal Affairs personnel records.

You have the right to appeal this decision. Section 9-4-1-9(A) of the Police Oversight Ordinance allows any person who has filed a citizen complaint and who is dissatisfied with the findings of the IRO or the Chief may appeal that decision within ten business days of receipt of this letter. Please promptly communicate your desire to appeal in a signed writing to the undersigned. Include your CPC number.

If you have a computer available, we would greatly appreciate your completing our client survey form at <http://www.cabq.gov/iro/survey>.

**Letter to Mr. Gonzales**  
**October 3, 2014**  
**Page 7**

**Thank you for participating in the process of civilian oversight of the police, ensuring officers are held accountable, and improving the process.**

Sincerely,

A handwritten signature in black ink, appearing to read 'R. S. Hammer', written over the word 'Sincerely,'.

**Robin S. Hammer**  
**Independent Review Officer**

**CC: Albuquerque Police Department Chief of Police**



**Skotchdopole, Paul A.**

*Assigned to P. Skotchdopole*  
*CP 096-15*

**From:** webmaster=cabq.gov@mailgun.org on behalf of webmaster@cabq.gov  
**Sent:** Thursday, June 11, 2015 2:33 PM  
**To:** [REDACTED]  
**Cc:** Hammer, Robin; Contreras, Michelle; Cash, Paul; Skotchdopole, Paul A.  
**Subject:** Online Police Complaint Form Submission

Your Name

Katrina Chavez

Your Mailing Address

[REDACTED]  
Albuquerque, NM [REDACTED]

Your Phone Number

505-[REDACTED]

Your Email Address

Gender

Female

Your Date of Birth

Ethnic Background

Hispanic or Latino

How Did You Hear About this Form?

Internet

Do you suffer from homelessness?

No

Do you suffer from mental illness?

No

Is English your primary language?

Yes

What is your sexual orientation?

Heterosexual

Your Complaint

Officer Jeremy Dear was first responding officer to arrive at my house, [REDACTED] in Albuquerque, after I called for help due to fact my husband was highly intoxicated and yelling and namecalling in front of then 2-year-old granddaughter and 8-year-old daughter. I wanted him to stop so I hit him in stomach 3 times (more of a push) so he would stop yelling as he was not listening to me to please stop screaming. I walked away and that is when he grabbed my 2-year-old granddaughter from me and took her into 8-year-old daughters bedroom and shut door on me. They were both screaming and crying for me so I opened door and he pushed it closed and when they would not stop crying he let go of door but then grabbed my arm and squeezed my arm on wrist area. I heard a pop but did not notice pain until about 10 minutes later, after girls had stopped crying and oldest had fallen asleep again. I saw a hematoma forming on my wrist, getting bigger and heard him with "drunk talk" and became afraid. I was completely sober but in a panic so I called police thinking they would calm him down! It was the opposite. I now know I should have left house with my children! I did not think a police officer would arrest me and not be truthful on the police report about the incident.

The other responding office told me if he had arrived first he would have responded differently. I did not know what he meant until I was arrested. Officer Dear seemed very agitated when he spoke with me and

then when I explained what happened he asked if my husband had guns and I said yes but they are locked in a safe and that is when he went into our bedroom and woke my sleeping husband and cuffed him before even speaking to him. He took him cuffed into police car. I could still smell whiskey on my husband when he went outside. When they came back in he spoke with my husband briefly while I spoke with other officer. Then I was handcuffed. During drive to police station he was driving 80 miles per hour on Juan Tabo and I asked him why he was speeding. No response but I let him know I did not feel safe and that is why I called police, to feel safer! I had to leave my 8-year-old and 16-year-old with a very intoxicated person (whiskey and opiates) while I was gone all night and booked into MDC. My first arrest ever. My granddaughter went home with my dad as granddaughter's mom was working and she was crying and would not go to sleep. She kept saying "papa, please don't yell at grandma." Granddaughter left right before police arrived. This is out of sequence but I am so angry that Officer Dear behaved so unprofessionally and impulsively. He was freely cussing to other officer as if we were all at some party. I was asked if I wanted to file a complaint by family members but was so disgusted by incident I did not want to rehash it at that time. When I saw what happened with Mary Hawkes, I felt like I should have said something then but then heard he was being fired for other incidents so I figured justice would be served somehow. He did not seem mentally capable of handling highly stressful situations. There was clearly lack of training and interpersonal skills. I am afraid if he is rehired and working with volatile public, something could go really wrong again. I went to counseling (my husband was in denial about everything; he said he couldn't remember). It was all a humiliating experience and I learned that our justice system is truly overwhelmed and biased. If anything like that happens again I will leave the house and not call police at that moment or ask for highly trained and experienced and more reasonable officers. I know there are some good ones out there! I will repeat: I will be afraid knowing that Officer Dear is out there, especially if he has not completely changed his attitude.

Date & Time the Incident Occurred

Address where the incident occurred

Name of and badge number of officer(s) involved, if known

Witness Information

Would you be interested in mediating this complaint?

Yes

Your Signature

KATRINA PAULETTE CHAVEZ

Today's Date

Jun 11, 2015

Robin

CPL 2014-098

**Hammer, Robin**

**From:** webmaster=cabq.gov@mailgun.org on behalf of webmaster@cabq.gov  
**Sent:** Friday, May 16, 2014 1:30 PM  
**To:** [REDACTED]  
**Cc:** Hammer, Robin; Alipat, Chearie  
**Subject:** Online Police Complaint Form Submission

Your Name

Veronica H Garcia

Your Mailing Address

[REDACTED]

Albuquerque, NM [REDACTED]

Your Phone Number

[REDACTED]

Your Email Address

[REDACTED]

Gender

Female

Your Date of Birth

[REDACTED]

Demographic Information

Hispanic or Latino

How Did You Hear About this Form?

TV News

Your Complaint

Autopsy report released on woman killed in APD shooting

Created: 05/16/2014 11:55 AM

By: Elizabeth Reed, KOB.com

The Office of the Medical Investigator on Friday released an autopsy report on the 19-year-old woman killed in an Albuquerque police shooting.

According to the report, Mary Hawkes died from three gunshot wounds to the head, neck and chest. All three bullets were fired left to right and downward.

One bullet entered her left ear and exited from the right side of her neck. The bullet then reentered the right side of her neck near her shoulder and stopped at the armpit.

The second bullet went through her left upper arm and into the left side of her chest. It was recovered from the left side of her back. The third bullet went through the top of her right shoulder and exited through her right arm.

The OMI identifies the manner of death as homicide.

Toxicology testing also revealed a high concentration of methamphetamine in Hawkes' system.

APD officer Jeremy Dear shot Hawkes during a foot pursuit on April 21. Police said Hawkes was a suspect in a car theft and took off running when an officer confronted her.

**Police said Hawkes pointed a handgun at Dear before he shot her**

---

According to local news reports, the OMI has determined the death of Mary Hawkes a homicide. Officer Jeremy Dear must leave the force at this time as he is unfit to continue to be a public servant. I am a member of the public and I am submitting this complaint on behalf of the community I am a part of.

**Date the Incident Occurred**

**Apr 21, 2014**

**Your Signature**

**VERONICA H GARCIA**

**Today's Date**

**May 16, 2014**

**ALBUQUERQUE POLICE DEPARTMENT  
CITIZEN POLICE COMPLAINT FORM**

7/13/12 3:45 p.m.  
Official Use Only:  
Date/Time Received: 7/13/12  
Received By: [Signature]  
CPC#: 12342  
Assigned To: [Signature]

**INSTRUCTIONS:**

This form should only be completed if you wish to initiate a complaint against the Department or an employee(s). According to City Ordinance, written complaints must be filed within ninety (90) calendar days of the incident to be accepted. If you would rather attempt to resolve this issue with the employee's supervisor, you may contact the employee's supervisor directly. For assistance, please contact the Internal Affairs Unit at (505) 768-2880 during business hours.

**IF YOU DECIDE TO FILE A COMPLAINT:**

Please complete the complainant information and statement portions below. Once the form is completed and signed it may be delivered to the Independent Review Office/Police Oversight Commission at 600 2<sup>nd</sup> St. NW, Room 813, Albuquerque, NM, 87102, or mailed to PO Box 1293, Albuquerque, NM 87103. Please notify the Independent Review Office if your address or phone number changes prior to the resolution of your complaint.

**COMPLAINANT INFORMATION**

NAME: [Signature] C [Signature]  
(First) (Middle) (Last)

ADDRESS: [Redacted]  
(Street Name and Number)

ABQ NM  
(City) (State) (Zip Code)

TELEPHONE: Home: 505 [Redacted] Cell/Work: \_\_\_\_\_

Date and Time of Incident: 2:00 Am

Address where incident happened: Downtown 2<sup>nd</sup> Central

**NOTE:** This complaint form along with other necessary documentation will be forwarded to the Independent Review Office for evaluation and investigative direction. Your complaint may be investigated by the Independent Review Office or assigned to APD's Internal Affairs Unit for investigation. The Independent Review Office also will review the completed investigation and will submit findings to the Chief of Police. You will be notified by certified mail, at your above-listed address, of the final disciplinary findings (normally within 60 days after the complaint has been filed.)

PD-1102 (Revised 01/07)



## STATEMENT

Please describe both the incident and the specific nature of your complaint as completely as possible. Be sure to give the names, addresses and phone numbers of any witnesses of which you are aware. Be as specific as possible about the details such as exactly what was said, time and dates of incident. Identify the exact location of the incident, identification of the officers involved, if known. If officer's names are not known, please include detailed descriptions of officers. Be specific, it is important to provide as much information as possible. Attach additional sheets if necessary. Please feel free to include any other relevant information or items (pictures, witness statements, etc.)

Jeremy Dear

~~During~~ The incident occurred

on a Friday and each weekend that I go out.

An officer by the name of Jeremy Dear ~~and~~ I have  
has a couple of run-ins that make me feel that as an  
ABQ resident, I am not safe around the officer. Mr Dear has  
on a couple of occasions during my observation eschewed an  
attitude w/ African American males that is cause for concern.

The incident I speak of the first time is when Mr Dear picked

Someone "Get mess of my car". The guy in question wasn't threatening in the least  
and complied. As a result I asked Mr Dear "was talking to him like that warranted" for which  
he then began to develop a very contentious tone with me. Another time I was  
talking to a lady in which her friend had unpleasant words with me... this "lady"  
proceeded to rant obscenities as I walked away ~~and~~ <sup>around</sup> 4 officers, including Mr Dear  
proceeds to ask this lady "Did he put his hands on you". I didn't touch the way  
that I was talking to her friend. I don't know what warranted 4 officers to focus on me as if I assaulted  
her. One of the officers said "I could charge you with simple battery for touching her".  
I did not touch her!! When I see 5 or 6 officers huddle up and  
then all focus on me, That's concerning! All of those guys especially in  
particular Jeremy Dear instills fear through his intimidation via  
his badge.

PD-1102 (Revised 01/07)

M004398



(Statement continued)

I spoke with his superior a gentleman by the name of "MARES".  
Mr MARES spoke with me, with a much better demeanor (may add).  
I felt confidence restored to an extent because Mr MARES handled  
himself much more professionally and stated not all of his guys act in that manner and  
that may be misinterpreting, for which I agreed. However, I am  
most disturbed by the attitude and one that Officer  
Jeremy Dean has when it comes to myself in particular.  
I, as a citizen don't have any recourse against an organization that  
operates w/ little to no impunity. Mr Dean eschews that attitude.  
The bully attitude that no body likes to associate with or have occur to them  
on a personal basis. It's humiliating!

As a citizen I don't have any confidence in the police oversight  
committee because of their lethargic, permissive, do nothing stance.  
I have went up the ladder and don't know where else to  
voice my concerns.

Whatever that can be brought to Mr Dean's attention would  
be received warmly, especially coming from an ostracized and lower  
socioeconomic segment of society.

Intimidation of the citizenry isn't right or warranted.  
If something can be done to address that I would be most thankful  
Sincerely

PD-1102 (Revised 01/07)

Julius Nightingale

PS: I have a feeling this won't be the end of Mr  
Dean's antics.

M004399

(Statement continued)

**WITNESSES:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

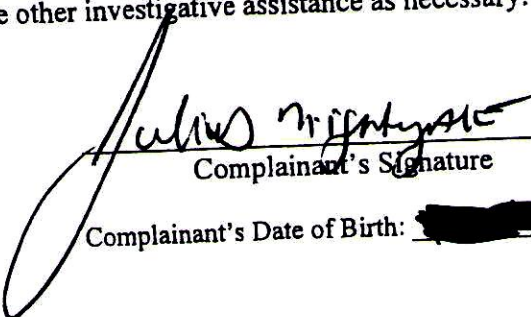
(If more, please list on a separate sheet.)

Names of officers you are complaining about: \_\_\_\_\_

Would you be interested in mediation to resolve this complaint: \_\_\_\_\_

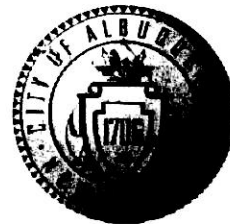
**End of Statement**

The information provided in this statement is true and factual to the best of my knowledge. I understand that I may be required to appear in the Independent Review Office or the Internal Affairs Office for further interview or to provide other investigative assistance as necessary.

  
Complainant's Signature

Complainant's Date of Birth: 

# CITY OF ALBUQUERQUE



## **-POLICE OVERSIGHT COMMISSION**

*Jeffrey Peterson, Chair*

*William Barker, Vice Chair*

*Dr. Carl Foster*

*Robin S. Hammer, Independent Review Officer*

May 14, 2012

**Julius C. Nightingale**

**Albuquerque, NM**

**Re: CPC #125-12**

Dear Mr. Nightingale:

Your Complaint was received by our office on July 13, 2012. The Independent Review Office thoroughly and impartially investigated your complaint. I, as Independent Review Officer, made findings of whether the police officers involved violated Standard Operating Procedures (SOPs) based on a preponderance of the evidence. A preponderance of the evidence means that one side has a greater weight of evidence that is more credible and convincing than the other side. Another way of saying it is more than 50% of the credible evidence. If the credible evidence is 50-50, the proper finding is Not Sustained.

Since officers are compelled to cooperate in the investigation, Sections 9-4-1-13 and 9-4-1-14 of the Police Oversight Ordinance mandate that their statements not be made public. Further, the contract between the Albuquerque Police Officers' Association and the City of Albuquerque sets forth guidelines on the information which I may disclose to you. Below is a summary of the complaint, my findings and any discipline imposed.

### **I. THE COMPLAINT**

Mr. Nightingale complained that Officer D. has been intimidating him every Friday night and each weekend that he goes out. Mr. Nightingale alleged that he has had a couple of run-ins with Officer D. Mr. Nightingale felt that he was not safe around Officer D. Mr. Nightingale alleged that Officer D. demonstrated an attitude with African-American males, which caused Mr. Nightingale to have concern.

Mr. Nightingale complained that on June 29, 2012, Officer D. told someone, "Get your ass off my car!" When Mr. Nightingale approached the officer to ask him if that comment was warranted, the officer developed a contentious tone with Mr. Nightingale.

Another time Mr. Nightingale was speaking with a female and the female's friend had unpleasant words with Mr. Nightingale. The woman proceeded to rant obscenities at Mr. Nightingale and four officers, including Officer D. Officer D. approached him and asked the woman if Mr. Nightingale had put his hands on her. He said he did not know why they focused on him as he had assaulted no one. One of the officers, not Officer D., told Mr. Nightingale that he could be charged with simple battery for touching the woman. He



maintains that he did not touch the woman. He was very concerned that the officers all huddled up and focused on him.

Mr. Nightingale complained that Officer D. instilled fear and intimidation through his badge. Mr. Nightingale spoke to Officer D.'s supervisor about this and found the supervisor to be professional. Mr. Nightingale complained that even though the supervisor addressed the situation, he still did not feel comfortable with the attitude that Officer D. had towards him.

## **II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING OFFICER D.'S CONDUCT**

I reviewed the investigation conducted by the IRO Investigator, which included review of applicable SOPs, and interviews of Mr. Nightingale and Officer D.

(A) I, as Independent Review Officer, reviewed Standard Operating Procedure Order 1-04-1(F) regarding Officer D.'s conduct, which states:

***Personnel shall conduct themselves both on and off-duty in such a manner as to reflect most favorably on the department.***

Mr. Nightingale complained that Officer D. made him uncomfortable whenever he was Downtown on a Friday or Saturday night. Mr. Nightingale complained that he suspected that Officer D. was just looking for a reason to arrest him or have a confrontation with him. Mr. Nightingale cited two instances in his complaint in which he had some interaction with Officer D.

Officer D. recalled that on one of the evenings in question, there was an African-American male sitting on Officer D.'s car outside a club at closing time on or about the date. Officer D. did not remember using language as described by Mr. Nightingale, but Officer D. confirmed that he told the man to get off his car. The man, later identified as Mr. Nightingale, ignored Officer D. Officer D. raised his voice and in a more stern tone told the man to get off his car. At that point, Mr. Nightingale confronted Officer D. and told him that he only does that to people who are Black. Officer D. responded to Mr. Nightingale that he would tell anyone who was sitting or leaning on his car in that manner to get off it regardless of their color. Mr. Nightingale replied that Officer D. cannot talk like that. Officer D. then asked Mr. Nightingale what gives people the right to sit on top of a cop car.

Officer D. recalled that on another night, he was investigating an incident in which Mr. Nightingale was involved with a woman. Officer D. did not have interaction with Mr. Nightingale on that occasion, rather another officer interacted with Mr. Nightingale.

According to Officer D., Mr. Nightingale frequented Downtown and he liked to cause problems by being loud and yelling at people. Officer D. and other officers watch Mr. Nightingale because of that. Officer D. indicated that Mr. Nightingale did things to the officers that they mostly ignore. For example, Mr. Nightingale would walk real close

behind the officers when they are standing there and he will loudly sniff the air behind the officers. Mr. Nightingale would get less than a foot away from the officers when he does this. Officer D. believed that Mr. Nightingale is trying to provoke the officers into doing something to him. Officer D.'s Lieutenant told him to be aware of Mr. Nightingale because it seemed to the Lieutenant that Mr. Nightingale was hoping to provoke some type of incident between him and the police.

The investigation confirmed that Officer D. did use a stern tone of voice when he told the man to get off his police car, but that was only after the man refused to move after being told the first time. Officer D. denied that he used the language that Mr. Nightingale said he used. Regarding the incident where Mr. Nightingale put his arm around a female and she yelled at him, the officers separated the parties and that was the only interaction with Mr. Nightingale.

There is not enough evidence one way or the other to prove that Officer D. violated this SOP. There is no evidence that Officer D. was looking for a reason to arrest Mr. Nightingale or have a confrontation with him.

I find the allegation of a violation of this SOP against Officer D. was **NOT SUSTAINED**, which means there is insufficient evidence to prove or disprove the allegation.

(B) I, as Independent Review Officer, reviewed Standard Operating Procedure Order 1-39-1(A)(11) regarding Officer D.'s conduct, which states:

***It will be the responsibility of the primary officer to ensure that the incident will be recorded in its entirety. If at any time the primary and secondary officer(s) should become separated, it will be the responsibility of the secondary officer(s) to record all their contact and/or actions during the incident.***

***A. Personnel will use issued tape/digital recorders to document the incidents listed below.***

***11. All calls and disturbances in the Downtown Entertainment District.***

Mr. Nightingale cited two instances in his complaint in which he had some contact or interaction with Officer D. The first interaction took place about 2:00 a.m. at 3<sup>rd</sup> and Central on or about June 22, 2012. Mr. Nightingale was leaving a club and there was a man seated on or leaning up against Officer D.'s car. Mr. Nightingale approached Officer D. and asked him if that type of language was necessary. The two talked and Mr. Nightingale departed the scene. I find this incident does not rise to the level of "disturbance" requiring the use of a belt tape or lapel camera

The second incident took place two weeks later in July 2012 in the Downtown Entertainment District. This incident involved a confrontation between Mr. Nightingale and an unidentified woman. The two were yelling at each other and the woman was screaming obscenities and several officers responded to that incident, including Officer D. Both

**Letter to Mr. Nightingale**  
**May 14, 2014**  
**Page 4**

Officer D. and Mr. Nightingale agree that Officer D. had no conversation or interaction with Mr. Nightingale on that occasion. Officer D. did not record and preserve belt tapes or lapel video recordings of this incident. This lack of recording failed to produce evidence available to support or deny Officer D.'s claim that he acted appropriately. I find there is not enough evidence to determine that Officer D. was required to record the incident as the back-up officer.

I find the allegation of a violation of this SOP against Officer D. was **NOT SUSTAINED**, which means there is insufficient evidence to prove or disprove the allegation.

Acting Chief Allen Banks agreed with these findings. Because no allegations were sustained, there was no discipline imposed in this case. Your complaint and these findings are made part of Officer D.'s permanent record.

You have the right to appeal this decision. Section 9-4-1-9(A) of the Police Oversight Ordinance allows any person who has filed a citizen complaint and who is dissatisfied with the findings of the IRO or the Chief to appeal that decision to the POC within ten business days of receipt of this letter. Please promptly communicate your desire to appeal in a signed writing to the undersigned and include your CPC number.

If you have a computer available, we would greatly appreciate your completing our client survey form at <http://www.cabq.gov/iro/survey>.

Thank you for participating in the process of civilian oversight of the police, ensuring officers are held accountable, and improving the process.

Sincerely,



Robin S. Hammer, Esq.  
Independent Review Officer  
505-924-3770

CC: Police Oversight Commission  
Chief of Police

M004404



Assigned to Robin Hammer  
CPC 141-14

**Skotchdopole, Paul A.**

**From:** webmaster=cabq.gov@mailgun.org on behalf of webmaster@cabq.gov  
**Sent:** Friday, July 18, 2014 2:29 PM  
**To:** [REDACTED]  
**Cc:** Hammer, Robin; Contreras, Michelle; Cash, Paul; Skotchdopole, Paul A.  
**Subject:** Online Police Complaint Form Submission

Your Name

Gregory Gaudette

Your Mailing Address

[REDACTED]  
[REDACTED]

Your Phone Number

(505) [REDACTED]

Your Email Address

[REDACTED]

Gender

Male

Your Date of Birth

Demographic Information

White or Anglo

How Did You Hear About this Form?

Other

Your Complaint

I am the attorney representing the Estate of Mary Hawkes and this complaint has been brought on behalf of Danny Hawkes, MaryAlice Hawkes and Angela Hawkes, individually and as personal representatives of the Estate of Mary Hawkes. Any response or questions shall be sent directly to me either at my mailing address ([REDACTED]), by phone (505 [REDACTED]), by fax (505 [REDACTED]) or by e-mail ([REDACTED]) and/or [REDACTED]

On or about April 21, 2014 in the City of Albuquerque, NM, Officer Jeremy Dear of the Albuquerque Police Department, while on duty as an APD officer, shot and killed Mary Hawkes. Officer Dear's wrongful actions caused the death of Mary Hawkes. Furthermore, because the Albuquerque Police Department did not provide proper training and supervision, APD as as did not apply corrective behavior techniques while Officer Dear was in APD's employment, APD is therefore responsible for the death of Mary Hawkes.

It is contended that there has been both excessive force and improper conduct by APD and Officer Jeremy Dear. A tort claim notice was delivered to Mayor Richard Berry on July 12, 2014. The tort claim notice along with this complaint form shall serve as a written complaint and a formal request for an investigation by the IRO. Both the tort claim and this complaint are submitted with the 90 days.

Date the Incident Occurred

Apr 21, 2014

Your Signature

GREGORY GAUDETTE

Today's Date

Apr 18, 2014

**Garcia, Francisca**

FA  
CPC 177-12

**From:** webmaster@cabq.gov  
**Sent:** Tuesday, August 28, 2012 3:14 PM  
**To:** Deaton, William W.  
**Cc:** Garcia, Francisca  
**Subject:** Online Police Complaint Form Submission

Your Name

Dominic Gonzales

Your Mailing Address

[REDACTED]

Your Phone Number

[REDACTED]

Your Email Address

[REDACTED]

Date the Incident Occurred

8/17/2010

Your Date of Birth

[REDACTED]

Your Complaint

I dominic gonzales need to file a complain on office Jeremy. J Dear. On August 17th 2012 Jeremy called my girlfriends(Monique Chavez) phone and was talking to their son, when all of a sudden i hear Jeremy call mine and moniques 5 Month old Child a "stupid baby" So i got on the phone telling him not to call my son stupid. Jeremy threatened me saying he was going to shoot and kill me etc.This is also not the first time he's threatened me saying he's going to kill me. He's been stocking monique,calling her saying shes not at home because her car is not there, when its none of his business wheres shef is,he verbally abuses monique calling her names, bad words in front of their son. Jeremy also grabber monique by the wrist and started cussing at her in front of there son at the parent teacher conference . I believe jeremy uses his power and cop computer to find out and look up informtaion he is not entitled to. Jeremy knew what car i drove where i used to live and what kind of record i had even though i have never had a work or off work contact.

# CITY OF ALBUQUERQUE



## POLICE OVERSIGHT COMMISSION

*David Cameron, Chair*

*Jonathan Siegel, Vice Chair*

*Jennifer Barela*

*William Barker*

*Dr. Carl Foster*

*Jeffrey Peterson*

*Richard Shine*

*Robin S. Hammer, Independent Review Officer*

November 15, 2013

Dominic Gonzales

Albuquerque, NM

**Re: CPC # 177-12**

Dear Mr. Gonzales:

The Complaint you filed was received by our office on August 28, 2012, for an incident which occurred on August 17, 2012. I assigned your Complaint to be investigated by the Internal Affairs (IA) Division of the Albuquerque Police Department on behalf of the Independent Review Office. An investigator thoroughly and impartially investigated your complaint. I, as Independent Review Officer, made findings of whether the police officer involved violated Standard Operating Procedures (SOPs) based on a preponderance of the evidence. A preponderance of the evidence means that one side has a greater weight of evidence that is more credible and convincing than the other side. Another way of saying it is more than 50% of the credible evidence. If the credible evidence is 50-50, the proper finding is Not Sustained.

Since officers are compelled to cooperate in the investigation, Sections 9-4-1-13 and 9-4-1-14 of the Police Oversight Ordinance mandate that their statements will not be made public. I am only allowed to summarize the conclusions I reached from their compelled statements.

Below is a summary of the investigation and my findings:

### **I. THE COMPLAINT**

Mr. Gonzales alleged that on August 17, 2012, Officer D. called Monique Chavez, who is Mr. Gonzales' girlfriend. Officer D. was speaking on the phone with his son. Monique Chavez is the mother of Officer D.'s son. Mr. Gonzales alleged that Officer D. called Mr. Gonzales' son a "stupid baby" during the call. Mr. Gonzalez alleged that Officer D. threatened to shoot and kill Mr. Gonzales, and this was not the first time Officer D. had threatened to do that. Mr. Gonzales alleged that Officer D. had been stalking Monique, abused Monique by calling her names, and used bad words in front of Monique and Officer D.'s son. Mr. Gonzales further alleged that Officer D. grabbed Monique at a parent-teacher conference and started cussing at Monique. Mr. Gonzales believed that Officer D. used his power and police computer to find out information that he is not entitled to know about Mr. Gonzales. Mr. Gonzales alleged that

Officer D. knew what kind of vehicle Mr. Gonzales drove, and knew what kind of record Mr. Gonzales had.

## **II. INVESTIGATION BY INDEPENDENT REVIEW INVESTIGATOR**

An Albuquerque Police Department Internal Affairs (IA) Investigator conducted an investigation into Mr. Gonzales' complaint. The IA Investigator reviewed the complaint, police reports, and statements. The IA Investigator interviewed Officer D, and also reviewed APD Standard Operating Procedures (SOPs) related to the allegations.

The IA Investigator attempted to interview Mr. Gonzales. The IA Investigator spoke to Mr. Gonzales and set up an interview time. Mr. Gonzales did not appear for his scheduled interview. The IA Investigator called Mr. Gonzales and rescheduled his interview for a set time. Mr. Gonzales said he and Ms. Chavez would appear for the second interview. Mr. Gonzales later called and reset the interview for two hours later than the originally scheduled time. Neither Ms. Chavez nor Mr. Gonzales showed up for the rescheduled second interview and did not call to cancel or reschedule.

The IA Investigator interviewed Officer D. Officer D. explained the relationship with Monique Chavez, his ex-girlfriend. Monique Chavez is the mother of Officer D.'s four-year-old son. Officer D. and Monique Chavez have been separated for five years. Monique Chavez was living with Mr. Gonzales. Officer D. said problems regarding Officer D.'s visitation issues with his son have recently increased. Officer D. stated he had not personally met Mr. Gonzales, and did not know where Mr. Gonzales lived until recently, when Mr. Gonzales was arrested. Mr. Gonzales was arrested in a vehicle registered in Monique Chavez and Officer D.'s name, and the arresting officer contacted Officer D. to inquire about the vehicle. Officer D. stated he was only a co-signer on the vehicle.

Officer D. stated that he had spoken to Mr. Gonzales by phone, and that Mr. Gonzales asked to meet with Officer D. Officer D. has avoided contact with Mr. Gonzales in person because he does not want any trouble. Officer D. stated that on August 17, 2012, he and Monique Chavez attended their son's orientation at school. At that time, an argument ensued between Monique Chavez and Officer D. regarding visitation, and Monique Chavez started to curse and yell at Officer D. Officer D. alleged that he was entitled to visitation on this date. Officer D. allowed Monique Chavez to take their son, because he did not want a confrontation at the school. Officer D. denied that he touched Monique Chavez at the school.

Officer D. stated that he drove home, and he called Monique Chavez. Officer D. stated to Monique Chavez that her actions were ridiculous, and she was only hurting their son. Officer D. stated that he only wants what is best for their son. Mr. Gonzales then grabbed the phone and started cursing and threatening Officer D. Mr. Gonzales threatened to "beat your ass" to Officer D., and stated that Officer D. was not the only one with a gun, and that if Officer D. came after Mr. Gonzales with a gun, that he would kill Officer D.

Officer D. stated that Monique Chavez's mother called him and said that CYFD had opened a case to investigate possible abuse at Monique Chavez's home. After that, Monique Chavez called Officer D. and began to curse, and accused Officer D. of making the CYFD referral. Officer D. stated to Monique Chavez that he did not want his son around abusive behavior. Monique Chavez and Officer D. do not have a written visitation agreement, but only a verbal agreement. Officer D. obtained an attorney because of the escalation of custody issues.

Officer D. stated that he did not know where Monique Chavez lived, and denied stalking her. Officer D. denied running Mr. Gonzales' information through NCIC, or looking up his criminal history.

The IA Investigator noted that the complaint filed against Officer D. occurred one day after Mr. Gonzales had been arrested for a traffic violation, and possession of marijuana and drug paraphernalia.

The IA Investigator requested APD records staff to conduct a three-month search of NCIC inquiries run by Officer D. The investigation revealed that Officer D. had not requested information about Dominic Gonzales through the police computer system.

### **III. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING OFFICER D.'S CONDUCT**

(A) I, as Independent Review Officer, reviewed Albuquerque Police Department General Order 1-04-1(G)(1) regarding Officer D.'s conduct, which states:

***Conduct unbecoming an officer or employee shall include:  
(1) That which could bring the department into disrepute.***

Mr. Gonzales alleged that Officer D. threatened to shoot him. Mr. Gonzales also alleged that Officer D. acted inappropriately toward the mother of Officer D.'s child, Monique Chavez. Both Mr. Gonzales and Ms. Chavez refused to cooperate with the Internal Affairs Investigator. Officer D. denied the allegation and said that he had hired an attorney to assist him with custody disputes with Ms. Chavez.

I find the allegation of a violation of this SOP against Officer D. was **NOT SUSTAINED**, which means there is insufficient evidence to prove or disprove the allegation concerning Officer D.'s conduct.

(B) I, as Independent Review Officer, reviewed Albuquerque Police Department General Order 1-04-09(F)(2) regarding Officer D.'s conduct, which states:

***Personnel shall not use their official position...to obtain privileges not otherwise available to them except in the performance of duty.***



Letter to Mr. Gonzales  
November 15, 2013  
Page 4

There was no credible evidence that Officer D. used his position to obtain information about Mr. Gonzales. A review of the APD police computer system showed that Officer D. had not made any inquiries regarding Mr. Gonzales. When the police had arrested Mr. Gonzales in a vehicle which was registered to Officer D., the police called Officer D. about the vehicle, which would be normal procedure.

I find the allegation of a violation of this SOP against Officer D. was **UNFOUNDED**, which means the allegation is false or not based on valid facts.

Chief Banks agrees with these findings. Your complaint and these findings are made part of Officers D.'s permanent record.

The Police Oversight Commission (POC) agrees with these findings.

You have the right to appeal this decision. Section 9-4-1-9(A) of the Police Oversight Ordinance allows any person who has filed a citizen complaint and who is dissatisfied with the findings of the IRO or the Chief to appeal that decision to the POC within ten business days of receipt of this letter. Please promptly communicate your desire to appeal in a signed writing to the undersigned. Include your CPC number.

If you have a computer available, we would greatly appreciate your completing our client survey form at <http://www.cabq.gov/iro/survey>.

Thank you for participating in the process of civilian oversight of the police, ensuring officers are held accountable, and improving the process.

Sincerely,



Robin S. Hammer, Esq.  
Independent Review Officer  
(505) 924-3770

cc: Police Oversight Commission  
Albuquerque Police Department Chief of Police

M004410



## Hammer, Robin

---

**From:** Hammer, Robin  
**Sent:** Tuesday, June 09, 2015 5:18 PM  
**To:** 'DVDiepen'  
**Cc:** 'Nicholas T Davis'; 'Kevin Martinez'; APD IPRA  
**Subject:** RE: Shoemaker - IPRA Request  
**Attachments:** 2015 06 04 Phil Davis IPRA Ltr.pdf

Mr. Davis:

This email will acknowledge receipt of your public records request dated June 4, 2015.

We are reviewing your request to determine what public records are responsive and whether any exceptions to their production apply. Because of the nature of your request, it will take more than three days to respond. We will continue our review and contact you prior to the expiration of fifteen (15) days from the receipt of your request.

Please be aware that the Albuquerque Police Department (APD) is the primary custodian for Citizen Police Complaint (CPC) cases. The Civilian Police Oversight Agency keeps and maintains only correspondence related to individual CPC cases. I am forwarding your request to APD's IPRA Division ([apdipra@cabq.gov](mailto:apdipra@cabq.gov)) to determine if APD has any responsive documents.

Please do not hesitate to contact me if you have any questions or comments.

Kind regards,

Robin S. Hammer, Esq.  
Acting Executive Director  
Civilian Police Oversight Agency  
City of Albuquerque  
P.O. Box 1293  
Albuquerque, NM 87103  
(505) 924-3774  
Fax: (505) 924-3775  
<http://www.cabq.gov/cpoa>

-----Original Message-----

From: DVDiepen [<mailto:beaches@swcp.com>]  
Sent: Thursday, June 04, 2015 10:53 AM  
To: Hammer, Robin  
Cc: Nicholas T Davis; Kevin Martinez  
Subject: Shoemaker - IPRA Request

Dear Ms. Hammer:

Please find attached an IPRA request in letter form regarding Jeremy Dear in the Shoemaker v. City of Albuquerque matter.

Thank you.

Donna Van Diepen  
Secretary to

Philip B. Davis  
Law Office of Philip B. Davis  
814 Marquette Avenue, NW  
Albuquerque, NM 87102  
505 242-1904 voice  
505 242-1864 fax  
[davis@swcp.com](mailto:davis@swcp.com)

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This email has been checked for viruses by Avast antivirus software.  
<http://www.avast.com>

**LAW OFFICE OF PHILIP B. DAVIS**

Philip B. Davis  
Nicholas T. Davis

814 Marquette Ave NW  
Albuquerque, NM 87102  
(Office) 505-242-1904  
(Fax) 505-242-1864

**PHILIP B. DAVIS**  
davis@swcp.com

June 4, 2015

**BY EMAIL ONLY**

Robin S. Hammer  
Independent Review Office  
P.O. Box 1293  
Albuquerque, NM 87103-1293  
[rhammer@cabq.gov](mailto:rhammer@cabq.gov)

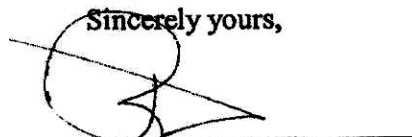
Re: IPRA Request

Dear Ms. Hammer:

Pursuant to the Inspection of Public Records Act, NMSA 1978, §14-2-4, *et seq.*, I make this IPRA request asking you to produce to my office all records in the possession of the Office of the Internal Review Officer in any way related to former Albuquerque Police Department Officer Jeremy Dear, including but not limited to personnel files, citizen complaints, disciplinary actions, interviews, witness statements, audio or video recordings, and communications from or to Albuquerque Police Department personnel or personnel of the City of Albuquerque in any way relating to former Officer Dear.

Thank you very much.

Sincerely yours,

  
Philip B. Davis

PBD:dvv

cc: Nicholas T. Davis (by email)  
Kevin Martinez (by email)