

STATE OF NEW MEXICO  
OFFICE OF THE ATTORNEY GENERAL



HECTOR H. BALDERAS  
ATTORNEY GENERAL

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October 16, 2017

City of Albuquerque  
Jeffrey Driggers  
Managing Assistant City Attorney  
P.O. Box 1293  
Albuquerque, NM 87103  
Email: [jdriggers@cabq.gov](mailto:jdriggers@cabq.gov)

**Re: Inspection of Public Records Act Complaint – Albuquerque Police Department**

Dear Mr. Driggers:

We have reviewed the complaints submitted by Quintin McShan on January 8, 2017, alleging that the Albuquerque Police Department (“APD”) violated the Inspection of Public Records Act, NMSA 1978, §§ 14-2-1 to -12 (as amended through 2013) (“IPRA”). We also have reviewed your response, on behalf of APD, to our inquiry regarding the complaints, *see* letter from Lara C. Sundermann (Feb. 6, 2017) (“APD’s Response”). Based on our review, as discussed in more detail below, we conclude that APD violated IPRA by providing untimely responses to inspection requests, charging for printed copies of records available in electronic format, and improperly denying inspection of responsive public records.

The complaints allege that APD violated IPRA in connection with requests to inspect public records Mr. McShan made on April 26, 2016 and November 29, 2016. We discuss each request and corresponding allegations below. Unless otherwise indicated, all references are to information provided in and enclosed with the complaints and APD’s Response.

April 26, 2016 Request

On April 26, 2016, Mr. McShan submitted an email request to APD’s records custodian “for any and all records, reports, police reports[,] documents, audio recordings, video recordings, forms or files including correspondence from or to the Civilian Police Oversight Agency, from January 1, 2011 to present” involving two individuals identified in the request. The request stated that Mr. McShan preferred to receive further communication regarding the request electronically and to receive responsive records electronically.

On April 28, 2016, APD's records custodian asked Mr. McShan for clarification of his request, which Mr. McShan provided on April 29. APD acknowledged the request on May 2, 2016 and notified Mr. McShan on May 17 that records responsive to his request were available for inspection. The records provided included 290 printed pages, two background searches and one disc of emails. On May 25, Mr. McShan picked up the records and paid \$161.75 in copying fees.

On June 1, 2016, Mr. McShan emailed APD's records custodian asking about photographs and video recordings responding to his April 26 request that APD had not provided. APD responded on June 2 and asked Mr. McShan to provide the case numbers for the photographs and videos he was requesting. By return email, Mr. McShan indicated that he sought photographs and video recordings for all case numbers listed in the background reports APD provided in response to Mr. McShan's April 26 response. Following a series of email exchanges between the records custodian and Mr. McShan regarding the availability of responsive photographs and video recordings, APD notified Mr. McShan on August 15, 2016, that the records were available for inspection.

The complaint alleges that APD (1) failed to provide records responsive to Mr. McShan's April 26, 2016 request within the time required by IPRA, and (2) did not comply with Mr. McShan's request for copies of responsive records in electronic format.

#### *1. Timeliness of APD's Response*

In pertinent part, IPRA provides:

A custodian receiving a written request shall permit ... inspection immediately or as soon as is practicable under the circumstances, but not later than fifteen days after receiving a written request. If inspection is not permitted within three business days, the custodian shall explain in writing when the records will be available for inspection.... The three-day period shall not begin until the written request is delivered to the office of the custodian.

NMSA 1978, § 14-2-8(D).

APD's records custodian received Mr. McShan's request on April 26, 2016. Under Section 14-2-8(D), APD should have provided a written explanation of when the records would be available on or before April 29 and permitted inspection no later than May 11. APD requested clarification of Mr. McShan's request on April 28, but did not provide the required acknowledgement until May 2, or four business days after receiving the request, and missed IPRA's deadline for permitting inspection by six days.

While in violation of Section 14-2-8(D), APD's delays in responding to Mr. McShan's request and permitting inspection, by themselves, did not substantially interfere with Mr. McShan's right to inspect public records. However, it appears that APD also failed to permit inspection of photographs and video recordings responsive to Mr. McShan's April 26 request until August 15, 2016, or almost four months later. As discussed above, Mr. McShan requested "any and all records" related to two individuals. "Public records" for purposes of a request under IPRA include

“photographs, recordings and other materials, regardless of physical form or characteristics.” Consequently, photographs and video recordings related to the two individuals named in Mr. McShan’s request were among the responsive public records that should have been available for inspection on May 17.<sup>1</sup>

APD contends that it failed to provide responsive photographs and video recordings because Mr. McShan did not identify them “with reasonable particularity,” as required by IPRA. *See* NMSA 1978, § 14-2-8(C). Specifically, APD states that had Mr. McShan provided the case numbers for the photographs and videos, it would have expedited APD’s search for responsive records. APD does not explain why Mr. McShan’s description of the records he sought in his April 26 request was sufficiently specific for all records except those in the form of photographs and video recordings. We believe the description of records sought in Mr. McShan’s April 26 request met IPRA’s requirements for “reasonable particularity,” and APD had no authority to deny or delay inspection of records responsive to Mr. McShan’s request beyond the time allowed by IPRA.<sup>2</sup>

## 2. *Electronic Copies*

Under IPRA, “[a] custodian shall provide a copy of a public record in electronic format if the public record is available in electronic format and an electronic copy is specifically requested.” NMSA 1978, § 14-2-9(B). “Requested public records containing information that is exempt and nonexempt from disclosure shall be separated by the custodian prior to inspection, and the nonexempt information shall be made available for inspection.” *Id.* § 14-2-9(A). The custodian is required to remove “[e]xempt information in an electronic document along with the corresponding metadata prior to disclosure by utilizing methods or redaction tools that prevent the recovery of exempt information from a redacted electronic document.” *Id.*

In his April 26, 2016 records request, Mr. McShan stated that he preferred to receive copies of responsive records electronically. We believe this was sufficient to trigger APD’s obligation under Section 14-2-9(B) to provide copies of public records in electronic format, if they were available in electronic format.

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<sup>1</sup> When APD notified Mr. McShan on May 17, 2016 that it had completed his April 26 public records request, APD requested Mr. McShan to advise APD “if any audio/video recordings are needed by submitting a new request for them, specifying the case numbers the recordings are associated with.” *See* APD’s Response, Ex. E. As discussed in the text, we have concluded that Mr. McShan’s April 26 request adequately described the records he sought, including video recordings and photographs, and all records responsive to his request should have been available for inspection on May 17. APD was free to ask Mr. McShan to narrow his request or provide more specific information to facilitate APD’s search for responsive documents, but remained obligated to provide all responsive records within fifteen days of Mr. McShan’s request. APD had no authority to require Mr. McShan to submit a new request for records that were covered by his original public records request.

<sup>2</sup> Evidently, APD did not consider Mr. McShan’s April 26 request “excessively burdensome or broad” under Section 14-2-10, which would have allowed APD “an additional reasonable period of time” for compliance.

According to APD's Response, APD maintained records responsive to Mr. McShan's request in electronic format. Nevertheless, APD contends that it was unable to provide electronic copies to Mr. McShan because APD could not redact exempt information in the electronic records without printing the records. Assuming the records would otherwise have been available to Mr. McShan in electronic format, we do not believe APD's need to print the records in order to separate out exempt information excused APD from complying with its obligation to provide electronic copies under Section 14-2-9(B).

As quoted above, Section 14-2-9(B) requires a public body to provide electronic copies in response to a public records request if the public records are available in electronic format and electronic copies are specifically requested. When an electronic record contains exempt information, Section 14-2-9(A) requires its removal before disclosure with methods "that prevent the recovery of exempt information from a redacted *electronic* document" (emphasis added). IPRA contemplates that a public body will employ appropriate methods for removing exempt information in electronic records before allowing inspection of the electronic documents. IPRA does not except a public body that lacks the capability to redact exempt information from electronic records from IPRA's requirement that the public body provide electronic copies.

From APD's Response, it appears that APD prints public records that are available in electronic format only when necessary to comply with APD's responsibility under Section 14-2-9(A) to separate exempt and nonexempt information prior to inspection. Under these circumstances, by imposing a charge for printed copies on a requester who asked for and is entitled to electronic copies under Section 14-2-9(B), APD is improperly shifting the burden or cost of separating exempt and nonexempt information to the requester. We encourage APD to obtain the software or tools that would enable APD to redact exempt information in electronic records, as contemplated by IPRA. If that is not possible, APD should refrain from charging requesters for printed copies of public records that are requested and available in electronic format.

#### November 29, 2016 Request

By email dated November 29, 2016 addressed to APD's records custodian, Mr. McShan requested "a list of any and all tort claims received by [APD] from January 1, 2000, to present, claiming a violation of [IPRA] and the number of pages included in each claim." On December 14, 2016, APD provided Mr. McShan with a list of IPRA claims involving APD from January 1, 2000 to the present. APD did not provide the number of pages in each claim, stating that it did not track that information. By return email on December 14, Mr. McShan requested that APD count the number of pages per claim or make the claim files available for inspection. On December 16, APD responded by requesting that Mr. McShan look up the listed claims on the New Mexico courts website.

The complaint alleges that APD violated IPRA by failing to provide the number of pages in each tort claim and not allowing inspection of the tort claim files.

IPRA requires a public body to provide a requester with access to responsive, nonexempt public records in its custody at the time of the request. IPRA does not apply to requests other than requests

for “public records,” as defined by IPRA. *See* NMSA 1978, § 14-2-6(G) (definition of “public records”). A public body is not required to provide answers to questions or create a record in response to a request. *See* NMSA 1978, § 14-2-8(B). *See also* Attorney General’s IPRA Compliance Guide, p. 32, Examples 47 & 49 (8<sup>th</sup> ed. 2015) (available on the Office of the Attorney General’s website at [www.nmag.gov](http://www.nmag.gov)) (records custodian not required compile a list from public body’s files in response to an inspection request).

Mr. McShan’s November 29 records request was for “a list” of tort claims involving IPRA and “the number of pages included in each claim.” As discussed above, IPRA requires a public body to provide “public records” in response to a request. It does not require a public body to provide information, compile previously un-compiled information from its files or otherwise create a new record in response to a request. Unless a list of claims existed at the time of Mr. McShan’s request, APD was under no obligation to create a list in response to the request or to count the number of pages in each claim.

Although not required by IPRA, APD chose to create a list of tort claims responding to Mr. McShan’s request, but did not provide Mr. McShan with the number of pages in each claim. While IPRA did not require APD to count the pages, APD violated IPRA when, in response to Mr. McShan’s December 14 request to inspect the pertinent claim files, it referred Mr. McShan to the New Mexico courts website.

Regardless of whether Mr. McShan could have obtained the information he sought elsewhere, his request was for files or records of the tort claims maintained by APD. Under IPRA, APD should have responded to Mr. McShan’s request, as with any public records request, by making the records available for inspection or, if the records included information that IPRA excepted from disclosure, following IPRA’s procedures for denying inspection of the records or portions of the records. *See* NMSA 1978, §§ 14-2-8(D), 14-2-11. For future reference, a mere referral to another site, without proper denial is insufficient under IPRA.

#### Corrective Action

As discussed above, we conclude that APD:

- violated Section 14-2-8(D) of IPRA by improperly delaying inspection of photographs and video recordings responsive to Mr. McShan’s April 26, 2016 records request for almost four months;
- violated Section 14-2-9(B) by charging Mr. McShan for printed copies of records Mr. McShan requested in electronic format and which were available in electronic format; and

Despite its violations, APD has complied with its obligation under IPRA to provide Mr. McShan with records responsive to his April 26, 2016 request. *See Derringer v. State Livestock Board*, 2003-NMCA-073, ¶ 15, 133 N.M. 721 (a public body is not liable for damages under IPRA in an action brought after the public body has complied with IPRA), *cert. denied*, 133 N.M. 727 (2003).

City of Albuquerque

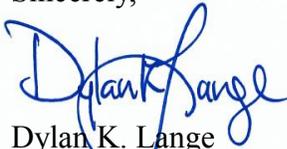
October 16, 2017

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It appears that APD has not complied with its obligation to provide records responsive to Mr. McShan's December 14, 2016 request to inspect APD's records of tort claims alleging IPRA violations. Unless it has already, we ask that APD provide responsive records to Mr. McShan for inspection or, if justified, a written explanation of denial as soon as possible, but no later than 15 days after receiving this determination. Once we receive confirmation that records responsive to Mr. McShan's request have been provided or properly denied, we will consider this matter resolved.

If you have any questions about this determination or IPRA in general, please let me know.

Sincerely,



Dylan K. Lange  
Assistant Attorney General

Enclos.

cc: Yvette Gurule  
Quintin McShan

**INSPECTION OF PUBLIC RECORDS ACT (“IPRA”) COMPLAINT FORM**

New Mexico Office of the Attorney General  
Open Government Division

**YOUR CONTACT INFORMATION:**

First Name: Quintin Last Name: McShan

Address: [REDACTED]

City: [REDACTED] State: [REDACTED] Zip Code: [REDACTED]

Phone Number: [REDACTED]

Email: [REDACTED]

**IPRA REQUEST TO THE PUBLIC BODY:**

Name of the Public Body that is the subject of this complaint (including city/town, county or region, if applicable): City of Albuquerque Albuquerque Police Department

Format of IPRA Request:  Written  Oral

Date IPRA Request was Submitted to the Public Body: November 29, 2016

Date of all Responses Received from the Public Body: Have not received

**ALLEGED VIOLATIONS OF IPRA BY THE PUBLIC BODY:** Please select from the following list the violations you allege the public body committed. Check all that apply.

**RECORDS:**

Records were provided, but they were not responsive to the request.

The request was for records in electronic format and although the records are available in electronic format, the copies of the public records were not provided in an electronic format.

## DENIED REQUESTS TO INSPECT PUBLIC RECORDS

X Although some records were provided, the custodian did not include a written explanation for denying the production of exempt records or for redacting confidential information from records.

### NOTICE

DEADLINES (For purposes of deadlines imposed by the IPRA, the date the request is received is not counted)

X Inspection was not allowed within three (3) business days and the public body did not timely send a written “three-day letter” to the requester explaining when the records would be available or when the public body would respond to the request.

X The public body did not allow inspection or otherwise respond to the request within fifteen (15) calendar days from the date the custodian received the request.

**DETAILED EXPLANATION OF ALLEGED IPRA VIOLATIONS** (Required): Please provide a description of the actions taken by the public body that violated the IPRA, including specific dates and why you believe the IPRA has been violated.

I am claiming a violation of the Inspection of Public Records Act. On November 29, 2016, I electronically requested from Public Record Requests [City of Albuquerque](#) and was assigned Request #16-2906, for a list of any and all tort claims received by the Albuquerque Police Department from January 1, 2000, to November 29, 2016, claiming a violation of the Inspection of Public Records Act and the number of pages included in each claim.

On December 14, 2016 I received an excel spread sheet with approximately 22 entries. This response from Eva Taylor, " [evataylor@cabq.gov](mailto:evataylor@cabq.gov) stated “We do not track “the number of pages in each claim”. I then requested on December 14, 2016, Please either pull them all and make them ready for inspection or count the number of pages per tort whichever was easier. She then responded on December 16, 2016, “Please use the case numbers in the list provided at the website <https://caselookup.nmcourts.gov>”.

It is my contention that the records provided were not responsive to the request as I asked for the number of pages per tort notice and the custodian of records or their representative intentionally refused to provide the number of pages per tort.

Secondly I requested that if they were going to refuse to give me a page count that they make the documents available for inspection. They refused and continue to refuse to make the public records in their possession available for inspection.

Lastly I asked On December 16, 2016 if the December 14, 2016 email wherein they stated the records could be obtained through the New Mexico Courts could be considered a letter of denial. They did not respond and have not as of January 9, 2017.

I believed the Custodian of Records is in violation of the INSPECTION OF PUBLIC RECORDS ACT because:

- Asking for the number of pages in a document is a valid request for a public record.
- They intentionally refused to provide the number of pages without providing any reason other than they do not track the number of pages in a document.
- They appear to be stating that they do not have to respond to any IPRA request that would requires simple addition. Such a theory would mean they would be exempt from any request that requires addition. That would mean they would not have to respond to the amount of money spent on a contract between a certain period of time, the number of officers fired or disciplined in a specific time frame or the number of any item bought or the number of employees employed in a specific time frame.
- They did not state why the number of pages could not be supplied.
- I requested to know if they were denying my request they would not respond.
- I requested to know if the December 14, 2016 email wherein they stated the records could be obtained through the New Mexico Courts could be considered a letter of denial.
- They did not respond to my request for a letter of denial.
- My December 14, 2016, request to inspect the documents listed in the original request was ignored and not responded to.
- The records in my ignored December 14, 2016, inspection request are in the possession of the Custodian of Records.
- The implication is that the agency has no duty to provide public documents directed to specific individuals within the agency alleging acts and omissions of misconduct, if there is a case number in a court that corresponds to the misconduct.

**ADDITIONAL INFORMATION:** Please provide a copy of your original inspection request (if written), and any documentation or evidence you have regarding the alleged IPRA violation.

The below is from the website [Public Record Requests City of Albuquerque](#)

On 11/29/16, we received your request to inspect:

a list of any and all tort claims received by the Albuquerque Police Department from January 1, 2000, to present, claiming a violation of the Inspection of Public Records Act and the number of pages included in each claim

External Message

On 11/29/16, we received your request to inspect:

a list of any and all tort claims received by the Albuquerque Police Department from January 1, 2000, to present, claiming a violation of the Inspection of Public Records Act and the number of pages included in each claim. Although it may be sooner, it will take up to 15 calendar days to respond your request, which will be on 12/14/16. about 1 month ago by Crystal Velarde (Staff)

## **Emails**

RE: Your Inspection of Public Records Request - 16-2906

From: "Taylor, Eva" <evataylor@cabq.gov>

To: mcshan <mcshan@homelanditc.com>

Cc: "Ennen, Peter M." <PEnnen@cabq.gov>; "Oney, Kathleen" <koney@cabq.gov>

Date: 12/16/16 09:32

Sir,

Please use the case numbers in the list provided at the website <https://caselookup.nmcourts.gov> .

Thank you.

Eva Taylor ARM, AIC  
Tort Claims Manager  
City of Albuquerque  
Risk Management Division  
(505)768-3263  
[evataylor@cabq.gov](mailto:evataylor@cabq.gov)

**From:** mcshan [mailto:mcshan@homelanditc.com]

**Sent:** Wednesday, December 14, 2016 2:25 PM

**To:** Taylor, Eva

**Cc:** Ennen, Peter M.; Oney, Kathleen  
**Subject:** Re: Your Inspection of Public Records Request - 16-2906

Please either pull them all and make them ready for inspection or count the number of pages per tort whichever is easier.

Homeland

On December 14, 2016 at 1:24 PM "Taylor, Eva" <[evataylor@cabq.gov](mailto:evataylor@cabq.gov)> wrote:  
Dear Quintin McShan;

This email is in response to your request for Inspection of Public Record (IPRA) claims involving the Albuquerque Police Department from 1/1/2000 to present.

We do not track "the number of pages in each claim".

Attached please find the requested list of claims.

Thank you.

Eva Taylor ARM, AIC  
Tort Claims Manager  
City of Albuquerque  
Risk Management Division  
(505)768-3263  
[evataylor@cabq.gov](mailto:evataylor@cabq.gov)

May I consider this e-mail a written denial by the City of Albuquerque to provide the number of pages of each tort per my original request or to allow for the inspection of the public documents in the possession of the City of Albuquerque?

Homeland

On December 16, 2016 at 9:32 AM "Taylor, Eva" <[evataylor@cabq.gov](mailto:evataylor@cabq.gov)> wrote:

Sir,

Please use the case numbers in the list provided at the website <https://caselookup.nmcourts.gov> .

Thank you.

Eva Taylor ARM, AIC  
Tort Claims Manager  
City of Albuquerque  
Risk Management Division

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**Subject:** Re: Your Inspection of Public Records Request - 16-2906

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Dear Quintin McShan;

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We do not track “the number of pages in each claim”.

Attached please find the requested list of claims.

Thank you.

Eva Taylor ARM, AIC

Tort Claims Manager

City of Albuquerque

Risk Management Division

(505)768-3263

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

RE: Your Inspection of Public Records Request - 16-2906

From: mcshan <mcshan@homelanditc.com>

To: "Taylor, Eva" <evataylor@cabq.gov>

Cc: "Ennen, Peter M." <PEnnen@cabq.gov>; "Oney, Kathleen" <koney@cabq.gov>

Date: 12/16/16 10:09

May I consider this e-mail a written denial by the City of Albuquerque to provide the number of pages of each tort per my original request or to allow for the inspection of the public documents in the possession of the City of Albuquerque?

Homeland

On December 16, 2016 at 9:32 AM "Taylor, Eva" <evataylor@cabq.gov> wrote:

Sir,

Please use the case numbers in the list provided at the website <https://caselookup.nmcourts.gov>.

Thank you.

Eva Taylor ARM, AIC

Tort Claims Manager

City of Albuquerque

Risk Management Division

(505)768-3263

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

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**To:** Taylor, Eva

**Cc:** Ennen, Peter M.; Oney, Kathleen

**Subject:** Re: Your Inspection of Public Records Request - 16-2906

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Dear Quintin McShan;

This email is in response to your request for Inspection of Public Record (IPRA) claims involving the Albuquerque Police Department from 1/1/2000 to present.

We do not track “the number of pages in each claim”.

Attached please find the requested list of claims.

Thank you.

Eva Taylor ARM, AIC

Tort Claims Manager

City of Albuquerque

Risk Management Division

(505)768-3263

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

**INSPECTION OF PUBLIC RECORDS ACT ("IPRA") COMPLAINT FORM**

New Mexico Office of the Attorney General

Open Government Division

**YOUR CONTACT INFORMATION:**

First Name: Quintin

Last Name: McShan

Address: [REDACTED]

City: [REDACTED]

State: [REDACTED] Zip Code: [REDACTED]

Phone Number: [REDACTED]

Email: [REDACTED]

**IPRA REQUEST TO THE PUBLIC BODY:**

Name of the Public Body that is the subject of this complaint (including city/town, county or region, if applicable): City of Albuquerque Albuquerque Police Department

Format of IPRA Request:  Written  Oral

Date IPRA Request was Submitted to the Public Body: April 26, 2016

Date of all Responses Received from the Public Body: August 15, 2016

**ALLEGED VIOLATIONS OF IPRA BY THE PUBLIC BODY:** Please select from the following list the violations you allege the public body committed. Check all that apply.

**RECORDS:**

The request was for records in electronic format and although the records are available in electronic format, the copies of the public records were not provided in an electronic format.

**DEADLINES** (For purposes of deadlines imposed by the IPRA, the date the request is received is not counted)

Inspection was not allowed within three (3) business days and the public body did not timely send a written "three-day letter" to the requester explaining when the records would be available or when the public body would respond to the request.

The public body did not allow inspection or otherwise respond to the request within fifteen (15) calendar days from the date the custodian received the request.

**DETAILED EXPLANATION OF ALLEGED IPRA VIOLATIONS** (Required): Please provide a description of the actions taken by the public body that violated the IPRA, including specific dates and why you believe the IPRA has been violated.

On April 26, 2016, I made a request for any and all records, reports, police reports documents, audio recordings, video recordings, forms or files including correspondence from or to the Civilian Police Oversight Agency, from January 1, 2011 to present involving Dalton Sheriff Vaughn, Original name - Edward Torres, Michelle (Lewallen) Vaughn and provided dates of birth and social security numbers.

This request was sent via email to the custodian of records and was subsequently forwarded to Javier Urban, Kevin A Morrow and Diane Roberts on behalf of the custodian of records.

1. The custodian of records failed to permit inspection "immediately or as soon as practicable under the circumstances, but not later than fifteen [calendar] days after receiving a written request." 14-2-8.D

2. The inspection was not allowed within three business days, the custodian did not explain in writing when the records would be available for inspection or when the public body would respond to the request." 14-2-8.D

On May 17, 2016, Diane Roberts informed me that the records I requested were available for pickup and requested a payment by cash (\$161.75). My request was electronic via e-mail and I requested to receive records electronically, and offered to provide a computer disk (CD) or USB. I received paper documents.

The documents I received did not include the requested video or audio files. After I requested the process of making a formal complaint against Mr. Javier Urban the main recipient of most of my follow up requests for action on the IPRA on August 5, 2016, I was provided the requested files on August 15, 2016.

**ADDITIONAL INFORMATION:** Please provide a copy of your original inspection request (if written), and any documentation or evidence you have regarding the alleged IPRA violation.

RE: FW: Formal Complaint

From: "Roberts, Diane A" <daroberts@cabq.gov>  
To: 'mcshan' <mcshan@homelanditc.com>  
Cc: "Urban, Javier F." <jurban@cabq.gov>; "Morrow, Kevin A." <kmorrow@cabq.gov>  
Date: 8/15/16 13:25

Mr. McShan,

The following cases have either photographs or lapel videos:

- 12-0023033 – photographs
- 14-0039931 – lapel video
- 12-0064798 – photographs & lapel videos
- 13-0101111 – photographs & lapel videos

All of the discs are available for pick-up at 400 Roma Ave NW, Albuquerque, NM 87102.

Kind regards,

Office of the Acting APD Records Custodian

Javier Urban

Acting APD Records Custodian/Central Records Supervisor

400 Roma Avenue NW, Alb., NM 87102

Office (505) 768-2137

Cell (505-917-6534

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

**From:** mcshan [mailto:mcshan@homelanditc.com]

**Sent:** Tuesday, August 09, 2016 7:27 AM

**To:** Urban, Javier F.

**Cc:** Morrow, Kevin A.; Roberts, Diane A

**Subject:** Re: FW: Formal Complaint

Thank you

On August 8, 2016 at 4:07 PM "Urban, Javier F." <jurban@cabq.gov> wrote:

Good afternoon Mr. McShan. I was able to obtain some photographs regarding three cases that was listed on the backgrounds. These photos are available for pick up. All other cases did not have photos available. I am currently going through the cases to determine what videos we will have. I will let you know within the next couple of days on what videos will be available.

Thank you,

**Javier Urban**

**Acting Records Custodian/Central Records Supervisor**

**Imaging/PIU/OSU/IPRA**

**505-768-2137 (Desk)**

**505-917-6534 (Cell)**

**From:** Urban, Javier F.

**Sent:** Monday, August 08, 2016 8:29 AM

**To:** 'mcshan'

**Cc:** Morrow, Kevin A.; Roberts, Diane A

**Subject:** RE: Formal Complaint

Good morning Mr. McShan. I do apologize for the delay and any inconvenience. The employee who is assigned to gather the following materials, has been out of the office due to a death in the family. I have also been out the last few days due to an illness. I will look to see where she is at on these items and I will ensure that we provide you some if not all of these items by the end of business today. I will also waive all fees pertaining to your request due to the inconvenience. I will contact you later this afternoon to inform you which records are available. Again, I do apologize for the delay on your request.

If you do need to file a complaint, you can do so on the following website. <http://www.cabq.gov/cpoa>

Please let me know if I can assist any further.

Thank you,

**Javier Urban**

**Acting Records Custodian/Central Records Supervisor**

**Imaging/PIU/OSU/IPRA**

**505-768-2137 (Desk)**

**505-917-6534 (Cell)**

**From:** mcshan [<mailto:mcshan@homelanditc.com>]

**Sent:** Friday, August 05, 2016 1:21 PM

**To:** Urban, Javier F.

**Cc:** Morrow, Kevin A.; Roberts, Diane A

**Subject:** RE: Formal Complaint

I repeat my contention that the City of Albuquerque continues to be in possession of requested and unreleased records subject to the IPRA, unless they have been destroyed or otherwise made unavailable after my April 26, 2016, request.

I believe you have intentionally violated the law for months and will continue to do so.

I request that you please provide me with:

The City of Albuquerque's process for making a formal complaint against you for intentionally

violating the Inspection of Public Records Act.

The Albuquerque Police Department's process for making a formal complaint against you for intentionally violating the Inspection of Public Records Act.

A point of contact by name, address, e-mail and telephone number at the City of Albuquerque responsible for receiving a formal complaint against you.

A point of contact by name, address, e-mail and telephone number at the Albuquerque Police Department responsible for receiving a formal complaint against you.

Thank you

Quintin D McShan

On July 20, 2016 at 3:26 PM "Urban, Javier F." <[jurban@cabq.gov](mailto:jurban@cabq.gov)> wrote:

Good afternoon Mr. Mcshan. I had sent a previous email requesting case numbers that you would like photos and videos for. Are you requesting photos and videos for every case on the backgrounds? Please let me know and we will get this processed as soon as possible.

Thank you,

**Javier Urban**

**Acting Records Custodian/Central Records Supervisor**

**Imaging/PIU/OSU/IPRA**

**505-768-2137 (Desk)**

**505-917-6534 (Cell)**

**From:** mcshan [<mailto:mcshan@homelanditc.com>]

**Sent:** Wednesday, July 20, 2016 5:50 AM

**To:** Roberts, Diane A

**Cc:** Garza, Jacqueline M.; Morrow, Kevin A.; Urban, Javier F.

**Subject:** Re: IPRA/CITIZEN/QUINTIN MCSHAN/DALTON VAUGHN - BACKGROUND & REPORTS/ Inspection of Public Records request Dalton Sheriff Vaughn April 26, 2016

In reference to my April 26, 2016, Inspection of Public Records request and June 1, 2016, reminder that your response was incomplete because the requested videos and photographs were not included, could you please advise on the status of that content.

Also is there a reason that you are not in violation of the statute?

Quintin D McShan

On June 11, 2016 at 10:11 AM mcshan <[mcshan@homelanditc.com](mailto:mcshan@homelanditc.com)> wrote:

I picked up the below items but there were no videos or photographs included. Please advise on the status of that content.

On May 17, 2016 at 11:34 AM "Roberts, Diane A" <[daroberts@cabq.gov](mailto:daroberts@cabq.gov)> wrote:

Mr. McShan,

This email will acknowledge completion of your public records request dated April 29, 2016.

Available Information:

- Background Check – Dalton Vaughn
- Background Check – Michelle LeWallen
- All Reports for both – the most recent report is attached
- CD of e-mails for Civilian Police Oversight Agency

**We have redacted protected personal identifiers pursuant to NMSA 1978, § 14-2-1(B).**

You may pick up the above items at:

**SECURITY STATION – 1<sup>st</sup> FLOOR**

**Law Enforcement Center**

**400 Roma Ave. NW**

**Albuquerque, NM 87102**

**Please contact (505) 768-2137 or (505) 768-2141 between the hours of 8:00 – 4:30. Provide security with a copy of the attached invoice.**

Please make payment by cash (\$161.75) or billed to your account.

Payment may also be made by company check made payable to City of Albuquerque.

**You may contact the City Clerk's Office at 505-924-3650 to schedule an appointment to review the documents. Please advise if any audio/video recordings are needed by submitting a new request for them, specifying the case numbers the recordings are associated with.**

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

Kind regards,

**Office of the Acting APD Records Custodian**

**Javier Urban**

**Acting APD Records Custodian/Central Records Supervisor**

**400 Roma Avenue NW, Alb., NM 87102**

**Office (505) 768-2137**

**Cell (505-917-6534**

**[apdipra@cabq.gov](mailto:apdipra@cabq.gov)**

**From:** Roberts, Diane A

**Sent:** Monday, May 02, 2016 11:04 AM

**To:** 'mcshan'

**Cc:** Urban, Javier F.; Garza, Jacqueline M.

**Subject:** IPRA/CITIZEN/QUINTIN MCSHAN/DALTON VAUGHN - BACKGROUND & REPORTS/ Inspection of Public Records request Dalton Sheriff Vaughn April 26, 2016

Mr. McShan,

This email will acknowledge receipt of your public records request *dated April 29, 2016*. Please be advised we are reviewing your request to determine what public records are responsive and whether any exceptions to their production apply. We will continue our review and contact you

prior to the expiration of fifteen (15) days from the receipt of your request.

Please note: providing a case number with your request will help expedite the retrieval and provision of the requested material.

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

Kind regards,

**Office of the Acting APD Records Custodian**

**Javier Urban**

**Acting APD Records Custodian/Central Records Supervisor**

**400 Roma Avenue NW, Alb., NM 87102**

**Office (505) 768-2137**

**Cell (505-917-6534**

**[apdipra@cabq.gov](mailto:apdipra@cabq.gov)**

**From:** mcshan [<mailto:mcshan@homelanditc.com>]

**Sent:** Friday, April 29, 2016 6:45 AM

**To:** APD IPRA

**Subject:** RE: Inspection of Public Records request Dalton Sheriff Vaughn April 26, 2016

I am requesting public records from the Albuquerque Police Department.

I am requesting public records held by the Albuquerque Police Department which includes any correspondence and e-mail to and from the Civilian Police Oversight Agency.

I am requesting any public records held by the Albuquerque Police Department about the individuals that would include any public records that would be a part of a background.

Thank you

On April 28, 2016 at 9:31 AM APD IPRA <[APDIPRA@cabq.gov](mailto:APDIPRA@cabq.gov)> wrote:

Good morning Mr. McShan. I wanted to get some clarification before we begin to process your request. Are you requesting records from the Albuquerque Police Department or from the Civilian Police Oversight Agency? Would you like a background for the following individual? Please let me know and we will begin to process.

Thank you,

**Javier Urban**

**Acting Records Custodian/Central Records Supervisor**

**Imaging/PIU/OSU/IPRA**

**505-768-2137 (Desk)**

**505-917-6534 (Cell)**

**From:** mcshan [<mailto:mcshan@homelanditc.com>]

**Sent:** Tuesday, April 26, 2016 9:34 AM

**To:** APD IPRA

**Subject:** Inspection of Public Records request Dalton Sheriff Vaughn April 26, 2016

Please see attached