

STATE OF NEW MEXICO
OFFICE OF THE ATTORNEY GENERAL



HECTOR H. BALDERAS
ATTORNEY GENERAL

July 5, 2017

VIA ELECTRONIC MAIL ONLY

Ethan Simon
PO Box 40337
Albuquerque, N.M. 87196
Email: ethan@zimmermansimon.com

Re: Inspection of Public Records Complaint – Carlsbad Police Department

Dear Mr. Simon:

The Office of the Attorney General, Open Government Division ("OGD"), has received your complaint alleging violations of the Inspection of Public Records Act ("IPRA"), NMSA 1978, Sections 14-2-1 to -12 (1947, as amended through 2013). The OGD's jurisdiction is limited to a review of the IPRA and Open Meetings Act ("OMA").

On July 27th, 2017, we received an email from you regarding your complaint in which you state that you have received all requested records and that the Carlsbad Police Department has completely complied. As such, the OGD will consider this matter closed.

If you have any concerns in the future, please do not hesitate to contact us.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dylan K. Lange".

Dylan K. Lange
Assistant Attorney General

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

New Mexico Office of the Attorney General

Open Government Division

2017 APR 20 AM 8:47

YOUR CONTACT INFORMATION:

First Name: ETHAN Last Name: SIMON

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): CARLSBAD POLICE DEPARTMENT

Format of IPRA Request: Written Oral

Date IPRA Request was Submitted to the Public Body: 12/16/16 and 3/27/17

Date of all Responses Received from the Public Body: ORAL RESPONSE IN DECEMBER

THAT REPORT/ENQUIRY WAS NOT REPLY, NO SUBSEQUENT FOLLOW UP, NO RESPONSE TO SECOND REQUEST

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

No records were provided.

The agency provided some but not all of the records responsive to the request.

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

The public body does not have custody or responsibility for the records, and the records custodian did not forward the request to the proper custodian.

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

- _____ 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.
- ✓ _____ No records were provided and the records custodian did not deliver or mail a written explanation to the requester within fifteen (15) calendar days after receiving the request that included a description of the records sought, the names and titles of each person responsible for denying the request, and a description of the reasons for the denial.

NOTICE

- _____ Public body did not post in a conspicuous location at its administrative office or on the public body's website a notice setting forth: the rights of any person to inspect the public body's public records, the public body's responsibility to make public records available for inspection, the procedures for requesting inspection of public records, the procedures for requesting copies of public records, and/or reasonable fees for copying public records

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.

FEES

- _____ The public body charged fees in excess of \$1.00 per printed page for documents 11"X17" or smaller, or charged fees that exceeded the actual costs to copy the records.
- _____ The public body did not provide a receipt upon 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 issued two IPRA requests to the Carlsbad Police Department (Copies Attached) to the custodian of records. Patry called me to tell me in December that the report was not finished but I was not given written notice nor was I furnished with any existing evidence.

My March 27 1994 was ignored

I believe the Carlsbad Police Department does not know the difference between an IPRA request and a police report request.

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.

Attached

Ethan Samuel Simon, Esq.
Ethan Simon Esq LLC

March 27, 2017

Carlsbad Police Department
Attn: Patsy Madrid
602 West Mermod Street
Carlsbad, NM 88221
Fax: (575) 885-2111

Re: IPRA REQUEST (SECOND REQUEST)

Dear Ms. Madrid,

Please accept this request for records pursuant to the New Mexico Inspection of Public Records Act, NMSA 1978, Section 14-2-1 et seq. I am requesting the following:

Any and all police reports, written reports, witness statements, affidavits, warrants, photographs, audio recordings, video recordings, lapel videos, CAD reports, 911 calls and any audio CAD recordings relating to the following criminal investigation:

Subject: Michael Schoon DOB 2/3/84

Location of Executed Warrant: 502 ½ Mesquite St. Carlsbad, NM 88220

Date of Executed Warrant: February 20, 2016

Charges: Possession of Child Pornography

Assigned Detective: Brian Nailer

Please provide in electronic format if available. Thank you.

If you will please provide the information with an invoice, I will pay the same immediately. Thank you. I remain,

Very Truly Yours,

Ethan Simon, Esq.

Post Office Box 40337
Albuquerque, NM 87196-0337
505.200.2639 Facsimile 505.639.4277
Ethan.Simon.ESQ@outlook.com

Ethan Samuel Simon, Esq.
Ethan Simon Esq LLC

December 6, 2016

Carlsbad Police Department
Attn: Patsy Madrid
602 West Mermod Street
Carlsbad, NM 88221

Re: IPRA REQUEST

Dear Ms. Madrid,

Please accept this request for records pursuant to the New Mexico Inspection of Public Records Act, NMSA 1978, Section 14-2-1 et seq. I am requesting the following:

Any and all police reports, written reports, witness statements, affidavits, warrants, photographs, audio recordings, video recordings, lapel videos, CAD reports, 911 calls and any audio CAD recordings relating to the following criminal investigation:

Subject: Michael Schoon DOB 2/3/84

Location of Executed Warrant: 502 ½ Mesquite St. Carlsbad, NM 88220

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Charges: Possession of Child Pornography

Assigned Detective: Brian Nailer

Please provide in electronic format if available. Thank you.

If you will please provide the information with an invoice, I will pay the same immediately. Thank you. I remain,

Very Truly Yours,

Ethan Simon, Esq.

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