

STATE OF NEW MEXICO
OFFICE OF THE ATTORNEY GENERAL



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August 25, 2016

Ricardo Garay
5282 Singer Road
Las Cruces, NM 88007

RE: Inspection of Public Records Act Complaint – NM Department of Motor Vehicle

Dear Mr. Garay:

This letter addresses the complaint that you filed with the Office of the Attorney General alleging that the State of New Mexico Department of Motor Vehicle (“MVD”) violated the Inspection of Public Records Act (“IPRA”), NMSA 1978, Sections 14-2-1 to -12 (1947, as amended through 2013) in connection with your IPRA Request.

With respect to your complaint, you allege that MVD only provided some but not all the records you requested or otherwise did not provide documents that were responsive to your request. We have received MVD’s response, wherein Deputy Chief Legal Counsel, Julia Belles, answered all of your allegations and attached supporting documents. I have enclosed MVD’s response to this letter.

I have reviewed your complaint, as well as the MVD’s response, and supporting documentation. I am unable to conclude that the MVD has violated IPRA. MVD states that it provided you all the records they maintain responsive to your request and have otherwise complied. Accordingly, we consider this matter closed. Thank you for affording our office this opportunity to be of assistance.

Sincerely,

A handwritten signature in blue ink that reads "Dylan K. Lange".

Dylan K. Lange
Assistant Attorney General

cc: Deputy Chief Legal Counsel, Julia Belles

RECEIVED MAY 10 2016

ATTORNEY GENERAL
2015 JUN 10 AM 8:35

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

New Mexico Office of the Attorney General
Open Government Division

YOUR CONTACT INFORMATION:

First Name: RICARDO Last Name: GARAY

Address: _____

City: _____ State: _____ Zip Code: _____

Phone Number: _____

Email: _____

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): State of New Mexico DMV

Format of IPRA Request: Written Oral email

Date IPRA Request was Submitted to the Public Body: Request was submitted 2 different times March 2016, April 18, 2016

Date of all Responses Received from the Public Body: They Never Responded in March. It wasn't until April 19, 21, 2016
First time when we requested. It was ignored

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.

We ARE ASKING DMV. When A Specific Date of entry into the states DMV Data base. They response from Custodian WAS Different than what WAS given ~~in~~ over telephone
There is a coverup and have changed the Dates in the DMV. File.

When I called the DMV they said the State of New Mexico DMV System Did not hit until February 10, 2016 for the termination of Mr. Rivas Policy which made sense because when the Sheriff pulled Mr. Rivas over they did not cite for no insurance or impound the vehicle.

It was not until I started filing complaints and they give different dates and have backdated.

If December 1, 2015 was the original date why did the Sheriff now file on Feb 18, 2016.

It has taken them months to respond, so it gave them time to change the dates!

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.

Original Inspection Request was sent online and was directed by DMV Mr. Frank Garcia

Mr. Garcia gave me the following link
tax.newmexico.gov/make-an-inspection-of-public-records-request.aspx.

I filled out online request in March 2016 and waited over 4 weeks then called to find out if it was in process. Their response was that's an old link we did not get it. Lorissa then responded, but we still have not been given the Local Allstate AGENTS NAME.

April 25, 2017

Ricardo A. Garay

State of New Mexico Attorney General
201 N Church St #315, Las Cruces, NM 88001
Phone:(575) 526-2280

Dear Mr. Balderas,

I am writing to report the State of New Mexico Department of Motor Vehicle Division, the Dona Ana County Sheriffs and Allstate insurance.

On December 26, 2015 at approximately three o'clock in the afternoon, a man driving under the influence hit my property and caused damage to my rock wall. This accident happened and the deputies came by and told me they would be making a report and they had video of the damage caused to my property. I was told the report would take a few weeks to retrieve. I needed the information so I could file a claim against the policy of the driver who caused damaged to my property.

I waited two weeks and they would not release any information. My sister Laura did an online investigation and was able to find the name and address of the person who caused damage to my property. His name was Jose B. Rivas. I did not get the information or report from the Dona Ana County Sheriffs until February 18, 2016 thanks to the help of your Las Cruces Office. My sister called and filed a claim with Allstate insurance. She received a phone call back from a Ms. Shelby Fields she said our claim was denied because there was no coverage on this vehicle that Mr. Rivas was driving. The policy was cancelled by Allstate on October 27, 2015.

Laura questioned the fact that if it was cancelled and there was no insurance why is it that the Sheriffs did not cite Mr. Rivas for driving without insurance and impound the vehicle? We felt that Allstate was giving us the run around. Yet it wasn't until we started filing claims and the day your office helped us get the report that the Sheriffs filed this case D-307-CV-201600320 to impound the car two months later and we were able to get report to start the process.

My sister Laura did some further investigating by calling the State of New Mexico DMV and also requesting inspection of Records. She called the DMV and was transferred to an office that was supervised by a Ms. Vickie Evans. The woman who answered the phone told my sister on the telephone that it was not reported into the state system until February 10, 2016. The coverage was cancelled on October 27 ,2015 but wasn't reported by the State of New Mexico until February 10, 2016?

Laura found out that this man and his wife or ex-wife cheat the system and their Allstate agent in New Mexico allows this to take place. We have requested inspection of public records to find out why they

are letting these people off. My sister contacted Mr. Rivas Attorney who always seems to get this man off from drinking and driving and they would not give us any information because of the privacy act. A Drunk Driver and people who commit insurance fraud have more rights? How is this fair? Our issues are the following: State of New Mexico Court Cases for Joseph B. Rivas

M-14-TR-201100737

M-14-DR-201300173

M-14-TR-201505585

On October 22, 2015 case number M-14-TR-20150555 and the case was dismissed because the prosecutor did not appear. An offender who commits insurance fraud and continues to drive under the influence and the state lets him off, this seems to be a pattern for Mr. Rivas.

His wife or ex-wife Robyn Rivas also known as Cheryl R. Rivas or Cheryl Robyn Hood or C.R. Hood

M-35-TR-201202189

M-14-MR-201001598

M-14-MR-201001964

M-14-TR-200601132

Cheryl Robin Rivas shows proof of insurance to the State of New Mexico on September 25, 2015.
M-19-TR-201501942.

I have issues with the fact that Mr. Rivas caused damage to our property but thank God it was our property and not a human life. I am filing a civil claim, but I want to report this information because we are being blocked by the DMV, Dona Ana County Sheriffs and others.

Laura and I both sense someone knows someone and there is corruption going on. Laura called the DMV and Inspection of records and they have answered her questions but they will not discuss the dated it was entered into the State of New Mexico on February 10, 2016. Why did it take this long to be entered into the computer system? It was back dated by an employee of the State of New Mexico for Allstate insurance and the cancellation of this policy. Laura asked for the Allstate agent in New Mexico who represents the original policy because we want to file a civil claim against them and no one is giving us this information. She has requested to inspect records through the DMV and the State of New Mexico and was denied information.

Today, Laura found this case number M-14-MR-201601085 on the courts website. We are disgusted by the fact that Mr. Rivas has no respect for the law and does not care about driving under the influence. He continues now to drive on a revoked license. Because of this case we found out he has a new address and so does Ms. Cheryl Robyn Rivas Hood. We need their information so we can file a civil suit and yet they continue to hide and cheat the system.

Our sister was killed by a drunk driver. We do not believe driving under the influence is a game or take it lightly. We feel Mr. Rivas has no respect for the Law and continues to drive under the influence. This

is not about a rock wall any more this about doing what is right. If we stop him from killing someone then we have accomplished what we have set out for. If this continues and he kills someone in the future because he is given a slap on the wrist we will go to the media with this story the day Mr. Rivas kills someone.

Respectfully,

Ricardo A. Garay