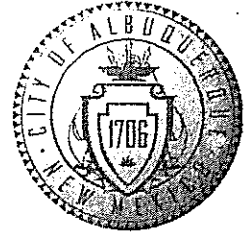


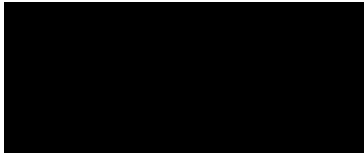
# CITY OF ALBUQUERQUE



## POLICE OVERSIGHT COMMISSION

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William W. Deaton, Independent Review Officer

February 11, 2010



Subject: CPC # 187-09

Dear Mr. [REDACTED],

The complaint you filed was received in our office on September 9, 2009. Based on the complaint and our investigation we have determined whether the Standard Operation Procedures (SOPs) listed below have been violated. You will be referred to below as 'the citizen' or by name.

Albuquerque A summary of the investigation and my findings are below.

### THE COMPLAINT

NM 87103 [REDACTED] claimed that he was stopped for a false probable cause. [REDACTED] believed the real reason the officer stopped him was because of his appearance. The officer searched [REDACTED]'s vehicle without his permission and then arrested him, not for the assault he was charged with, but because [REDACTED] did not listen to the officer when the officer ordered him to leave. [REDACTED] claims that the officer damaged his car during the search. When [REDACTED] was restrained and later arrested the officer used excessive force with him. Both officers were aggressive and unprofessional. Additionally the officers did not ensure the safety of his property.

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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 state that these statements will not be made public. I am only allowed to summarize the conclusions I reached from their compelled statements.

Your complaint has been thoroughly and impartially investigated. We make findings 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.

## ISSUES, FACTS AND CONCLUSIONS

### Officer H

1. Did Officer H comply with Albuquerque Police Department General Order 1-02-2B2, 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.

█████ stated that things went downhill after Officer H called Officer P to the scene. Officers H and P made █████ and his passenger get out of their car and then they asked █████ if he had anything they needed to be concerned about in his vehicle. The officers did not ask for his permission to search his vehicle. When they asked him if they needed to be concerned about anything, they made it clear they intended to search his car so he did tell them that they could tear things apart and that they would not find anything. █████'s remark was not intended to be an invitation to search, it was a response to their imminent actions. █████ stated Officer H did not inform him of the reason for the traffic stop until Officer H provided him with the citations. When he found out one of the citations was for a non-working tail lamp he knew that was incorrect and wanted to see the violation for himself with the officer present. The physical gesture he made with his hands was to indicate that the officer should accompany him to the rear of the car. █████ claimed that he did not gesture inappropriately towards the officer and he denied that there was any appearance of his striking at the officer. █████ admitted that he called the officer a "puss" a few times. █████ made the gesture; the officers physically took hold of him, but released him quickly. After he signed his citations, the officers told him to leave, but he felt he did not have to leave and still wanted to see the violation for himself. █████ also stated he did not want to drive when he was so angry. The officers threatened to arrest him and eventually did so. █████ believes that the arrest was not for an alleged assault, but was because he would not leave when the officers told him to do so, even though he did not think he had to. █████ logically believed that if he truly had committed assault, he would have been arrested earlier and not ordered first to leave.

Officer H stated that he called Officer P to the scene because █████ had consented to a search of his car and Officer H decided to take him up on the offer. Officer H claimed that he had the permission to search before P arrived. Officer H told █████ about the non-working light when he explained the citations. Officer H did not want █████ to go to the back of the car for officer safety reasons. Officer H wanted to maintain control of the situation and he told █████ he could look at the back of the car after they left. █████ yelled at Officer H, called him a "puss," and █████ flung his left arm toward Officer H's face. According to H, █████ lunged

forward and put his hand in Officer H's face like a backhand slap, with his hand coming within inches from H's face. Officer H disagreed with [REDACTED]'s explanation that it was an escort kind of motion to follow him or lead the way. [REDACTED] just missed striking Officer H and Officer H stepped back. Officers H and P briefly restrained [REDACTED]. Officer H then gave [REDACTED] the benefit of the doubt thinking that [REDACTED] was going to be compliant. Officer H decided not to immediately arrest [REDACTED] for assault "to give him a break." Officer H told [REDACTED] he was going to give him a break, allow him to sign his citations, and leave. [REDACTED] continued to argue and Officer H again told him to leave. Officer H thought that [REDACTED] wanted to fight with him and only because of Officer P's presence did [REDACTED] did not act on his impulse. Officer H was not going to allow [REDACTED] to distract him and then possibly punch him by going to the back of the vehicle as [REDACTED] kept insisting. There were people starting to stare from the nearby bar and he did not want more of a scene. [REDACTED] kept arguing and physically coming closer to him and Officer P. Officer H made the decision to arrest [REDACTED] at that time for the assault. Officer H did not add the additional charges for refusal to obey an order and disorderly conduct as Officer H stated he could have. Officer P stated that he was only the back up officer and his version closely matched H's version.

[REDACTED] and Officer H disagree on the reason for the stop. Officer H insists that he had permission from [REDACTED] to search the vehicle before he called Officer P. The belt tape quality is poor. Since it starts after Officer P arrived, it does not have [REDACTED]'s claimed initial permission. [REDACTED] complained that officers harass him and he was argumentative with the officer, so [REDACTED]'s giving unsolicited permission as Officer H claimed seems unlikely. The belt tape shows that [REDACTED] tells the officers they can turn the car "upside down" in response to one of the officer's questions about what they might find in the car, but that statement seems to come after it is already clear the search will be taking place. Officer H claims that [REDACTED] yelled at him and called him a "puss". The belt tape showed [REDACTED] was argumentative and did call the officer a "puss", which was inappropriate behavior, but he was not yelling or threatening the officers with harm. The state statute of assault upon a peace officer consists of: (1) an attempt to commit a battery upon the person of a peace officer while he is in the lawful discharge of his duties; or (2) any unlawful act, threat or menacing conduct which causes a peace officer while he is in the lawful discharge of his duties to reasonably believe that he is in danger of receiving an immediate battery. Both Officer H and Officer P claimed this belief, but they did not arrest [REDACTED] at the time of the alleged incident. If [REDACTED]'s actions were as severe as claimed by the Officers, the typical response would be immediately to arrest the offender, not to let him go. Officer H spoke about not allowing [REDACTED] to see the violation for officer safety reasons. The explanations of those reasons were vague and illogical. At the back of [REDACTED]'s car, Officer H would have been closer to his own car, there were two officers present and it likely would have deescalated the situation when [REDACTED] could have seen the violation for himself. Officer H told [REDACTED] to leave the scene and this instruction was reinforced by Officer P. However, at this point, [REDACTED] had signed his citations and was no longer being detained. The enforcement contact had ended and there was no need for the officers to remain in

the area and argue with [REDACTED]. It was only after [REDACTED]'s refusals to leave that he was arrested for the earlier "assault." The report inaccurately described [REDACTED] as being continually combative and that he was arrested after the assault; he had been free to go for a time. The officers claimed they could not leave [REDACTED] there in the parking lot because he was causing a scene and disturbing others at the bar however, no witness names were obtained. Officer H claimed [REDACTED] could have been arrested for refusal or disorderly conduct, but [REDACTED] had no obligation to leave since he was in a parking lot, the owner made no complaint of his presence and the officers did not get any complaints about people being disturbed to satisfy a disorderly charge. The bar in question did not have surveillance and neither their incident log nor their employees mentioned any type of disorder. The bar managers indicated that a noteworthy incident would have been logged even if it took place outside the bar. The appearance that the assault charge was used to enforce Officer H's orders to leave was improper. There was no valid reason to force [REDACTED] to leave the area after he had signed his citations and had been released. The delayed arrest was a result of [REDACTED] irritating Officer H, insulting him and challenging his authority.

This issue is SUSTAINED.

1. Did Officer H comply with Albuquerque Police Department General Order 1-39-1A9, 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.

9. When officers seek verbal/written permission to search a residence, building, structure or vehicles. Officers will record through the duration of the search.

[REDACTED] claimed he never gave the officers permission to search his vehicle. He did say the officers could turn the car upside down implying they would find nothing when the officers indicated they were going to search. Officer H stated he had permission from [REDACTED] to search the car before he called P to the scene. Officer H's belt tape does not start until after Officer P arrived so [REDACTED]'s permission was not captured on belt tape. The initial permission Officer H insisted he had should have been on belt tape. The later statement is not permission when placed in context. This issue is SUSTAINED.

An additional note is that the rest of the incident was not recorded in full, which it should have been because it was reasonable to expect a complaint. However, Officer H stated his tape must have been bumped off; which is possible, and he did record a portion of the incident so the missing remainder of the contact is not being charged under SOP.

2. Did Officer H comply with Albuquerque Police Department Procedural Order 2-52-2A, which states: Where force is warranted, officers should assess the incident in order to determine which technique or weapon will reasonably de-escalate the incident and bring it under control safely. Officers shall use only that force which is reasonably necessary to effect lawful objectives.

█████ claimed after his hand gesture, Officer P approached him, grabbed his left wrist and turned him towards the hood of his car. █████ stated Officer H joined in and pushed him to the hood quickly, but Officer H did not slam him into it. █████ stated Officer H grabbed his right hand and bent his wrist so that his hand was touching his arm, causing him pain. █████ told Officer H at that time that H was hurting him. Both officers asked █████ if he were going to be compliant and █████ told them that he had done nothing, but be cooperative. The officers then released him. Once arrested, █████ stated Officer H handcuffed him very tightly. At the substation, █████ asked for the handcuffs to be loosened. Officer H put his little finger tip under the cuffs and said they were fine. █████ remained handcuffed behind his back while at the substation. █████'s estimate of the length of time he was handcuffed varied from one to three hours. █████ asked again if the handcuffs could be loosened because his left side was growing numb, but Officer H refused. █████ claimed that his wrists were very "puffy".

Officers H and P both stated they immediately took hold of █████ when he assaulted Officer H and placed him on the hood of his car. Officer H stated he had █████'s wrist in a control hold, but H denied that he bent █████'s wrist to inflict pain or to use any force on him. Officer H stated he could have used a variety of force options when █████ assaulted him; however, all he did was take physical control of █████, telling him to relax and calm down. Officer H did not remember any complaints from █████ about the handcuffs at the substation. He checked the gap on the handcuffs and they were consistent with his training.

At the time if █████ committed an assault, then H had justification to restrain █████ physically. A compliance hold is a use of force, which falls within the Reactive Control Model. Handcuffs are not comfortable and a finger gap is considered large enough. Handcuff tightness is a frequent complaint and swelling and redness is typical. According to the CAD █████ was at the substation for about an hour.

This issue is EXONERATED.

3. Did Officer H comply with Albuquerque Police Department General Order 1-04-1F, which states: Personnel shall conduct themselves both on and off duty in such a manner as to reflect most favorably on the department.

█████ stated Officer H's initial conduct was generally fine, but Officer H asked several questions of █████ and would not allow █████ to retrieve his ID from the floor of his car. Officer H did not tell █████ the reason for the stop and he asked █████ questions about his prior contact with law enforcement to the point he felt

harassed. Because H asked so many questions of [REDACTED], his cousin acted nervous and [REDACTED] admitted that he was getting agitated. After the brief physical encounter, Officer H got in [REDACTED]'s face and asked him, "Do you think I'm afraid of you?" [REDACTED] responded, matching H's tone, asking, "Do you think I'm afraid of you?" [REDACTED] denied that he challenged Officer H. Officer H had his clipboard on [REDACTED]'s car and [REDACTED] asked him to get it off the car. [REDACTED] stated in response that Officer H slammed his clipboard onto his car. When [REDACTED] was released, he went to the back of his car and saw that both his lights were working properly. He then commented to the officers, "You guys are good," in a sarcastic manner. The officers chuckled at each other and Officer H said, "Aren't I?" When Officer H placed [REDACTED] under arrest, [REDACTED] asked H if he could make a phone call, but Officer H refused. [REDACTED] got his phone out of his pocket anyway and called his relative, whom he claimed was an APD officer. When Officer H heard [REDACTED] make his phone call, he jumped out of the police car and ran around to the back of the car. Officer H and [REDACTED] struggled for control of the phone. Officer H eventually got the phone and slammed it on the floor breaking it into pieces. At the substation, Officer H played the portion of the belt tape where [REDACTED] was calling Officer H a "pussy" for other officers. [REDACTED] felt that Officer H was intentionally "pushing his buttons." Once they left the substation, [REDACTED] claimed that Officer H cruised downtown for about an hour while he sat in the back of the car and that they did not get to the PTC until 0200 or 0230. [REDACTED] claimed that Officer H played loud, offensive music all of the drive, but [REDACTED] did not clarify what was offensive about it.

Officer H stated he did not want [REDACTED] to be looking all through his car for his ID because [REDACTED] had said it was in the back somewhere. Officer H already had a heightened sense of concern caused by the looks [REDACTED] and his cousin exchanged when he stopped them. Officer H agreed that he asked [REDACTED] when the last time he had been pulled over was and when police had last arrested him. Officer H claimed he that regularly asks those questions. [REDACTED] was acting very upset over a simple traffic stop and he claimed that police always harass him. Officer H agreed that he asked [REDACTED] whom he was "affiliated with". Officer H asked [REDACTED] because he wanted to know if [REDACTED] was in a gang and regularly asks such questions on traffic stops due to his interest in the gang suppression unit. When [REDACTED] told him he was not in a gang, he did not pursue the issue with further questions. Officer H told [REDACTED] to calm down and that no one was harassing him. [REDACTED] yelled at him the entire time. Officer H denied he responded in kind and remained professional with [REDACTED]. Officer H denied that he slammed the clipboard on the car. Officer H also denied [REDACTED]'s version of events where he and [REDACTED] allegedly had a verbal exchange of challenging each other about being afraid. Officer H denied any verbal exchange between him and [REDACTED] about [REDACTED] saying something about, "you guys are good" and him responding, "aren't I." He did not recall [REDACTED] making a phone call in the back of his patrol car and denied that he did anything to a phone. Officer H did recall he played a portion of his belt tape because [REDACTED] was denying he assaulted him so he played the portion where [REDACTED] called him a "puss."

The fact that H did not want [REDACTED] looking through his car or even reaching near the seat for his ID is understandable since he did not know if [REDACTED] might have a weapon, which he could grab. [REDACTED] agreed that the looks exchanged by himself and his passenger might serve to raise the officer's suspicions. The belt tape had shut off before the alleged clipboard-slamming incident, the verbal exchanges about being afraid, or the sarcasm towards the end. The name that [REDACTED] provided as his relative that was an APD officer was not on the current employee roster to be able to confirm [REDACTED]'s version of events concerning the phone. The intention of playing the belt tape portion at the substation is in dispute. The CAD showed that Officer H and [REDACTED] stopped at the Fourth street gas pumps for about four minutes and that they arrived at the PTC at 0009 with H clearing the call at 0034, which refutes [REDACTED]'s claim of "driving around downtown for an hour". Portions of [REDACTED]'s allegations can be shown to be invalid, but others cannot be proven either way so this issue is NOT SUSTAINED.

4. Did Officer H comply with Albuquerque Police Department General Order 1-03-2A, which states: Biased-based policing/profiling by any member of this Department is prohibited. Investigative detentions, field contacts, traffic stops, arrests, searches, property seizures and forfeiture efforts will be based on a standard of reasonable suspicion or probable cause in accordance with the Fourth Amendment of the U.S. Constitution.

[REDACTED] felt Officer H profiled him because he was asking him so many questions and not allowing him to retrieve his ID. Also, Officer H delayed in giving him the reason for the stop and [REDACTED] believed the only reason Officer H stopped him was because of his appearance. [REDACTED] just wanted to get his license to show the officer he was not giving Officer H any false information and to expedite the process. After Officer H grilled [REDACTED], Officer H only asked his cousin his name. [REDACTED] agreed that Officer H did not directly ask him about being in a gang. Officer H did ask [REDACTED] about his prior contacts with police.

Officer H stated [REDACTED]'s actions were suspicious and he pulled him over for the burnt out tail lamp. [REDACTED]'s overreaction and his claims that he was always harassed furthered Officer H's suspicions, but the stop had nothing to do with [REDACTED]'s race or appearance.

[REDACTED] agreed that Officer H said nothing about how [REDACTED] or his car looked. Though the initial probable cause for the stop is disputed, there is nothing that indicates the stop was made because of any racial or ethnic bias. This issue is UNFOUNDED.

5. Did Officer H comply with Albuquerque Police Department Procedural Order 2-8-12D 6, which states: Officers will not take any non-evidentiary personal property from subjects being booked to submit for safekeeping, other than weapons, that will not be accepted at booking.

█████ stated he was worried about his wallet because he had a lot of money in it. He asked Officer H for his property, but H told him it would be fine. Neither of the officers asked █████ if he wanted his cousin to take his wallet and property. He never did get his wallet back and later asked his cousin if he had it, but his cousin claimed the officers would not let him get his property. However, █████ knew somehow his cousin got at least some of his property because he saw some of it at his cousin's home. Since then, █████ and his cousin had a falling out, and █████ did not recover any of his property. █████ did not know what happened to his belongings.

Officer H did not specifically recall what happened to █████'s property. Officer P performed the inventory of the vehicle and did not notate a wallet on the sheet, but stated he would have if there had been one present. Officer H stated that he took whatever property █████ had and turned it over to the PTC in accordance with procedure.

According to SOP, 2-8-12D7, objects of a non-evidentiary nature may be left with the next of kin or secured at the scene at the time of the preliminary investigation... Presumably, █████'s wallet and his personal property would be safer with his cousin than being left in the car. Typically, a family member takes possession of such property, and █████ admitted that his cousin had possession of some of his property.

This issue is UNFOUNDED.

█████ brought up an additional issue of unprofessional behavior that occurred at the substation. He claimed that a bicycle officer with the tattoo "GM" on his ankle said something about his being a real "bad ass". This officer seemed to recognize █████ and asked something about did he teach him kick ball. The same officer bent down and said, "What if I uncuffed you and left you in the room alone with Officer H."

There were only two bicycle officers assigned that night and neither of them have such a tattoo. Officers H and P denied that this exchange occurred and they did not remember what other officers were at the substation at the time. This issue could not be addressed because the accused officer could not be identified.

#### Officer P

1. Did Officer P comply with Albuquerque Police Department General Order 1-04-1E, which states: Personnel shall conduct themselves both on and off duty in such a manner as to reflect most favorably on the department.

█████ stated that Officer P's overall attitude with him was overly aggressive. Officer P's attitude seemed to change Officer H's attitude towards him as well, which was why he asked Officer H how long he had been an officer because he felt H took his cues from P. After everything that happened █████ stated he "felt hurt"



and told the officers he used to live with an APD officer. ██████ claimed he told the officers in order to illustrate to them that he knew his rights and what they were doing was wrong. Officer P responded by telling him he had no rights. P also asked him sarcastically if he thought they cared about his rights and his relative. Officer P was the one that accused ██████ of committing an assault, not Officer H, even though H was the alleged victim. ██████ admitted he became very frustrated because the officers would not let him see his tail lamp and then they made exaggerated claims against him. Officers P and H laughed at ██████ when he shook his head and sarcastically told them "they were good." At the substation, Officer P said he would be "chief" for the incident. Officer P looked over H's report when H left the room. Officer P and the other officers laughed so ██████ asked them if he could read the report since it seemed to be so amusing to them. Officer P told him "don't worry; you'll get to read it." P then started editing H's report.

Officer P denied that he was aggressive with ██████ and claimed to have maintained his professionalism. Officer P did not hear what ██████ shouted as they were near their cars preparing to leave. Officer P denied laughing at anything ██████ said. ██████ said something about he knew his rights and mentioned he had a relative that was an APD officer. Officer P asked ██████ who his relative was, but ██████ did not want to tell him. Officer P dismissed ██████'s statement about his relative because he has heard it numerous times from people trying to get out of something or to gain advantage. Officer P felt ██████ was trying to intimidate or inhibit their actions. Officer P denied that he told ██████ he did not have any rights. P told ██████ that he did not know his rights. Officer P followed Officer H to the substation in order to give ██████ a copy of his tow sheet. Officer P also proof read H's report and suggested changes, but did not make any changes himself. Officer P denied that he and other officers read the report and laughed. Officer P did not remember ██████'s asking to read the report. Officer P did not remember any discussion about his being an "acting chief" or supervisor for the report to sign off on it.

The portion of the interaction that was belt taped showed that Officer P was stern with ██████ especially when speaking of the assault, but Officer P was within policy. Officer P's version of events was confirmed by the belt tape when he told ██████ he did not know his rights, not that he had no rights. There is no belt tape of the time at the substation to confirm or deny ██████'s allegations.  
This issue is NOT SUSTAINED.

2. Did Officer P comply with Albuquerque Police Department Procedural Order 2-02-2A1-3, which states: When sworn personnel damage civilian property in the course of their official duties:
  1. The supervisor in charge will ensure that photographs are taken of the damage that was caused.
  2. The scene will not be left until detailed photographs of the damage have been taken.
  3. The assigned officer will write a supplemental report detailing the exact damage and forward a copy to the Risk Management Division.

█████ stated that only Officer P performed the search. █████ took a picture of a panel that had been pulled off his steering column and he knew P had caused the damage. █████ admitted he did not actually see P do the damage, but he knew the tow company and trusted them not to have done the damage. It appeared to him to have been "ripped off in an aggressive manner."

Officer P stated he was relatively thorough in his search, but he denied pulling any panels off or causing damage. Both officers recalled a door panel that was already loose. The belt tape confirmed that something was wrong with the door panel because it was mentioned as the search took place. █████ did not see the damage occur even though he was present. There is no preponderance of evidence to show that P caused the damage.

This issue is UNFOUNDED.

Chief Schultz agrees with these findings.

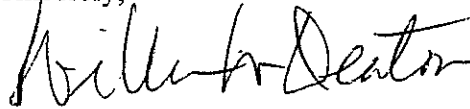
Your complaint and these findings are made part of the officer's permanent record.

You have the right to appeal this decision. §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 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,



William W. Deaton  
Independent Review Officer  
505-924-3774  
Police Oversight Commission  
P. O. Box 1293  
Albuquerque, New Mexico 87103

CC: Police Oversight Commission  
(W/O names)

Assign in column. 11/1/09

Deaton 187-09

Morales, Valerie C.

From: webmaster@cabq.gov  
Sent: Monday, August 31, 2009 4:15 PM  
To: Deaton, William W.  
Cc: Morales, Valerie C.  
Subject: Online Police Complaint Form Submission

09-09-09A10:51 RCV D

Your Name

[REDACTED]

Your Mailing Address

[REDACTED]

Your Phone Number

[REDACTED]

Date the Incident Occurred

08/24/09

Your Date of Birth

[REDACTED]

Your Complaint

On Monday August 24, 2009 I had left the Phillips 66 gas station located at San Mateo and Montgomery, where I had just purchased two packs of cigarettes. I had placed one pack and my license on the floor in front of my seat and handed the other pack to my cousin ([REDACTED]). I pulled out of the gas station heading south on San Mateo and made a U turn at the first available opening approximately across from Panchos Mexican Restaurant. I then proceeded north on San Mateo and observed an APD vehicle approaching my vehicle at a high rate of speed and drop to match the speed I was traveling on the right side of my vehicle. The officer was looking at my cousin who at the time was not wearing a seat belt. I asked him without turning to see if he was wearing his seatbelt and he said "no". By this time the APD officer had pulled behind my vehicle and as we started to pull ahead after the light turned green and shortly after the officer turned on the lights to indicating that I needed to pull over which I did about the 4600 block of San Mateo where a pawn shop and Long John Silvers is located.

The officer approached my vehicle on the driver's side and introduced himself as Officer Hernandez and think I remember him telling me that he was recording the traffic stop. I asked him if I could put out my cigarette and he backed away from my car so as to not be in the way. He then asked me for my license registration and insurance information. I told Officer Hernandez that I was going to reach over to my glove box to retrieve my insurance and registration. I had my wallet on my lap and it was opened but I realized I had placed my license on the floor with my pack of cigarettes, I asked him if I could reach down to get my license but Officer Hernandez saw that there was an ID card in my wallet and said there it is in your wallet. I told him that it was my daughters ID card and he asked to see it and very doubttable asked where I got it from. I explained that my daughter's mom worked for Motor Vehicle and had issued it for her. He stated that he was unaware that MVD gave IDs to children and I again asked if I could retrieve my license. He said "no don't worry about it" and opened a notepad and proceeded to ask my name, middle initial, middle name, address on my license, address where I live, and social security number, which I provided. (Repeatedly I would ask if he would let me get my license to get the information). He then asked who I was affiliated with? I asked him what do you mean and his response was "where are you from" I said I'm not from no where, I never have been. I asked why he was asking me these questions and he said he was the one asking the questions. The next question was when was the last time I had any contact with the police, I questioned him about the last question and he asked when was the last time pulled over or had been in jail? I gave him the answers and then I said he had not even

given me a pc of why he had stopped me. His answer was we will get to that. By this time I was getting on the offensive and told him that I am always getting harassed by the cops. His response was for me to chill out, then he started to question my cousin. belt tape?

After he was finished he returned to his car, to run our information. While he was doing that another officer arrived (Officer Pitzer). They then approached my car from the driver and passenger sides and asked me to get out. I asked why and Officer Hernandez opened my door and demanded that I get out. I got out of the vehicle and was searched by Officer Hernandez while Officer Pitzer searched my cousin and proceeded to search my vehicle without my consent. Officer Hernandez asked me if there was anything in my car he should know about. I replied "no sir" and he questioned me again about what he might find I said that he could tear my car apart bring dogs whatever but he would not find anything. During the search Officer Hernandez questioned me as to why my cousin and I had looked at each other? I asked when and he said when he put the emergency equipment on we had looked at each other. I asked if it was against the law for us to look at each other? After the search was completed Officer Hernandez returned to his patrol car and returned with a citation book and informed me of the two citations he was issuing. We were standing by the front hood of my car with Officer Pitzer on my left side and Officer Hernandez on the other side of my rear view mirror. I signed my no insurance citation but explained that I did not have a current proof of insurance card but did have insurance. The second citation was for a burnt out license plate bulb. I told him there was no way it was burned out and that I knew for a fact it was working I reached my arm out and gestured towards that back of my car to lets go see it. He told me I could see it after he was finished. I then made a comment (that I do regret) that he was a puss and that I could not believe them, that's puss for a reason to stop. That's when Officer Pitzer said that I just assaulted his officer by putting my hands in his face, which I was just raising my hand towards the rear of my vehicle about the rear license bulb. I then told them I know my rights and that it was not assault and Officer Pitzer told me I did not have any rights. I told them I have a family member that is an APD officer and know my rights. Officer Pitzer responded "do you think we care?" I again said they were being puss' and then was slammed against the hood of my car with Officer Pitzer holding my left hand and Officer Hernandez my right and was holding my wrist and hand in a manner that was causing pain despite my cooperation and told them they were hurting my wrist. They asked if I was going to be cooperative and calm down. I agreed so they let me back up and that's when Officer Hernandez came up to my face and said "do you think I'm scared of you?" I replied "do you think I'm scared of you?" Officer Hernandez gave me my citations. I told him to get his clipboard off my car. He picked up the clipboard and slammed it down on my vehicle. I just shook my head and he started back to his patrol car. I went around the back of my vehicle to look at my lights and they were all functioning properly. I looked towards the patrol cars and the officers both smiled and laughed. I said you guys are good and Hernandez replied "aren't I?" I said I cant believe you guys. Officer Pitzer said I need to leave now. I replied but I don't have to leave. Then I was placed under arrest because I did not leave the scene as instructed by the officers and not for assault as I was charged.

I can be reached at the number above or emailed at my place of employment.

