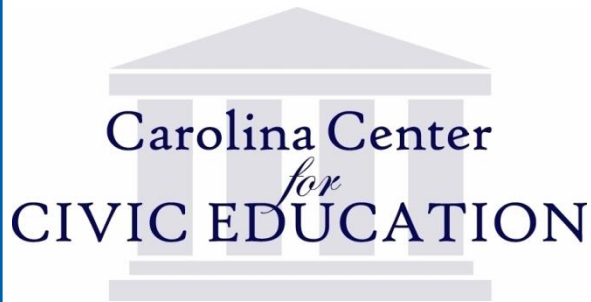


*North Carolina Advocates for Justice
High School Mock Trial Competition*



2016-2017 Competition Case



Gabriel Torres

v.

Arcadia Police Department

**SPONSORED BY THE
CAROLINA CENTER FOR CIVIC EDUCATION**

For our twenty-fifth season, the Carolina Center for Civic Education is proud to present a case dealing with many issues facing our students: bullying; acceptance of differences (in abilities, interest, religion, and ethnicity); school safety and school discipline; and reasonable versus excessive force. We trust that teachers, students, and supporters will enjoy and benefit from the chance to engage with such important topics. Many thanks to CCCE Program Coordinator Susan H. Johnson for authoring the case and to CCCE Founder and President Gordon Widenhouse for his editorial comments and assistance.



Chief Justice Mark D. Martin
Supreme Court of North Carolina
Post Office Box 1841
Raleigh, North Carolina 27602

August 24, 2016

On behalf of the North Carolina Judicial Branch, congratulations to the North Carolina High School Mock Trial Championship on its Twenty-Fifth Anniversary. We are proud of North Carolina's commitment to civics education and to fostering a deeper appreciation of the importance that the judicial system plays in our society. Mock trial programs at the high school level are a key component in this important endeavor. The countless people who have volunteered their time to sustain this program are to be commended, and the judiciary greatly appreciates these efforts.

North Carolina's high school mock trial program has a compelling history. It has provided an important educational opportunity for thousands of high school students in our state. The tremendous support this program enjoys is reflected in no small part by North Carolina having hosted the national competition in both 2005 and 2015. Many members of our judiciary, from both the trial and appellate courts, have been involved with this program in the past and look forward to being involved during the "silver anniversary." We are always overwhelmed by the work done by so many people to make this program a success.

Congratulations on this important milestone! I look forward to the continued success of the North Carolina High School Mock Trial Competition.

Best regards,

A handwritten signature in blue ink that reads "Mark Martin".

Mark Martin

AVAILABLE WITNESSES

Plaintiff Witnesses	Defense Witnesses
Nikki Mendoza, Aunt/Uncle of Gabriel Torres Blair Benjamin, student, eyewitness Addison White, psychologist	Max Carter, School Resource Officer Sydney Singh, student, eyewitness Jadyn Rosier, chief of police for Arcadia PD

CASE DOCUMENTS

Legal Documents

1. Complaint
2. Answer
3. Stipulations
4. Applicable Law and Statutes
5. Available Case Law
6. Jury Instructions and Verdict Form

Affidavits and Reports

Plaintiff

1. Affidavit of Nikki Mendoza
2. Affidavit of Blair Benjamin
3. Affidavit of Addison White

Defense

6. Affidavit of Max Carter
7. Affidavit of Sydney Singh
8. Affidavit of Jadyn Rosier

Exhibits

1. Arcadia Police Department Rules of Conduct and Procedure
2. Addison White CV
3. DSM-IV Asperger's Syndrome
4. Blog posts by Gabriel Torres (and bullying responses)
5. Photo of 3D gun
6. Photo of 3D model plane
7. Photo or info on Freeze + P pepper spray, with info on decontamination procedures
8. Complaints filed against Max Carter
9. APD Complaint statistics for 2011-2015
10. School suspension reports for Gabriel Torres
11. Arcadia News & Record article on SROs
12. U.S. Department of Education OCR CRDC Data (excerpts)
13. PACER fact sheet on how parents can address bullying

**SUPERIOR COURT FOR THE STATE OF UTOPIA
ELDORADO COUNTY**

GABRIEL TORRES, a minor, by and through his
next friend, **NIKKI MENDOZA**,

Plaintiff,

v.

ARCADIA POLICE DEPARTMENT,
a municipal entity of THE STATE OF UTOPIA

Defendant.

Case No. 17-CIV-5678

Judge Robin Fox

VERIFIED COMPLAINT

Plaintiff GABRIEL TORRES, by and through his aunt/uncle and next friend NIKKI MENDOZA,
states as follows:

NATURE OF THE CASE

1. This is an excessive force action brought by Plaintiff Gabriel Torres (“Torres”) against Defendant Arcadia Police Department (“APD”) to remedy violations of the due process Clause of the Fourteenth Amendment to the United States Constitution, pursuant to 42 Utopia Code (“U.C.”) § 1983, for the unprovoked use of “Freeze+P” pepper spray by Defendant’s agent, Officer Max Carter. The unjustified use of said pepper spray was the direct result of Defendant’s longstanding policy, practice and custom of permitting its agents to use unreasonable and excessive force when apprehending students of Eldorado County Schools.

PARTIES

2. Plaintiff Torres is a minor born on Sept. 12, 1999 in Saipan, Northern Mariana Islands. At age thirteen he traveled to Arcadia, Utopia to live with his relative, Nikki Mendoza, and attend high school.

3. Defendant Arcadia Police Department is a department, agency, bureau and/or subdivision of the State of Utopia. Defendant is a “person” for purposes of enforcement of the rights guaranteed under 42 U.C. § 1983 and the Fourteenth Amendment to the U.S. Constitution.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction because this action is brought under the Utopia Civil Code.

5. This court has personal jurisdiction over Defendant because the central office of Defendant is within this district and the acts and omissions forming the basis for this Complaint occurred in Utopia.

6. Venue is properly placed in this district because the central office of Defendant is within this district, the events giving rise to this claim arose in this district, and records relevant to the practices complained of herein are located in this district.

7. In the aggregate, Plaintiff’s claims exceed \$25,000 exclusive of interests and costs, and therefore this Court has original jurisdiction.

FACTUAL BACKGROUND

8. On October 13, 2015, Defendant APD employed Officer Max Carter as a sworn peace officer in Arcadia, Utopia.

9. On October 13, 2015, Officer Max Carter was assigned to work as a School Resource Officer (“SRO”) at Arcadia High School in the Eldorado County school district.

10. During second period, at approximately 9:35 AM, Officer Carter abruptly entered the classroom in which Gabriel Torres was peacefully attending class.

11. Without provocation, Officer Carter, in a threatening manner, ordered Gabriel to hand over his backpack and accompany Officer Carter to the principal’s office.

12. Confused and frightened, Gabriel reached for his backpack, only to be sprayed with pepper spray by Officer Carter.
13. The pepper spray caused great pain to Gabriel, and he fell to the floor.
14. Officer Carter did not offer to assist Gabriel. Instead, he handcuffed Gabriel and roughly dragged him to the principal's office.
15. At no point was Gabriel given a chance to wash out his eyes, change clothes, or do any of the other steps recommended by the manufacturer to decontaminate from the pepper spray.
16. An hour later Gabriel was transported to the police station. At no point during this time was Gabriel's guardian, Nikki Mendoza, contacted or apprised of what had occurred.
17. At the police station, Gabriel was handcuffed in a room and left alone. At no point was Gabriel given a chance to wash out his eyes, change clothes, or do any of the other steps recommended by the manufacturer to decontaminate from the pepper spray.
18. At the station, it was determined that Gabriel's pack contained a 3-D, non-functional model of a gun that posed no threat to anyone.
19. Gabriel's guardian was finally contacted and Gabriel was released in his guardian's care.
20. Gabriel was so traumatized by these events that he never returned to Arcadia High School. Instead, he returned to his home in the Northern Mariana Islands on October 27, 2015, thereby losing the substantial educational benefit he had received while attending Arcadia High School.

CAUSE OF ACTION – VIOLATION OF DUE PROCESS

DUE TO DEFENDANT'S POLICIES, PRACTICES OR CUSTOMS THAT PROMOTE

VIOLATIONS OF CONSTITUTIONAL RIGHTS

21. Plaintiff repeats and re-alleges paragraphs 1-20 as if fully set forth herein.

22. The Due Process Clause of the Fourteenth Amendment to the United States Constitution provides that “[n]o State shall . . . deprive any person of life, liberty, or property, without due process of law...” U.S. Const. amend. XIV, § 1. Such violations are actionable pursuant to 42 M.C. § 1983.

23. Defendant APD exhibits a policy, practice or custom of inadequately training, supervising and disciplining law enforcement officers who use unreasonable force when acting as SROs.

24. Although Defendant has written policies concerning the use of force in the school environment and the treatment of officers who use unreasonable force, these policies are superseded by the predominant, overriding and long-standing policy, practice or custom of Defendant knowingly, willfully and deliberately:

A. Overlooking or ignoring incidents of unreasonable use of force by APD officers;

B. Allowing its officers to actively promote the use of unreasonable force;

C. Refusing to intervene or take any preventive and/or precautionary measures to eliminate or even stem the use of unreasonable force by SROs;

D. Failing to discipline or impose any sanctions on its officers who have used unreasonable force, including those who have done so repeatedly or even habitually.

25. The foregoing conduct violates the Due Process Clause of the Fourteenth Amendment of the U.S. Constitution, pursuant to 42 U.C. § 1983.

26. On six occasions prior to October 13, 2015, complaints alleging use of unreasonable force by Officer Carter were filed with the APD, five of them involving students at Arcadia High School.

27. Despite receiving the above notice, Defendant did not adequately investigate or discipline Officer Carter during Carter’s employment with the APD and thus failed to take necessary and

reasonable measures to protect the public, including Plaintiff Torres, from Officer Carter.

28. Defendant's decision to permit Officer Carter to serve as a school resource officer despite receiving the above notice is consistent with its policy, practice, and custom of failing to properly investigate and discipline officers that utilize unreasonable force.

29. During the events in question on October 13, 2015, Officer Carter was acting, under color of law, as a duly authorized agent of the APD.

30. When Officer Carter sprayed Gabriel Torres with Freeze + P pepper spray, Torres was unarmed and defenseless and made no furtive or threatening moves or gestures whatsoever.

31. At no time during the foregoing wrongful action were Officer Carter or others in imminent, serious, grave or life-threatening danger, and at no time did the circumstances, including Plaintiff's actions, appearance and demeanor, give rise to a reasonable perception or fear of imminent, serious, grave or life-threatening danger to Officer Carter or others.

32. Through his/her actions, Officer Carter unjustifiably, directly and proximately caused harm to Torres, including but not limited to, severe pain and suffering, and mental anguish such that Torres believed it necessary to leave Utopia and return to the Northern Mariana Islands, thereby severely damaging Torres' future educational and career opportunities.

33. As a result of the foregoing, Officer Carter's actions were an unjustifiable and unreasonable violation of Torres's right to Due Process of Law under the Fourteenth Amendment to the U.S. Constitution, pursuant to 42 U.C. § 1983.

34. Because of the APD's violation of Plaintiff Torres's constitutional rights, Torres has suffered damages and will in the future suffer damages as described in the foregoing paragraphs incorporated herein.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court:

- A. Award compensatory damages for the medical bills and associated costs, pain, suffering, emotional distress, loss of dignity, and damage to reputation and livelihood endured by Plaintiff in amounts that are fair, just and reasonable, to be determined at trial;
- B. Award Plaintiff all costs of this action and reasonable attorneys' fees; and
- C. Grant Plaintiff such other and further relief as the Court deems just and proper, including punitive damages and injunctive and declaratory relief as may be required in the interest of justice.

DATED: February 9, 2016

RESPECTFULLY SUBMITTED,
WINGATE, WILLIAMS, & SCHMIDLY
Attorneys for Plaintiff

**SUPERIOR COURT FOR THE STATE OF UTOPIA
ELDORADO COUNTY**

GABRIEL TORRES, a minor, by and through his
next friend, **NIKKI MENDOZA**,

Plaintiff,

v.

ARCADIA POLICE DEPARTMENT,
a municipal entity of THE STATE OF UTOPIA

Defendant.

Case No. 17-CIV-5678

Judge Robin Fox

VERIFIED ANSWER

Defendant ARCADIA POLICE DEPARTMENT answers as follows:

NATURE OF THE CASE

1. The allegations contained in paragraph 1 of the Complaint do not appear to require a response. To the extent that a response is required, Defendant denies the allegations.

PARTIES

2. Defendant lacks information sufficient to form a belief as to the truth or falsity of the allegations in Paragraph 2 of the Complaint and thus it is denied.

3. Admitted.

JURISDICTION AND VENUE

4. Admitted.

5. Defendant admits that Defendant's central offices are within this district, and otherwise denies the allegations contained in Paragraph 5 of the Complaint.

6. Upon information and belief, admitted.

7. Upon information and belief, admitted.

FACTUAL BACKGROUND

8. Admitted.
9. Admitted.
10. Denied.
11. Denied.
12. Denied.
13. Denied.
14. Denied.
15. Defendant lacks information sufficient to form a belief as to the truth or falsity of the allegations in Paragraph 15 of the Complaint and thus it is denied.
16. Defendant lacks information sufficient to form a belief as to the truth or falsity of the allegations in Paragraph 16 of the Complaint and thus it is denied.
17. Admitted.
18. Admitted.
19. Admitted.
20. Denied.

CAUSE OF ACTION – VIOLATION OF DUE PROCESS

DUE TO DEFENDANT’S POLICIES, PRACTICES OR CUSTOMS THAT PROMOTE VIOLATIONS OF CONSTITUTIONAL RIGHTS

21. Defendant’s responses to Paragraphs 1 – 20 are incorporated herein by reference.
22. Admitted.
23. Denied.
24. Denied.

25. Denied.
26. Denied.
27. Denied.
28. Denied.
29. Denied.
30. Denied.
31. Denied.
32. Denied.
33. Denied.
34. Denied.

WHEREFORE, having fully answered the Complaint of Plaintiff, Defendants pray for a trial by jury and that Plaintiff's Complaint be dismissed, that Plaintiff recover nothing, and that Plaintiff be charged with the costs and disbursements of this action and for such other relief as this Court may deem just and proper.

DATED: March 9, 2016

RESPECTFULLY SUBMITTED,
BUNCE, ENTZMINGER, & KLEINSCHMIDT
Attorneys for Defendant

**SUPERIOR COURT FOR THE STATE OF UTOPIA
ELDORADO COUNTY**

GABRIEL TORRES, a minor, by and through his
next friend, **NIKKI MENDOZA**,

Plaintiff,

v.

ARCADIA POLICE DEPARTMENT,
a municipal entity of THE STATE OF UTOPIA

Defendant.

Case No. 17-CIV-5678

Judge Robin Fox

STIPULATIONS

COME NOW the parties and agree to the following stipulations:

1. All documents, signatures, and exhibits included in the case materials are authentic and accurate in all respects; no objections to the authenticity of the documents will be entertained.
2. All witnesses reviewed their statements immediately prior to trial and were given an opportunity to revise any prior statements. None did so. All witnesses were advised both when giving the statement and when reviewing it to include all material facts within their knowledge.
3. This trial is bifurcated into two phases: (i) a determination of liability and (ii) a determination of the amount of damages. In the first phase, there will be no determination as to the amount of damages, but the parties may present evidence of the existence of damages solely for the purpose of establishing or refuting liability.
4. A witness must be formally tendered to the Court before giving an expert opinion.

DATED: MARCH 25, 2016

IT IS SO ORDERED
ROBIN FOX
Judge of the Superior Court



RELATED TOPICS

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Civil Law

[43 U.C. 1983](#)[44 U.C. 1983](#)

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[42 U.C. § 1983 – Law & Relevant Cases](#)[Return to list](#)

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I. Relevant Law

TITLE 42, CHAPTER 21, SUBCHAPTER 1, § 1983

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of the State of Utopia, subjects, or causes to be subjected, any citizen of the State or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law or other proper proceeding for redress.

THE UNITED STATES CONSTITUTION, FOURTEENTH AMENDMENT, § 1.

All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

II. Relevant Precedent

A government entity may be held liable for the deprivation of a person's Fourteenth Amendment right to due process, pursuant to 42 U.C. § 1983, where the deprivation is the result of the action of one of its agents, acting under color thereof, and the deprivation is the proximate result of a policy, practice, or custom of the agency. [Parker v. Scheef, 725 P.2d 599 \(U.S.C. 1985\)](#).

A police officer deprives a citizen of their right to due process under the Fourteenth Amendment to the U.S. Constitution when he employs excessive force. Excessive force is force in excess of that which is reasonable to subdue a suspect while keeping bystanders and officers safe. A citizen may seek civil redress in state court by filing an action under 42 U.C. § 1983. [Nichols v. Schmidly, 800 P.2d 901 \(U.S.C. 1985\)](#).

A police officer deprives a person of due process of law, within the meaning of the Fourteenth Amendment, when he employs chemical sprays, batons, or tasers to subdue a minor under the age of 16 when said minor presents no danger to the personal safety of the officer or other persons. [City of Eden v. Manger, 543 E.2d 901 \(U.S.C. 2009\)](#).

A local government entity may not be sued under 42 U.C. § 1983 for an injury inflicted solely by its employees or agents. Instead, it is when execution of a government's policy, custom, or practice, whether made by its lawmakers or by those whose edicts or acts may fairly be said to represent official policy, inflicts the injury that the government as an entity is responsible under 42 U.C. § 1983. A custom or practice can be inferred from the conduct of government actors within the entity in the absence of an explicit policy. [County of St. Thomas More v. Blocker, 725 P.2d 599 \(U.S.C. 2002\)](#).

To hold a government entity liable under 42 U.C. § 1983 for a violation of due process pursuant to the Fourteenth Amendment, the plaintiff must show: (i) the existence of a continuing, persistent and widespread practice of unconstitutional misconduct by the entity's employees; (ii) deliberate indifference to or tacit approval of such misconduct by the entity's policymaking officials after notice to the officials of that particular misconduct; and (iii) injury resulting from the unconstitutional acts pursuant to the entity's custom. [Britton v. State of Utopia, 625 P.2d 499 \(U.S.C. 2005\)](#).

To prove a 42 U.C. § 1983 claim, the plaintiff must prove that its alleged injury was actually *and* proximately caused by the defendant's actions. To prove actual causation, the plaintiff must show that "but for" the defendant's actions, the alleged injury would not have occurred. To prove proximate causation, the plaintiff must show that its alleged injury was a reasonably foreseeable consequence of the defendant's actions. The plaintiff need not prove that the defendant actually foresaw the alleged injury as a consequence of its actions; rather, the plaintiff need only show that a reasonable person in the same situation would have foreseen the alleged injury as a consequence of her actions. Where the claim is brought against a government entity for the actions of one of its agents, the plaintiff must prove *first* (i) that the actions of the agent were the actual and proximate cause of the plaintiff's alleged injury; and *second* (ii) that a policy, practice or custom of the government entity was the actual and proximate cause of the actions of the agent. [Department of Corrections v. Gordon, 100 P.2d 899 \(U.S.C. 2000\)](#).



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Framing the Case for Trial – Relevant Cases

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Logan Wilson

Framing the Case for Trial – Relevant Cases

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I. Relevant Precedent

Even in cases in which the liability and damages phases have been bifurcated, a plaintiff still must establish “harm” in order to establish the defendant’s liability on most legal theories. At the same time, however, because the purpose of a threshold liability-only phase is to establish only the existence, rather than the extent, of the defendant’s potential liability, trial judges should be especially vigilant in applying MRE 401 and 403 with respect to evidence that either does not or only marginally relates to questions at issue during such a phase. [McVey v. Clowns, Inc., 675 P.2d 45 \(U.S.C. 1994\)](#).





RELATED TOPICS

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Hearsay 803 – Relevant Cases

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Brandon Dolder

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I. Relevant Cases

Rule 801(d)(2) may be invoked in only one direction, and it depends on the identity of the party offering the statement in question. Specifically, Rule 801(d)(2) permits the plaintiff to offer statements by the defendant and the defendant to offer statements by the plaintiff. But the rule does not permit the plaintiff to offer statements by the plaintiff or the defendant to offer statements by the defendant, even if the opposing party has already elicited out-of-court statements by the party during a preceding examination. In this case, a defendant in a criminal proceeding made a variety of statements to a police officer, who was called by the government during a trial. Rule 801(d)(2)(A) permits the government to elicit the defendant's statements during the direct examination of the police officer because those statements are being offered "against an opposing party," here, the defendant. We hold, however, that the government properly objected to defense counsel's attempts to elicit further statements by the defendant on cross-examination of the police officer because those additional statements are not offered "against an opposing party." [Ward v. Sumwalt 983 P.2d 463 \(U.S.C. 2010\)](#).

Notwithstanding the practices of other jurisdictions, in Utopia it is entirely possible for an out-of-court statement by a person who is or will be testifying in a particular trial to be excluded by the general rule against hearsay. Subject to Rule 801(d), hearsay is any out-of-court statement offered to prove the truth of the matter asserted in the statement. And although the Rules of Evidence contain a variety of exceptions to the rule that hearsay is generally inadmissible, there is no categorical rule allowing the admission of any out-of-court statement simply because the person who made that out-of-court statement is or will be a witness in the trial. [Beverly's Bistro v. Brandi's Bodega 845 P.2d 786 \(U.S.C. 2009\)](#).



JURY INSTRUCTIONS

At the conclusion of a jury trial, the judge will instruct the jury how to apply the law to the evidence. Hypothetically, if the judge in your mock trial case were to provide instructions to the jury, they would look something like the following.

[Please note: These instructions may NOT be tendered to the mock trial jury or used as an exhibit during the competition; however, students may use these concepts in fashioning their case and making arguments to the jury.]

PRELIMINARY INSTRUCTIONS

I. Role of the Jury

Now that you have been sworn, and before the presentation of evidence, I have the following preliminary instructions for your guidance as jurors in this case.

You will hear the evidence, decide what the facts are, and then apply those facts to the law that I will give to you.

You and only you will be the judges of the facts. You will have to decide what happened. You should not take anything I may say or do during the trial as indicating what I think of the evidence or what your verdict should be. My role is to be the judge of the law. I will make legal decisions during the trial, and I will explain to you the legal principles that must guide you in your decisions.

Neither sympathy nor prejudice should influence your verdict. You are to apply the law as stated in these instructions to the facts as you find them and in this way decide the case.

II. Evidence

The evidence from which you are to find the facts consists of the following:

1. The testimony of the witnesses;
2. Documents and other items received as exhibits;
3. Any facts that are stipulated—that is, formally agreed to by the parties; and
4. Any facts that are judicially noticed—that is, facts I say you must accept as true even without other evidence.

The following things are not evidence:

1. Statements, arguments, and questions of the lawyers for the parties in this case;
2. Objections by lawyers;
3. Any testimony I tell you to disregard; and
4. Anything you may see or hear about this case outside the courtroom.

You must make your decision based only on the evidence presented in court. Do not let rumors, suspicions, or anything else seen or heard outside of court influence your decision in any way. You should use your common sense in weighing the evidence. Consider it in light of your everyday experience, and give it whatever weight you believe it deserves. If your experience tells you that certain evidence reasonably leads to a conclusion, you are free to reach that conclusion.

Certain rules control what can be received into evidence. When a lawyer asks a question or offers an exhibit into evidence, and a lawyer on the other side thinks that it is not permitted by the rules of evidence, that lawyer may object. An objection simply means that the lawyer is requesting that I make a decision on a particular rule of evidence. Objections to questions are not evidence. You should not be influenced by the objection or by the court's ruling on it. If the objection is sustained, ignore the question. If it is overruled, treat the answer like any other.

A. Direct and Circumstantial Evidence

Evidence may either be direct evidence or circumstantial. Direct evidence is direct proof of a fact, such as testimony by a witness about what that witness personally saw, heard, or did. Circumstantial evidence is proof of one or more facts from which you could find another fact. You should consider both kinds of evidence. The law makes no distinction between the weight to be given to direct or circumstantial evidence. You may decide the case solely based on circumstantial evidence.

B. Credibility

In deciding the facts, you may have to decide what testimony you do and do not believe. You are the sole judges of the credibility of the witnesses. "Credibility" means whether a witness is worthy of belief. You may believe everything a witness says, or only part of it, or none of it. In deciding what to believe, you may consider a number of factors, including the following:

1. The opportunity and ability of the witness to see or hear or know the things the witness testifies to;
2. The quality of the witness's understanding and memory;
3. The witness's manner and behavior while testifying;
4. Whether the witness has an interest in the outcome of the case or any motive, bias, or prejudice;
5. Whether the witness is contradicted by anything the witness said or wrote before trial or by other evidence;
6. How reasonable the witness's testimony is when considered in the light of other evidence that you believe; and

7. Any other factors that bear on believability.

In deciding the question of credibility, remember to use your common sense, your good judgment, and your experience. Inconsistencies or discrepancies in a witness's testimony or between the testimonies of different witnesses may or may not cause you to disbelieve a witness's testimony. Two or more persons witnessing an event may simply see or hear it differently. Mistaken recollection, like a person's failure to recall, is a common human experience. In weighing the effect of an inconsistency, you should also consider whether it was about a matter of importance or an insignificant detail. You should also consider whether the inconsistency was innocent or intentional.

After you make your own judgment about the believability of a witness, you can then attach to that witness's testimony the importance or weight that you think it deserves.

You will now hear opening statements by the parties and the presentation of evidence. At the conclusion of the evidence, I will instruct you on the law that you are to apply to the facts.

POST-TRIAL INSTRUCTIONS

I. Duty of Jury; apply the law

Members of the jury, you have seen and heard all the evidence and the arguments of the lawyers. My role now is to explain to you the legal principles that must guide you in your decisions. You must not substitute or follow your own notion or opinion about what the law is or ought to be. You must apply the law that I give to you, whether you agree with it or not.

II. Burden of Proof

This is a civil case in which the Plaintiff Gabriel Torres seeks damages. The Plaintiff has the burden of proving his or her case by the preponderance of the evidence. That means Plaintiff has to prove to you, in light of all the evidence, that what he or she claims is more likely true than not. To say it differently: if you were to put the evidence favorable to Plaintiff and the evidence favorable to Defendant on opposite sides of the scales, the evidence favorable to Plaintiff would have to make the scales tip ever so slightly to its side. If the Plaintiff fails to meet this burden, then the verdict must be for Defendant. If you find after considering all the evidence that a claim or fact is more likely so than not so, then the claim or fact has been proved by a preponderance of the evidence.

You may have heard about proof beyond a reasonable doubt. That is a higher standard of proof, and it applies only to criminal cases.

In determining whether any fact has been proved by a preponderance of evidence in the case, you may, unless otherwise instructed, consider the testimony of all witnesses, regardless of who may

have called them, and all exhibits received in evidence, regardless of who may have produced them.

This case is divided into two parts, and in this part of the trial, the amount of damages is not an issue that you will decide. As such, the Plaintiff need not prove the extent of the injuries or damages at this time, although Plaintiff is required in this phase to prove the existence of damages in order to meet his burden of proof.

III. Issues in the Case

The Utopia Civil Code allows an individual to seek damages from any person who, under color of law, deprives that individual of any rights protected by the constitution or laws of the United States. Plaintiff claims that Gabriel Torres was injured when the Defendants' employee, Max Carter, applied excessive force on Gabriel Torres, thereby violating Gabriel Torres's rights to life and liberty without due process of law in violation of the Fourteenth Amendment to the U.S. Constitution.

The issues for you to decide, in accordance with the law as I give it to you, are:

1. Whether Max Carter was acting under color of law when Carter applied force against Gabriel Torres on October 13, 2015.
2. Whether Carter's actions caused any injury to Gabriel Torres, and, if so, whether Carter applied excessive force against Gabriel Torres, thereby depriving him of his right to due process.
3. Whether any injury to Gabriel Torres was caused by a policy, practice, or custom of the Arcadia Police Department to inadequately supervise and discipline law enforcement officers who use excessive force.

A. Color of Law

In deciding whether Max Carter was acting under color of law, I instruct you as follows:

State or local officials act under color of law when they act within the limit of their lawful authority. Officials also act under color of law when they act beyond the bounds of their lawful authority while the officials are purporting or pretending to act in the performance of their official duties.

Officials may also act under color of law when they are acting as agents of the State. An employer such as the Arcadia Police Department is liable for the acts or omissions of its employees, including police officers, if those acts or omissions occur within the scope of their employment and cause injury to another person.

In making your decision about whether Max Carter was acting under the color of law when Officer Carter is alleged to have sprayed Gabriel Torres, you may consider the facts and circumstances surrounding Carter's presence and conduct at the scene.

B. Excessive Force

In deciding whether Carter's actions caused injury to Torres and whether Carter applied excessive force, I instruct you as follows.

Where the claim is brought against a police department for the acts of one of its officers, a Plaintiff must prove that the actions of the police officer were the actual and proximate cause of Plaintiff's injury. A cause is an actual cause where the injury would not have occurred but for the Defendant's actions. A cause is a proximate cause when the injury is a reasonably foreseeable consequence of the Defendant's actions.

Plaintiff must also prove that Carter used excessive force against Torres. To do so, Plaintiff must prove each of the following elements: (i) Torres sustained physical and emotional harm that (ii) resulted from the use of force that was excessive and (iii) the excessiveness of which was objectively unreasonable in light of the facts and circumstances at the time.

Even if an individual is permitted to use force, it is not legally permissible to use unreasonable force. Reasonableness is an objective standard. The question you must consider is whether Max Carter's actions were objectively reasonable at the time and in light of the facts and circumstances confronting the officer, without regard to underlying intent or motivation. If the force Carter used was unreasonable, it would not matter that Carter had good intentions. Likewise, if the force Carter used was reasonable, it would not matter that Carter had bad or improper motives.

You must judge Carter's actions from the perspective of a reasonable officer on the scene at the time, rather than with the 20/20 vision of hindsight. In using this standard, you must consider that police officers are often forced to make split-second judgments about the amount of force necessary in a particular situation, including in circumstances that are tense, uncertain, and rapidly evolving.

Some of the factors to consider in determining whether Carter used excessive force include:

- The likelihood of an immediate threat to the safety of police officers or others
- The severity of such threat
- The severity of the force applied, relative to the risk of harm from not applying it
- The amount of time that Carter had to consider whether force needed to be applied
- Whether Plaintiff was actively resisting the instructions of Carter
- The extent of the injury suffered by Torres

It is *per se* unreasonable and excessive force for an officer to use chemical sprays, batons, or tasers on a minor under the age of sixteen where that minor poses no danger to the personal safety of the officer or other persons.

C. Policy, Practice, or Custom

Because Plaintiff has filed suit against the Arcadia Police Department rather than against Max Carter as an individual, Plaintiff must prove that the use of excessive force by Carter was the result of Defendant's policy, practice, or custom to inadequately supervise and discipline school resource officers who use excessive force. Plaintiff must prove that a policy, practice, or custom of the police department was the actual and proximate cause of the actions of the officer.

Here, Plaintiff claims that the Defendant's policies, practices, or customs deprived Gabriel Torres of his right to due process. To show this, Plaintiff must prove the following:

1. The existence of a continuing, persistent, and widespread practice or custom of unconstitutional misconduct by the Arcadia Police Department's employees assigned to work as school resource officers in the Eldorado County School District;
2. Actual or implied approval of or deliberate indifference toward such misconduct by the police department's policy-making officials after notice to the officials of the misconduct; and
3. The unconstitutional misconduct is the actual and proximate cause of injury to Gabriel Torres.

Approval or indifference to unconstitutional misconduct can be proven by a consistent failure to enforce departmental orders or policies when that failure is the actual and proximate cause of a denial of a constitutional right.

AFFIDAVIT OF NIKKI MENDOZA

1 My name is Nikki Mendoza. I am 45 years old and have lived in Arcadia for 15 years. I was
2 born on Saipan in the Northern Mariana Islands. When I was born, the islands were a trust territory
3 of the U.S., but in 1986 all qualified residents became U.S. citizens. It was a proud and happy day for
4 me and my family. Like most people on Saipan, I learned to speak English, but we spoke a different
5 language at home. Because I wanted to study aerospace engineering, I moved to North Carolina at
6 age 18 to attend NC State University. In 1992 I moved to Arcadia, Utopia, where I work at the
7 Boeing plant, designing business jets.

8 In early June of 2013, my nephew, Gabriel Torres, came to live with me to attend high school
9 before applying to college. Although there are several high schools on Saipan, there's only one four-
10 year college, and it has very limited options for a field to study. It is not uncommon for families to
11 send their children to school on the mainland. I've never married and never had kids, but when my
12 sister and her husband asked if Gabriel could stay with me, of course I said yes.

13 It had been 10 years since I had seen Gabriel. He was very quiet when he arrived at the
14 airport. He was smaller than I expected and seemed a bit awkward, but I figured he was just shy.
15 After all, Arcadia is quite different than Saipan – the whole island only has ~ 50,000 people. I could
16 see how Gabriel could feel a bit overwhelmed. But he soon got settled into his room and was happy
17 I had provided him with a computer.

18 As Gabriel became more talkative, I could see that he was very bright, particularly in math
19 and science. He was very interested in how machines were made – especially tanks, airplanes,
20 helicopters, and various types of guns. He seemed to have a particular interest in military history
21 and tactics, and he had studied U.S. battles in the Pacific during World War II in great detail. That
22 wasn't terribly surprising given the major campaign that took place on Saipan in 1944, but Gabriel's
23 passion for the subject was pretty intense. I wasn't concerned, though.

24 Gabriel enrolled in ninth grade at Arcadia High School on August 26, 2013. He had to take
25 quite a few placement tests, and he did well on them, placing into several honors classes. Making
26 new friends, however, proved to be a bit more difficult. Gabriel's shyness and awkwardness
27 persisted, and he couldn't seem to find a group of friends that "clicked" for him. I encouraged him to
28 invite classmates out for pizza and a movie when he turned 14 on Sept. 12, but he said everyone he
29 invited was busy and couldn't come. He seemed pretty sad about it. I hated to see him feeling so
30 discouraged, so I suggested he check out some of the school clubs as a way to make friends. Gabriel
31 joined the History Club and the Chess Club, but it didn't help much. When I watched him interact
32 with other teens at school, I noticed he didn't seem able to really carry on a conversation. He didn't

33 engage in “small talk,” and if he got started on his favorite subject, he talked on and on, not noticing
34 if others were losing interest. I just figured he was trying too hard to fit in, as the new kid in town.

35 Then, in the spring of 2014, one of his classmates mentioned something called “CAP” – the
36 “Civil Air Patrol” – an auxiliary of the U.S. Air Force. The CAP supports after-school programs for
37 youth to help them develop character, fitness, and leadership skills – and they can learn how to
38 fly!.Gabriel excitedly joined the patrol at Arcadia High, and he was soon busy working to advance
39 through the ranks. At last, he seemed to have found his “niche.” He even went to a one-week
40 summer camp.

41 Gabriel’s sophomore year started off smoothly in the fall of 2014. A few friends sometimes
42 came over to play computer games or do homework, including Blair Benjamin and Sydney Singh. I
43 didn’t get to know either of them very well, but Gabriel seemed much happier. Happier, that is, until
44 the spring semester. That’s when several terrorist attacks overseas and in the US – attacks that
45 were carried out by members of ISIS – became big stories in the news. For some reason, a few kids
46 at school got it in their head that Gabriel must be Muslim, and they started giving him a hard time. I
47 guess these kids, like many people, feared those who were different from them.

48 Gabriel wasn’t Muslim – most people on Saipan are Catholic – not that it matters. As I told
49 Gabriel, people should be seen as individuals, not judged based on fears and stereotypes. But no
50 matter how much Gabriel tried to talk to the kids, they wouldn’t listen. Gabriel came home with
51 bruises and torn clothes on several occasions. He said the kids would shove him and yell, “go back
52 overseas where you belong. We don’t want you here.” Gabriel said they never did it when teachers
53 were around. I wanted to talk with the principal about it (like the school handout suggested), but
54 Gabriel begged me not to, saying he could handle it. Yet after a few weeks of this bullying, Gabriel
55 started to withdraw and stay in his room after school. And one time he was hauled to the principal’s
56 office and suspended for five days for fighting, which I thought was outrageous. Yet Gabriel still
57 begged me not to intervene.

58 I wasn’t sure what to do. I wanted to respect Gabriel’s request, but things weren’t
59 improving. Then I had an idea. I knew Gabriel was a good writer, even if he had trouble conversing,
60 so I suggested he write a blog. He could talk about airplanes or other aspects of World War II, and
61 maybe he could help his classmates see that he wasn’t so different from them. Gabriel seemed to
62 like the idea, and soon he started a blog called “Weapons Guru.” He would pick a topic such as “what
63 was the most effective firearm during WWII?” and then he’d go into great detail giving his answer.
64 He seemed much happier. When I periodically checked the blog, most of the comments were
65 positive. It gave Gabriel a way to interact with others who shared his interests.

66 In early May I got a call from the school counselor, asking me to come in for a conference.
67 When I got there, she told me that she thought Gabriel's social difficulties might be due to more than
68 shyness – that he was exhibiting possible signs of a developmental disability. She recommended that
69 Gabriel be evaluated by a psychologist, Addison White. I was a bit surprised. But I made an
70 appointment for Gabriel to see Dr. White on May 15.

71 Dr. White spent nearly 6 hours interviewing me and Gabriel and conducting tests. At the
72 end, Dr. White met with us and said Gabriel had been diagnosed with a developmental disorder
73 called "Asperger Syndrome." As Dr. White explained, individuals with Asperger Syndrome have
74 difficulties in social interactions because they do not recognize "social cues." They may also have
75 intense and focused interests in narrow topics, carry on long, one-sided conversations on those
76 narrow interests, and be physically clumsy. The more we talked, the more I felt that the diagnosis
77 was accurate and explained a lot of the difficulties Gabriel had been experiencing. During our
78 discussion, Dr. White noted Gabriel's blog was an excellent way for him to learn how to engage with
79 others. However, Dr. White suggested I monitor it in case any posts or comments were
80 inappropriate or should be deleted.

81 Dr. White recommended that Gabriel return for follow-up appointments to take part in
82 social skills training and other therapies. Dr. White said s/he would send the testing results to me
83 as well as to Gabriel's parents. S/he also asked permission to send the results to the school, and of
84 course I said that was fine. I did not sign any paperwork about passing on the results, though, and
85 we never met with anyone at the school to go over the report.

86 Gabriel seemed subdued when we got home. I'm sure the whole thing was a bit of a shock to
87 him, as it was to me. But I reminded Gabriel that he was doing well in all of his classes, that he was
88 clearly a bright and motivated person, and that this diagnosis didn't change any of that. He could use
89 his strengths and interests to succeed in school and in a career, and hopefully the social skills
90 training and support would help him make more friends. But Gabriel didn't seem entirely convinced.

91 I encouraged Gabriel to keep writing his blog, and I checked in on it every week or two. In
92 mid-June, he blogged about some of the weapons used in recent school shootings and gang attacks. I
93 knew he was just writing on a topic that interested him, but others viewed it differently. A few
94 comments got pretty nasty, accusing him of planning some sort of "radical terrorist attack." Gabriel
95 got pretty upset, saying he'd show them not to talk about him that way. I urged him to calm down
96 and told him it would be better to write about less controversial topics. When he finally calmed
97 down, he said he just wouldn't write anymore at all. I didn't think he meant it at first. But when he
98 hadn't posted any more blogs by the end of July, I quit checking.

99 Gabriel started attending monthly “social skills” sessions with Dr. White beginning in June,
100 and they seemed to be helpful. At least, Gabriel did fine at his summer job at an office supply center
101 and didn’t have issues getting along with coworkers. While he was working there, Gabriel took an
102 interest in 3D printers, and he begged to get one. I told him they were too expensive, and we just
103 couldn’t afford it. But then I found a kit online for a 3-D printer you could build yourself. I decided
104 to surprise Gabriel and get it for his 16th birthday. Given his interest in engineering and now
105 printing, it seemed like it would be the perfect gift.

106 Gabriel seemed happy enough when school started back up on August 25th, and soon he was
107 busy with homework, history club, and CAP. Everything seemed to be going well. When he opened
108 his present on his birthday, he was speechless! He gave me a huge hug – the first time that had ever
109 happened – and started putting it together right away. By the weekend it was finished, and he was
110 excited to try it out. At first Gabriel just made simple shapes, but soon he progressed to items a bit
111 more complicated. He even printed parts to build a simple model airplane! Gabriel brought the
112 plane to school to show his friends in CAP, and he came home happier than I’d ever seen him:
113 “Everyone was really impressed!” He invited his CAP friends to come try out the printer, and
114 Sydney came over several times. Gabriel told me they were working on a remote-controlled plane,
115 and he showed me the plans. It was based on an open-source “flying wing” design, although he was
116 modifying it to be a bit smaller than the online version. Gabriel was really excited about it, and he
117 talked a lot at night about how fast and far it would fly when it was finished. I began to think he
118 might follow my footsteps to major in aerospace engineering.

119 But Gabriel seemed upset after Sydney’s visit on Sept. 30, and he wouldn’t tell me why.
120 Sydney didn’t come over after school for the next few weeks, which was a huge change. Gabriel was
121 withdrawn at dinner. When I tried talking with him about the model plane, he just looked away and
122 changed the subject. He’d go right into his room after dinner and lock the door. I figured maybe he’d
123 had a fight with Sydney and assumed he would be okay after they worked it out. I gave him space
124 and didn’t try to pry or force him to talk with me since he clearly didn’t want to do so.

125 The next thing I knew, on October 13 I got a call at work from the school principal, telling
126 me that Gabriel had been arrested for “bringing a weapon to school.” I was stunned. I didn’t know
127 what to think. I left work immediately and drove to the police station, where I found Gabriel,
128 handcuffed and crying, saying he’d been pepper-sprayed for no reason by Officer Carter, the school
129 resource officer. His eyes were all red and puffy from the after-effects of the spray, and he was
130 almost too distraught to talk.

131 I confronted the police captain, who told me a student had reported seeing a gun in Gabriel's
132 backpack. When the SRO found Gabriel in class and asked him to hand over his backpack and come
133 to the principal's office, Gabriel supposedly "refused to comply" and "reached for his backpack in a
134 threatening manner." Reportedly fearing for the safety of everyone in the room, the SRO sprayed
135 Gabriel with pepper spray, handcuffed him, and dragged him to the principal's office. An hour
136 passed while the principal decided what to do. Finally the principal called the Arcadia Police, who
137 sent an officer to take Gabriel to the station. SRO Carter went with Gabriel. After they had gone to
138 the station, the principal finally called me and told me Gabriel had been arrested.

139 I also learned that the police had tried to question Gabriel without me or an attorney being
140 present. Gabriel was still crying and reportedly wouldn't talk with them, so they left him sitting alone
141 in a conference room, handcuffed to a chair. I was furious. I asked if they'd found a gun, and they
142 showed me the 3D model. It was clearly not a working gun – more like a child's toy. I asked if Gabriel
143 was going to be charged with a crime. They said, "No, not this time, but get him out of here now before
144 we change our minds." They were rude and demeaning the entire time, and at no point did they
145 apologize for the way they had treated Gabriel. As we were leaving, I heard one officer mutter, "Watch
146 yourselves. Better yet, go back where you came from. We don't want your kind here." When I turned to
147 see who'd spoken, SRO Carter stared at me in a hostile manner, so I'm pretty sure that's who I heard.

148 Gabriel was still in pain from the pepper spray when I got him home. He showered and
149 changed clothes, but his eyes were burning for hours afterward. Of course I called his parents right
150 away, and they were shocked. They talked about flying him back home, but I encouraged them to
151 wait a bit, as it was just a misunderstanding. I intended to talk with the school principal, and surely
152 they would apologize for overreacting. To my shock, instead of apologizing, I received an email from
153 the school late that evening saying Gabriel had been suspended for 10 days.

154 I tried to arrange a meeting with the school principal. But every time I called, I had to leave
155 a voice mail. She never returned my calls. Gabriel didn't want to return to the school anyway. He
156 grew frantic at the mere suggestion of it. Then Gabriel told me he'd been receiving threats in the
157 comments on his blog, that he was being called a "terrorist" and other things too terrible to repeat.
158 Typewritten notes with similar threats were stuck in our front door late at night, and someone
159 egged our car and slashed the tires. When I tried to file a police report, an officer came to take a
160 statement but said there was little they could do. When the suspension was over, Gabriel told me he
161 had had enough, and he begged to go home. His parents agreed, so I sadly helped him pack his
162 things. I was heartbroken at how Gabriel had been treated. It just wasn't right.

163 I told my friends at work about what had happened, and some said they knew of other
164 students who had been pepper-sprayed at the school without any justification. Some sent me links
165 to news stories, and it looked like they were right – the SROs and Arcadia Police Department had
166 mistreated students before, especially minorities or those with disabilities. I was appalled. When I
167 became a citizen, I learned about our rights under the U.S. Constitution. This behavior needs to stop
168 before others are traumatized. That’s why I’m filing this lawsuit. Gabriel’s future has been ruined by
169 an overzealous police department, and they should be held accountable. They’re supposed to “serve
170 and protect” people in Arcadia, not abuse them. No one else should have to go through what Gabriel
171 endured.

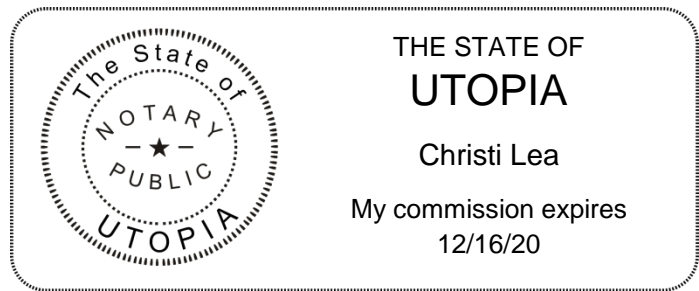
172 Of the available exhibits, I am familiar with the following and only the following: Exhibit 4
173 (Gabriel’s blog), Exhibit 5 (the 3D model gun Gabriel made), Exhibit 6 (the 3D plane Gabriel tried to
174 make), Exhibit 10 (the letters from Arcadia High School when Gabriel was suspended), Exhibit 11
175 (an article in the Arcadia News & Record), and Exhibit 13 (a handout on bullying that Gabriel
176 brought home from school).

Nikki Mendoza

SIGNATURE

Christi Lea

Christi Lea
Notary Public



AFFIDAVIT OF BLAIR BENJAMIN

1 My name is Blair Benjamin. I'm a junior at Arcadia High School, where I'm president of the
2 Robotics Club and captain of our Science Olympiad teams. When I graduate from high school, I plan
3 to study computer engineering at Duke or MIT, then move back here to work. There are lots of job
4 opportunities for computer engineers in Arcadia, and people come here from all over the world.

5 I've lived in Arcadia all my life, which is kind of unusual. Arcadia has changed a lot since I
6 was a kid. It used to be a peaceful place, with dairy and vegetable farms right outside of town. But
7 then the legislature bought up land to build a research zone, and dozens of new companies moved
8 to the area. Arcadia has exploded in size since I started kindergarten. New schools open and
9 neighborhoods get redistricted almost every year. A lot of the "old-timers" are unhappy about it all.
10 I've even seen fights at school between kids whose families have always lived here and kids who are
11 new in town. I don't feel that way, though. Sure, changing schools a lot was a pain, but I've always
12 liked the chance to make new friends.

13 Arcadia High School is a great place overall, with lots of honors classes. Nearly 1,500
14 students attend the school. We have tons of clubs and after-school activities, everything from an
15 Anime Club, to the Future Business Leaders of America, to the Global Citizens Club. The only thing I
16 don't really like is all the security, although I guess it makes sense, given school shootings in other
17 places. Every door is key-coded, and every student has to walk through metal detectors on the way
18 in and out of the school. We also have a School Resource Officer on campus all the time, which you'd
19 think would be a good idea. But it hasn't worked out that way.

20 When I was in middle school, our SRO was Officer Caroline Pope. She was really nice. She
21 knew all the kids and seemed to care about everyone. If two kids started to argue or act stupid,
22 she'd step in and calm the situation down, usually without anyone getting suspended. But it's
23 different at Arcadia High. Our SRO is Officer Carter, who's just not friendly at all. I get that the SRO is
24 a police officer and not a "friend," but Officer Carter almost seems to hate students.

25 For instance, when I was a freshman, I was at a basketball game where some kids got a bit
26 rowdy afterward, "talking smack" after we beat our biggest rival. Without even asking them to tone
27 it down, Officer Carter grabbed one kid, threw him to the ground, and put him in handcuffs. I
28 learned the next day that the kid had been suspended 3 days for "Disrespect and Inappropriate
29 Language Toward Staff." It was crazy. From what I saw, the kid was just joking around and certainly
30 wasn't saying anything disrespectful to staff. A few months later, I was eating lunch in the cafeteria
31 when I heard students at the next table talking about how they didn't like their Biology teacher and
32 would be glad when the semester was over. Officer Carter was walking by at the time, and s/he

33 turned to the students and asked what they had said. One guy said, “Nothing, we were just talking
34 about our class.” Officer Carter said, “That’s not what I heard” and grabbed the kid, hauling him off
35 to the principal’s office. Later that day, I learned the student had been suspended for the same
36 reason: “Disrespect Toward Staff.” I couldn’t believe it. Whatever happened to free speech? The
37 student didn’t say anything disrespectful *toward* staff; it was just normal complaining about
38 homework and stuff. I heard the whole conversation. But I’m sure it came down to the student’s
39 word against the SRO’s, and no student will win that battle.

40 Interestingly, both times I saw Officer Carter treat a student that way, the individual was a
41 member of a minority group. I’d certainly heard non-minority students say similar things when
42 Officer Carter was nearby, but Officer Carter never took them to the principal’s office. It made me
43 wonder if more was going on than just the SRO trying to enforce the rules.

44 Even worse: during my sophomore year, I was in gym class when two guys started getting
45 in each other’s faces. One of them had supposedly fouled the other during the basketball game we
46 were playing. The PE teacher was helping other students at that time and didn’t see what was
47 happening. I tried to calm them down, but they didn’t want to hear it. Next thing I knew, one guy
48 shoved me out of the way and punched the other guy! They started tussling. The PE teacher finally
49 noticed them and radioed for the SRO.

50 Not two minutes later, Officer Carter was there. I figured s/he would yell at them to stop,
51 separate them, and take them to the principal. Instead, without any warning, Officer Carter pulled
52 out pepper spray and doused them! They screamed in pain and immediately stopped fighting.
53 Officer Carter handcuffed them and hauled them off to the principal. I was close enough that some
54 of the pepper spray got me, and it stung like mad! I ran to the bathroom to rinse out my eyes, but it
55 took hours for the pain to go away.

56 Later, the PE teacher said both guys were suspended for two weeks for fighting. Two weeks!
57 I couldn’t imagine trying to make up two weeks of missed classes. Both of them were older than 16,
58 so neither one was given a spot in an alternative program. The one who threw the first punch came
59 back after the suspension ended, but the other student dropped out of school completely. One small
60 fight, nothing really serious, and that kid’s life had been changed forever. The consequences were
61 way out of proportion for what had happened.

62 I was concerned enough about what I’d seen that I arranged to meet with the school
63 principal, Dr. Melvin. But when I tried to talk about my concerns and what I’d seen, he just brushed
64 me aside. “The SRO does what’s needed to keep you safe. I fully support every decision Officer

65 Carter has made. You don't have all of the information that I have. Thank you for coming, but we've
66 got everything under control." Given all I'd seen, I wasn't so sure.

67 And I was proved right by what happened to Gabriel Torres. I was in the classroom when
68 Gabriel was pepper-sprayed on October 13, 2015. I had first met Gabriel our freshman year (2013),
69 in Algebra II class. Gabriel was from overseas and seemed very shy. He spoke with an unusual
70 accent, which made him a little hard to understand. He mostly kept to himself as far as I could tell.
71 We weren't in any clubs together and didn't really talk a lot that year. But he was clearly very
72 bright, as he got 95s and 100s on all the tests.

73 My sophomore year we had two classes together: Programming II and Trig. My desk was
74 beside his, so we started talking more. I learned that we liked some of the same computer games,
75 especially *The Talos Principle*, so we started getting together at his house after school to play it. Gabriel
76 was "different" in some ways – for instance, he had this intense interest in airplanes, guns, and World
77 War II. In the spring he even started a blog to write about weapons, which I read once or twice.

78 Sometimes Gabriel talked on and on about such stuff, and I'd get a bit fed up with it. After a
79 while I'd get him talking about growing up on Saipan, which I found quite interesting. He said he
80 wanted to go back there after he finished college. He invited me to visit him, which would be
81 awesome! I'd love to visit a tropical island, and Saipan sounds like a beautiful place.

82 Late in the spring, after reports of terrorist attacks overseas, some kids at school started
83 giving Gabriel a hard time, calling him a terrorist supporter and a "Muslim extremist." I don't know
84 where they got that idea – he'd told me most people on Saipan were Catholic because the Spanish
85 colonized it. Maybe they thought he was from Indonesia? Who knows. Even if he were Muslim, so
86 what? That certainly didn't make him a terrorist.

87 Obviously, their bullying bothered Gabriel a lot. Whenever I heard kids harass him, I told
88 them to knock it off. Often they picked on him when no one else was nearby. A couple of times near
89 the cafeteria, Officer Carter saw what was going on, but s/he didn't do anything about it. I urged
90 Gabriel to go to the principal and said I'd go with him, but he didn't want to do it. He thought it
91 would make things worse, and he begged me not to report the kids. I wish I had done it anyway.

92 After the harassment had lasted for a few weeks, Gabriel got really upset in the hallway one
93 time and yelled, "Leave me alone or I'll take care of you! You can't talk to me that way!" A couple of
94 days later he even got in a shoving match. Luckily the SRO wasn't nearby at the time, and several of
95 us got everyone calmed down before it got out of control. Things cooled off after that, but I could
96 tell that Gabriel was still pretty stressed whenever he saw those kids.

97 Soon school let out for the summer. I didn't see Gabriel much since we were both working.
98 When we came back to school in August, we had two classes together: AP U.S. History and Calculus I.
99 In mid-September, Gabriel came to school really excited – he had gotten a 3D printer kit for his 16th
100 birthday! How cool is that? I came over to see it the next week, and it was pretty amazing. He had
101 figured out how to print some simple shapes, and we had fun trying it out. A few weeks later, he
102 brought a model plane to school that he had printed. He said he wanted to show it to his friends in
103 CAP – the Civil Air Patrol. It wasn't very detailed, but it was still awesome.

104 A week or so went by, and he hadn't brought anything else to school yet. I asked what was
105 next – a jet? A drone? – and he said it was a secret. But he told me his next project was almost done.
106 That was on October 12. I remember because the next day was when everything went crazy. Second
107 period had just started – Calculus, one of the classes we had together – when the SRO burst into the
108 room. The teacher looked shocked, but before she could even ask what was going on, Officer Carter
109 looked around, spied Gabriel, and ran over, demanding in a loud, aggressive voice: “Give me your
110 backpack, and come with me, NOW!” Gabriel froze for a moment, looking scared and confused. “NOW,
111 I said!!” Officer Carter shouted, and grabbed at Gabriel. Gabriel put up his hand and started to reach
112 for his backpack, when without warning, Officer Carter sprayed him with pepper spray! Gabriel
113 screamed and put his hands to his face, and the students nearby also cried out in pain as part of the
114 spray hit them. Gabriel actually fell out of the desk and was lying on the floor.

115 Officer Carter then grabbed Gabriel's arms, jerking them hard, and handcuffed him. Gabriel
116 had tears pouring out of his eyes and was completely disoriented. Officer Carter snatched his
117 backpack and dragged him from the room, without providing any explanation at all.

118 The teacher stood there, stunned, not knowing what to do. After a moment, she told the
119 students who'd been near Gabriel to go to the bathroom, wash out their eyes, and come right back.
120 Then she called the office to find out what was going on. After she listened for a moment, she
121 nodded and hung up the phone. She told us “the situation is under control” and then assigned us
122 calculus problems to work. When we asked what had happened, she wouldn't say. Class ended with
123 no further explanation, and we went on to our third period class, which (for me) was AP U.S.
124 History. Gabriel was not there, and the teacher didn't seem surprised, as though he'd been told
125 something but wouldn't share it with us.

126 I tried calling Gabriel that night, but he wouldn't speak with me. His aunt/uncle answered
127 the phone and said Gabriel didn't feel well. I eventually found out Gabriel had been taken to the
128 police station for “bringing a gun” to school. But clearly it was bogus, because the police released
129 him without charging him with anything. Gabriel was also suspended from school for ten days. I

130 tried several more times to call him, but he never would come to the phone. I even went by the
131 house once. When I rang the doorbell, I saw the curtain move but no one came to the door. Gabriel
132 never returned to school, and a few weeks later I heard he'd gone back to Saipan. I never got to talk
133 with him or his aunt/uncle. But from what I saw, it looked like one more instance of the SRO
134 overreacting and treating Gabriel in a way that wasn't justified at all – ruining one more student's
135 life for no reason. It's crazy. Someone needs to hold the Arcadia Police Department accountable for
136 the SRO's actions before anyone else gets hurt.

137 Of the available exhibits, I am familiar with the following and only the following: Exhibit 4
138 (Gabriel's blog, but only the posts on May 2 and May 22 of 2015) and Exhibit 13 (Bullying Fact
139 Sheet from school).

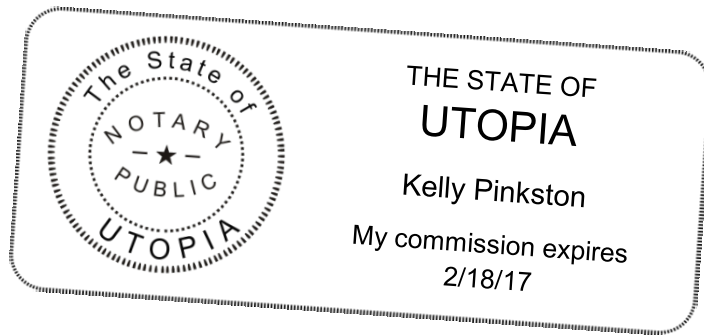
140

Blair Benjamin

SIGNATURE

Kelly Pinkston

Kelly Pinkston
Notary Public



AFFIDAVIT OF ADDISON WHITE

1 My name is Addison White. I am 39 years old and the Director of the Arcadia Center for
2 Youth and Development (ACYD). At the ACYD we provide evaluation, support, and resources for
3 “exceptional students” – students who are gifted or who have learning disabilities. We also develop
4 materials and provide training for educators to aid them in understanding and teaching exceptional
5 students. Because such students are often the target of bullying, our Center has recently expanded
6 our mission to include assisting schools with efforts to “Banish Bullying.” In 2013, I began teaching
7 yearly “Banish Bullying” sessions to new School Resource Officers (“SROs”) at the Utopia Justice
8 Center. SROs are often called upon to identify or address situations that involve bullying, so it is an
9 important topic for new SROs to understand in order to react appropriately.

10 I grew up just outside of Baltimore, MD and attended Harvard after graduating as valedictorian
11 of my high school. Unfortunately, high school isn’t a great experience for everyone. My younger sister
12 was diagnosed with a learning disability and was often the target of bullying, despite all my efforts to
13 protect her. Seeing what she endured, I was determined to pursue a career that would help make
14 schools safer for everyone. So I earned graduate degrees in education and developmental psychology
15 at UVA and moved to Arcadia to join the staff at the ACYD. For more details about my educational and
16 professional accomplishments, please refer to my annotated curriculum vitae (CV).

17 I have testified in court on six previous occasions, five on behalf of the plaintiff and once on
18 behalf of the defendant. I was asked to testify in this case for two reasons. First, I am familiar with the
19 plaintiff, Gabriel Torres. I diagnosed Gabriel with Asperger Syndrome in the spring of 2015. Asperger
20 Syndrome is a type of pervasive developmental disorder that involves difficulties in social skills;
21 eccentric or repetitive behaviors; communication difficulties including poor eye contact and very literal
22 use of language; limited, almost obsessive interests; and coordination problems. It is one of several
23 “Autism Spectrum Disorders” (“ASD”) and is sometimes called High-Functioning Autism (“HFA”) because these individuals usually have normal intelligence and near-normal language development.

24 I was also asked to testify because of my extensive experience in creating safe learning
25 environments for all students. On numerous occasions, I have assessed school policies and
26 procedures that address bullying and made recommendations for improvement. Well-designed
27 school policies include guidelines and procedures for SROs since they are often called upon to deal
28 with situations that involve bullying.
29

30 For this case, I was asked to evaluate the actions of SRO Carter on the date in question as well
31 as on prior occasions when complaints had been lodged against him/her. In my expert opinion, SRO

32 Carter's actions at Arcadia High School were a clear violation of accepted national standards, and the
33 Arcadia Police Department policies were a key factor leading to Carter's egregious behavior.

34 To reach my conclusions in this case, I relied on my evaluation of Gabriel Torres; reviewed the
35 sworn statements of Nikki Mendoza, Blair Benjamin, Max Carter, Sydney Singh, and Jady Rosier; and
36 examined Exhibits 1 – 4, and 8 - 13. I compared the facts of this case with the best practices of schools,
37 police departments, and SROs nationwide. I spent a total of 40 hours on case preparation, for which I
38 was paid my standard rate of \$400/hour. If I testify, I will earn an additional \$3,000 plus expenses.

39 As I said, I first met Gabriel on May 15, 2015 at the ACYD. The school counselor at Arcadia
40 High School had recommended that Gabriel schedule a diagnostic evaluation to determine whether
41 his social difficulties were due to a developmental disorder. Gabriel was accompanied by his
42 aunt/uncle, Nikki Mendoza. In general, the evaluation process takes anywhere from 6 – 12 hours,
43 depending upon the complexity of the case and the services provided. Gabriel's evaluation included a
44 number of assessments, including an interview of Mr./Ms. Mendoza (without Gabriel present); a
45 review of Gabriel's medical, social, academic and developmental history; written questionnaires for
46 both Gabriel and Mr./Ms. Mendoza; and a one-on-one testing session with Gabriel, using Module 4 of
47 the Autism Diagnostic Observation Schedule – 2nd Edition ("ADOS-2") and the Childhood Autism
48 Rating Scale – 2nd Edition ("CARS-2"). Both assessments are widely used and empirically validated. In
49 combination, these tests provided me with vital historical information and an opportunity to observe
50 behaviors that can confirm or negate a diagnosis of Asperger Syndrome / HFA.

51 Because Gabriel had lived full-time with Mr./Ms. Mendoza for less than a year, it was not
52 possible for me to get a complete picture of Gabriel's medical, social, academic and developmental
53 history. Gabriel's upbringing on Saipan rather than in Utopia also undoubtedly impacted his
54 familiarity with some test question topics. While these factors could have affected the accuracy of
55 the results, I am nonetheless confident that my diagnosis is valid.

56 I was able to complete Gabriel's evaluation in 6 hours. I diagnosed him with Asperger
57 Syndrome under the criteria listed in the Diagnostic and Statistical Manual of Mental Disorders,
58 fourth edition (DSM-IV). I do not agree with the diagnostic criteria for Autism Spectrum Disorders as
59 described in DSM-V, as I believe the more limited diagnostic criteria exclude many individuals who
60 should receive educational and supportive services. The diagnostic criteria in the DSM-IV
61 correspond more closely with the International Classification of Diseases (ICD) standards as well.
62 For that reason, I, and many of my colleagues, still utilize the criteria detailed in the DSM-IV.

63 Gabriel exhibited nearly all of the typical diagnostic criteria, including poor eye contact,
64 limited ability to engage in reciprocal conversation, literal use of language, and difficulty in social

65 interactions. Gabriel evidenced very narrow interests and an intense preoccupation with weapons
66 and World War II. He also displayed repetitive movements, clumsiness, and coordination problems.
67 Gabriel also had several strengths. He worked hard, was cooperative and eager to please, and
68 possessed an extensive, even advanced vocabulary.

69 I met with both Gabriel and Mr./Ms. Mendoza to review the results at the end of the day.
70 Gabriel mostly refused to look at me and remained very quiet. Mr./Ms. Mendoza seemed shocked by
71 the diagnosis at first, but eventually recovered enough to ask questions regarding how best to help
72 Gabriel succeed in school and in social situations. I recommended that Gabriel return to the ACYD for
73 social skills training, and I encouraged him to keep writing his blog to help establish connections with
74 others who shared his interests. At the end of our discussion, I indicated that I would send the written
75 report to Gabriel's parents as well as to Mr./Ms. Mendoza, and I asked permission to send a copy to
76 the school counselor. Mr./Ms. Mendoza declined to sign the paperwork granting permission and said
77 s/he would forward a copy to the school instead. While that was not ideal, it was certainly within
78 his/her rights to make that decision.

79 Gabriel started coming to our monthly social skills training in late May, and his work ethic
80 and eagerness to learn stood him in good stead. He was very attentive, and I felt encouraged by the
81 progress I was seeing. Gabriel thrived in his summer job at a copy center, even earning a raise. He
82 told me that he hoped to receive a 3D printer for his birthday in mid-September. But at the
83 September 25th session, Gabriel seemed less engaged, almost angry, and was very reluctant to
84 discuss what was bothering him. I asked if he was struggling in school or was being bullied –
85 common experiences among those in the group – but he would not answer.

86 In mid-October I saw the news report about the incident involving Gabriel at the school, and I
87 was very concerned. Gabriel had been pepper-sprayed by the SRO, who claimed to consider him a
88 potential threat after it was reported that Gabriel might have a gun. It turned out that he had a 3D-
89 printed model gun in his backpack. From my interactions with Gabriel, I was certain he meant no harm
90 – he was most likely bringing the model to show to his friends at school. As soon as I saw the reports, I
91 called to check on Gabriel. But my call went to voicemail and was not returned. Before the date for the
92 October session, I was distressed to learn that Gabriel had returned to Saipan.

93 It is true Mr./Ms. Mendoza stated in news interviews that Gabriel had been bullied, and other
94 school shootings have been carried out by victims of bullying. Nonetheless, I am quite sure Gabriel
95 would never pose a threat to others at the school. Media reports sometimes portray those with ASD as
96 cold, calculating killers, but such reports are both inaccurate and quite harmful to those with ASDs. I'm
97 passionate about spreading the truth and countering such misinformation.

98 The fact that Gabriel was bullied was not surprising, unfortunately. As Chair of the Eldorado
99 County School Board Safe Schools Committee, I am privy to statistics on bullying and other key issues
100 within our county and statewide. Bullying (both in-person and cyber-bullying) had been on the rise in
101 Utopia for a decade, especially for students diagnosed with learning disabilities. To address the
102 problem, Arcadia High School implemented a new program in 2013, including a mandatory “Banish
103 Bullying” school assembly for all freshmen with handouts for students and parents. These efforts were
104 making an impact. Anonymous student surveys showed that 18% of students at Arcadia High School
105 reported being the victim of bullying in 2015, down from a reported incidence of 25% in 2012 before
106 implementation of the program. However, students with disabilities – those receiving services under
107 the Individuals with Disabilities Education Act, or IDEA – showed no such decrease. In fact, their
108 reported rates rose from 30% to 38% during that same period. Admittedly the sample size for
109 students with disabilities at Arcadia High was not large (120 in 2013 and 116 in 2015), but the
110 increase is still quite concerning.

111 Also disturbing are the school discipline statistics at Arcadia High. Overall, students of color
112 are suspended at a rate 2.5 times greater than white students (13% versus 5%). Boys represent nearly
113 75% of those suspended multiple times or expelled. Students with disabilities are suspended at twice
114 the rate of students without disabilities (13% versus 6%). And even though students with disabilities
115 comprise only 12% of the overall student population, they represent 58% of those placed in seclusion
116 or involuntary confinement, 80% of those physically restrained at school or subjected to control
117 measures such as pepper spray, and 26% of the students arrested and referred to law enforcement.

118 As a male international student diagnosed with Asperger Syndrome, Gabriel was at high risk of
119 being bullied and of being subjected to inappropriately harsh discipline by the SRO and/or by school
120 personnel. Sadly, the affidavits of Nikki Mendoza, Blair Benjamin, and Sydney Singh all reveal that
121 Gabriel was bullied. One time he was suspended from school as a result of an ensuing fight. No
122 evidence exists that the school took any specific steps to address the problem, such as seeking to
123 identify and discipline the bullies, informing teachers to be more vigilant, or informing the SRO of the
124 situation. Admittedly, neither Gabriel nor Mr./Ms. Mendoza apparently informed the SRO or school
125 personnel of many of the incidents. If so, they share responsibility for the ongoing situation.

126 A separate and equally serious concern is Max Carter’s selection as an SRO, given Carter’s
127 previous interactions with youth. Carter reports a time when s/he narrowly escaped serious injury or
128 even death when a teenager attempted to knife Carter in the neck. After that incident, Carter’s
129 demeanor toward youth reportedly changed. Complaints were filed against Carter for use of
130 excessive force, particularly against teenagers, prior to Carter’s selection as an SRO. Such reports

131 should have been a “red flag” demonstrating that Carter may have needed counseling to deal with the
132 trauma of that prior incident. The reports certainly should have raised questions as to whether Carter
133 was an appropriate choice as an SRO. However, the reports were disregarded. Carter was neither
134 suspended nor provided with an opportunity for counseling. Similar complaints continued to be filed
135 against Carter after Carter was assigned to Arcadia High, and again, the APD did nothing. Given
136 Carter’s demeanor toward youth after the attempted-knifing incident and Carter’s history of using
137 excessive force with youth, Carter should never have been chosen as an SRO. At the very least, Carter
138 should have been reassigned to a non-SRO position after his/her pattern of negative interactions with
139 youth became clear.

140 SROs are a vital partner in ensuring a healthy school environment for all students. In my
141 interactions with new SROs at the Utopia Justice Center, I have been very impressed by these officers’
142 dedication and commitment to “protect and serve” the youth of Utopia. But to make the transition
143 successfully from patrol officer to SRO, officers benefit from additional training. At the Utopia Justice
144 Center, new SROs are taught about youth psychology, bullying, learning disabilities, and gang
145 influences in schools. They learn how to assess scenarios quickly and accurately, de-escalating
146 potentially volatile situations to ensure students’ safety. And their role extends beyond command and
147 control; an important aspect is serving as a role model and educator for students. SROs learn how to
148 lead crime prevention and community justice initiatives and often teach courses on law or
149 responsible citizenship. An effective SRO helps to create a sense of community and mutual respect
150 among the students, staff, and family members.

151 Because the role of an SRO is so vital, the National Association of School Resource Officers
152 (“NASRO”) strongly emphasizes that SROs should attend a basic SRO training course prior to starting
153 work and should obtain advanced training while on the job. In the state of Utopia as a whole, nearly
154 90% of SROs since 2011 have completed the one-week SRO basic curriculum before being assigned to
155 a school, and 50% have completed additional related training.

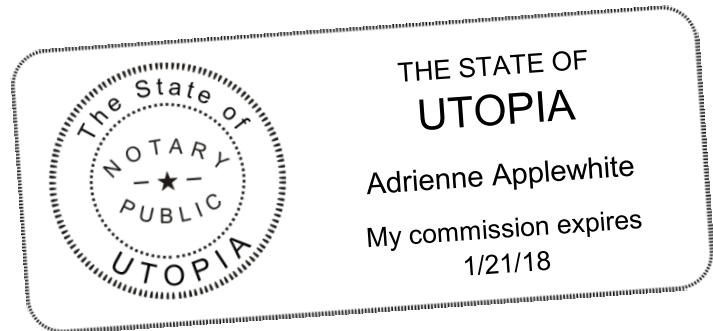
156 But the situation in Arcadia does not mirror that of the rest of Utopia. Officer Carter was not
157 provided with any additional training, despite Carter’s requests. Other new SROs in Arcadia over the
158 last five years were similarly denied specialized training, leading to numerous instances when SROs
159 reacted inappropriately to stressful situations. By preventing SROs from receiving proper training,
160 the APD has put the students and staff at Arcadia High School and other schools at increased risk of
161 physical harm and/or unjustified arrests. The policies and procedures of the APD are acceptable as
162 written. But the current Chief of Police has created a culture of cost-savings above community, to the
163 detriment of the officers and residents of Arcadia alike.

164 I recognize that “hindsight is 20-20.” It can appear easy to critique the actions of an officer
165 from the safe confines of the ACYD. Officers and SROs are often called upon to make split-second
166 decisions – decisions that can have life-or-death consequences for the officer, innocent bystanders,
167 victims, and perpetrators. Yet that is all the more reason to make sure SROs are appropriately
168 trained and supported if we are to prevent tragic circumstances like those that befell Gabriel Torres.
169 The APD must be held accountable for the pain SRO Carter inflicted on Gabriel, both for Gabriel’s
170 sake and to prevent any such tragedies in the future. Our children’s future health and safety are on
171 the line.

172 Of the available exhibits, I am familiar with the following and only the following: Exhibit 1
173 (Arcadia PD Policies and Procedures), Exhibit 2 (my C.V.), Exhibit 3 (the DSM-IV criteria for
174 diagnosing Asperger’s Syndrome), Exhibit 4 (Gabriel’s blog), Exhibits 8 & 9 (incident reports and
175 complaints filed with the Arcadia Police Department), Exhibit 10 (Incident Report Forms at Arcadia
176 High School), Exhibit 11 (Article in *Arcadia News & Record*), Exhibit 12 (the U.S. Department of
177 Education’s CRDC Data Summary), and Exhibit 13 (Arcadia High School Parent Information Sheet
178 addressing bullying).

Addison White
SIGNATURE

Adrienne Applewhite
Adrienne Applewhite
Notary Public



AFFIDAVIT OF MAX CARTER

1 My name is Max Carter. I'm a sworn peace officer in the Arcadia Police Department, which I
2 joined in 2005. Ever since I was a kid, I've wanted to be a police officer. My parents are both
3 detectives. They met as young patrol officers in New York City, and after they got married, they
4 decided Arcadia was a better place to raise a family. As a child, I saw how people in Arcadia treated
5 the police with respect. So when I graduated high school, I went to Utopia University and earned a
6 bachelor's degree in Criminal Justice. Right away I came back to Arcadia to attend the police
7 academy. I loved everything about it, and I graduated first in my class.

8 It was cool to be on the force with my parents, and they taught me a lot. The Chief of Police at
9 the time was really supportive, encouraging all the new officers to get extra training. I took several
10 courses at the Utopia Justice Academy, including "Community Oriented Policing," "Gangs Across
11 Utopia," "Interview and Interrogation," "Basic Hostage and Crisis Negotiation," and "Threat
12 Assessment." I also made sure to familiarize myself with the Arcadia Police Department Policies and
13 Procedures manual.

14 But in March of 2009, a new police chief, Jadyne Rosier, took over, and the working
15 environment became more stressful. Money was tighter and officers were laid off, so the rest of us had
16 to pull more double shifts. We were discouraged from using our sick leave, and funds for extra training
17 were cut. My parents finally decided to move in 2010, but I didn't want to leave Arcadia.

18 During my first 5 years on the force, I was a regular "beat" cop, patrolling mostly the poorer,
19 downtown area in Arcadia. As a new officer, I made lots of arrests for petty theft, shoplifting, DWI,
20 and speeding. But in 2008, gangs started taking over those neighborhoods after the economy took a
21 downturn, and my job became much more dangerous. I always had to be on high alert when I was
22 working, and it was pretty stressful.

23 On November 19, 2010, I was on patrol downtown around 5 pm when I saw two teenage
24 guys trying to grab a backpack away from a teenage girl. The two guys started punching at her, so
25 my partner and I pulled over. The guys immediately took off, with my partner in pursuit. I ran over
26 to check on the girl, who was kneeling on the ground clutching the backpack. As I bent down to ask if
27 she was okay, she whipped out a knife and slashed at me, barely missing my throat! I flung myself
28 back and she took off. By the time I reacted and started chasing her, she had ducked into an
29 apartment building and got away. The other teens escaped, too.

30 The whole thing shook me up pretty badly, and I had nightmares for weeks. If her knife had
31 connected, I'd have died right then and there. The nightmares got so bad that I asked if I could take
32 some time off or meet with a counselor, but Chief Rosier told me there wasn't anyone to cover for me

33 and I should just “buck up and deal with it, like a real cop does.” I talked with some of the older cops
34 and called my parents more often for a month or two, and that really helped.

35 Gangs were getting bolder in Arcadia. Several of my buddies on the force had been knifed or
36 shot at by gangs in 2010, and one of my best friends had even been killed in the line of duty. Despite
37 my parents’ support, I started to question whether being a police officer was the right career for me
38 after all. But I’d worked my whole life to be an officer, and I didn’t really have a “Plan B.” So I vowed
39 to take no chances when dealing with suspects – better to rough up a criminal than risk getting hurt
40 myself. I wasn’t the only cop who felt that way, either; it sort of became the new culture of the
41 department. “Better them than me.”

42 When a position as a school resource officer (SRO) opened up in late summer of 2011, I
43 jumped at the chance for a change. It’s not that I wanted to work with high school students – I knew
44 they could be as dangerous as anyone. In fact, I viewed teens loitering on the street with some
45 suspicion because most gang members were teens or young adults. With all the metal detectors and
46 security measures in place at the local schools, I was sure an SRO position would be safer. And the job
47 came with a nice raise – \$8,000 per year – so I was thrilled when the chief offered the position to me!
48 Then s/he told me to report to Arcadia High School the very next week. I was surprised; I thought I’d
49 have to attend the 40 hour SRO training class and 32 hour SRO Ethics class first. But when I asked
50 Chief Rosier about it, s/he said, “No money for that in the budget. I’ve got the training class manuals
51 you can borrow. You’ll be fine...unless you want me to pick someone else?” I assured the chief I was
52 on board and would report to the school on Monday.

53 Arcadia High School had ~ 1,000 students and 50 faculty in 2011, so it wasn’t a small school
54 but wasn’t huge, either. I was the only SRO, so I had to learn on the job. Of course the manuals were
55 useful, but it wasn’t the same as having a mentor. Still, I read everything I was given and was
56 determined to do my best, just like I always had. The hardest part was finding the right balance
57 between befriending the students and strictly enforcing the rules. I decided the most important thing
58 was to keep the students safe, and if the kids didn’t seem all that friendly, it didn’t matter to me too
59 much. When in doubt, I erred on the side of apprehending anyone who seemed to be a troublemaker.
60 I also stayed vigilant to make sure gangs and guns weren’t infiltrating the school.

61 The first few years went pretty smoothly. I had to use pepper spray a few times when
62 students got in fights. But most of the time, simply talking to the students was sufficient to calm a
63 situation. Of course, the parents of the students I pepper-sprayed filed complaints, but that’s to be
64 expected in today’s “helicopter parent” society. The chief backed me up every time. But in 2013,
65 things started to change.

66 Like I already said, I grew up in Arcadia. When I was a little kid, family farms surrounded
67 the town, and migrant workers flocked here every summer to harvest the crops. Eventually some of
68 the workers settled here and took other jobs in the area. But when the research park was built in
69 2013, the population of Arcadia exploded. Many highly educated people from overseas moved here
70 to work in the new companies, making Arcadia a much more diverse – and sometimes more
71 polarized – city. The population of the school grew to nearly 1,400, and eight trailers were added to
72 handle the overflow. I was still the only SRO, though.

73 Also, not everyone benefited from the booming economy. A majority of the farms were
74 bought out or went bankrupt during the drought in 2012-2013. A large textile manufacturing
75 company that had been in Arcadia more than 60 years reduced its workforce, sending jobs overseas
76 where labor was cheaper. Quite a few of my friends who started working there after high school
77 were laid off, and many of them had trouble finding a new job. It was really tough to see them
78 suffering in that way, and some had to move in with family or leave the area altogether.

79 In July of 2015, crowds picketed outside one of the new research companies, holding signs
80 saying “American Jobs for Americans” and “Go Back Where You Came From.” It got pretty ugly, and
81 some of my buddies on patrol had to resort to force to disperse everyone. Thirty people were
82 arrested for trespassing and vandalism after they threw rocks and sprayed paint on the outside of
83 the company headquarters. Nothing like this had ever been seen in Arcadia before.

84 Tensions even spilled over to Arcadia High School. Bullying and fights became more
85 common, and the student body became divided between those whose families had lived in Arcadia
86 for decades and those whose families had moved here more recently. The school administration did
87 its best to calm things down, adding additional school counselors and holding “International Fairs”
88 to try to build connections between the students. But their efforts didn’t seem to be working, and
89 tensions remained high. I also began to see evidence of gang infiltration in the school, which
90 worried me a great deal. Sometimes the metal detectors in the school didn’t work, and I was afraid
91 students might find a way to sneak weapons on campus. I sure didn’t want us to have any shootings
92 like those in other parts of the country. The stress started getting to me a bit, and my nightmares
93 came back. I didn’t try asking the chief about counseling again; instead, I started working out more
94 to make myself tired enough to sleep.

95 October 13, 2015 started off like any normal day. I greeted students in the school lobby as they
96 arrived in the morning. When maybe half of the students had gone through the metal detector, it
97 stopped working. Rather than make everyone late to class, I watched the students entering the school
98 and pulled aside anyone who looked suspicious so I could search their backpacks. Some of the kids

99 seemed to resent being pulled aside, but no one caused any problems. A bit later, I was patrolling the
100 halls between first and second period when a student named Sydney Singh ran up to me and told me
101 s/he'd seen a gun in Gabriel Torres' backpack when Gabriel was at his locker. I knew who Gabriel was;
102 he seemed somewhat antisocial and often had an angry look on his face. The previous spring he had
103 been involved in several fights at school. He always reported being the victim of bullying rather than
104 the instigator, so I think he'd only been suspended once, for 5 days. If he was continuing to be bullied, I
105 thought he might have decided to fight back. I was afraid of what he might be planning to do.

106 All of my nightmares about school shootings flashed before my eyes. I knew I had no time to
107 waste. I radioed the office to find out where Gabriel was and ran to the room. I immediately entered
108 and spied Gabriel at a desk near the wall. I swiftly approached him and insisted he hand over his
109 backpack and come with me to the office. All I could think of was getting the backpack away before
110 Gabriel could pull out the gun. Gabriel looked at me with wild eyes and reached aggressively toward
111 the backpack. I reacted instantly, spraying Gabriel with pepper spray to disable him. Gabriel threw
112 up his hands and I grabbed him, handcuffed him, and dragged him out of the room and to the office.

113 When we got to the office, the principal, Dr. Melvin, was there to meet us. He asked what was
114 going on. I said that a student had seen a gun in Gabriel's backpack. We looked inside the pack, and
115 sure enough, we saw what looked like a gun. It had a bit of an odd appearance, sort of like it was
116 plastic or something. I couldn't tell for sure if it was functional. I didn't take it out of the backpack
117 because I didn't want to disturb any evidence before the CSIs could analyze everything. In any case, I
118 was convinced I had acted properly by intervening right away. It certainly hadn't been worth taking
119 a chance on a possible school shooting.

120 I said we needed to arrest Gabriel and call for back-up to take him down to the station. But
121 the principal was indecisive and unsure about what to do. Meanwhile Gabriel was moaning in pain,
122 with red, watery eyes. I thought about taking him to the bathroom or to a water fountain to wash his
123 eyes out – keeping him cuffed, of course – but got distracted when the principal started to open the
124 backpack as though he was going to take out the gun. I intervened to stop him and insisted that we
125 call for backup. Finally after maybe 40 minutes had gone by, he agreed. A patrol car arrived within
126 minutes, and I accompanied Gabriel to the station.

127 When we got there, Gabriel was still very upset, crying out that his eyes hurt. The other
128 officer ignored him. Gabriel refused to answer any questions, so the officer gave up and handcuffed
129 him to a chair in a conference room. Gabriel's backpack had been sent to the CSIs, and pretty soon
130 they brought it back, saying "it's just a 3D model gun. It looks like he printed it himself. It can't fire
131 any bullets; it's just a toy."

132 Moments later Gabriel's relative, Nikki Mendoza, stormed into the station. Mendoza was
133 quite upset, shouting about "violation of rights" and "discrimination." By then, we knew the gun
134 wasn't functional, so Gabriel was released into Mendoza's custody after a strong warning about not
135 bringing anything that looked like a weapon to the school. Mendoza was still ranting as they left the
136 station. I tried to calm Mendoza down, telling them to go home and let Gabriel rest. But Mendoza
137 would have none of it, pushing me away and shouting, "You just wait. You haven't heard the last
138 from me yet!" I was sorry Mendoza was so upset. But I knew I'd done the right thing. If Gabriel had
139 brought a real gun to school, Arcadia High could have been the site of a massacre. I'd do the same
140 thing again in a heartbeat. Better a couple of angry people than a crowd of dead or injured students.

141 After Mendoza left, I was interviewed by Chief Rosier. When I explained what had
142 happened, the Chief told me I had acted properly, given the information I had at the time. "We can't
143 take any chances when it comes to guns in schools. The stakes are too high." When I asked if I would
144 be put on desk duty for a few days until things calmed down, the chief said, "Definitely not. Like I
145 said, you did nothing wrong. It's important for you to be at your post tomorrow, so no one thinks
146 otherwise. You're good with that, right?" To be honest, I wouldn't have minded waiting a few days
147 to go back to the school. But I also knew the chief was counting on me to be strong. So I said I'd be
148 fine, not to worry about me. The chief was clearly pleased and even said I'd be commended for my
149 actions at the next SRO group debriefing session.

150 When I went back to the school the next day, I learned that Gabriel had been given a short-
151 term suspension (10 days) because of the incident. That seemed like a pretty mild consequence to
152 me. If he had brought an actual weapon to the school, he would have received a mandatory 365-day
153 suspension. Given the fear and disruption that even the model gun caused, a ten-day suspension
154 was pretty lenient, in my opinion.

155 When I told the principal I was surprised about the short-term suspension, he said that he
156 took into account the fact that Mr./Ms. Mendoza reported that Gabriel had recently been diagnosed
157 with Asperger Syndrome. That was news to me; in fact, I didn't even know what Asperger
158 Syndrome was. It wasn't discussed in any of the training materials I'd read. When I looked it up, my
159 research helped me to understand why Gabriel had difficulties interacting with other students.
160 Maybe if I'd known about it beforehand, I would have approached Gabriel a bit differently. Or
161 maybe not; after all, I had been told he had a gun in his backpack, and ensuring everyone's safety
162 had to be my highest priority.

163 The *Arcadia News & Record* ran a story on School Resource Officers in late September of
164 2015 after an incident at Paradise Bay Academy. The article made it sound like SROs don't care

165 about the students and treat them too harshly. But the reporter doesn't know what it's like to have
166 to make those split-second decisions to keep people safe. It's easy to be a sideline quarterback;
167 much harder when you're the one on the field. I think articles like that do more harm than good, by
168 making the community suspicious of SROs. Without us there to intervene and prevent bad things
169 from happening, schools would be a much more dangerous place for everyone.

170 Of the available exhibits, I am familiar with the following and only the following: Exhibit 1
171 (the APD Policy Manual); Exhibit 5 (the model gun that Gabriel Torres brought to school); Exhibit 7
172 (the pepper spray that is part of an officer's gear); Exhibit 8 (incident reports in my personnel file);
173 pages 1 & 3 of Exhibit 10 (the incident report forms I filed after altercations at Arcadia High
174 School); and Exhibit 11 (the article in the Arcadia newspaper).

175

Max Carter

SIGNATURE

Michelle Strickland

Michelle Strickland
Notary Public



AFFIDAVIT OF SYDNEY SINGH

1 My name is Sydney Singh. I'm a senior at Arcadia High School. I really like the school and
2 have made a lot of friends here. I'm captain of the tennis team and vice president of the senior class.
3 I'm also president of the Service Club. We've sponsored Walk-A-Thons for diabetes and heart
4 disease. And last year I organized a bone marrow registry donor drive for the "Save the Wolf"
5 campaign to help Superior Court Judge Carla Wolf, who has blood cancer. More than 100 people
6 registered during our event. Even if none prove to be a match for Judge Wolf, they might save
7 someone else's life.

8 Next year, I'll be attending the Air Force Academy in Colorado. My favorite aunt is in the Air
9 Force now, and one uncle and my granddad also served. I want to continue the family tradition.
10 That's partly why I joined the Civil Air Patrol at school as a freshman. CAP is a non-profit civilian
11 auxiliary for the Air Force. Adult members help with emergency services and search and rescue
12 operations. CAP also sponsors a cadet program in schools, to help students learn about aviation,
13 military customs, and leadership. I've attended some amazing CAP summer camps on Cyber
14 Defense, Aerospace, and Survival Skills. Best of all, I've gotten to fly planes for free! I've put in half of
15 the flight hours that I need to earn my pilot's license, and I hope to finish the rest before I graduate
16 high school in the spring.

17 I'll have to admit, my mom wishes I would choose a different career. She's worried about me
18 getting shot down and tortured by terrorists in Afghanistan or the Middle East. I told her not to
19 worry; there's a greater chance I could get hurt crossing the street in America. But every time
20 there's a story in the news about some sort of terrorist bombing or attack, whether in the U.S. or
21 overseas, she talks about it for days. Honestly, that's one reason I want to serve - to stop such
22 attacks and keep us all safe.

23 I worked hard at CAP to advance through the ranks. By the beginning of my sophomore
24 year, I earned my first leadership rank, Cadet Technical Sergeant. That meant I could coach the
25 junior (new) cadets during meetings and have a chance to become a better leader myself. Now I've
26 earned my Billy Mitchell Award and achieved the rank of Cadet First Lieutenant, which was really
27 helpful when I applied to the Air Force Academy.

28 In March of my sophomore year, a freshman named Gabriel Torres started attending the
29 CAP meetings. It's a little unusual for people to join in the spring, but he had just heard about CAP
30 and was really interested. Gabriel was born in Saipan and came to Arcadia to live with his
31 aunt/uncle the previous summer so he could go to school here. Gabriel already seemed to know a
32 lot about airplanes and flight, so that aspect of CAP was easy for him. But other parts were tougher.

33 He moved sort of awkwardly and had trouble learning the military drill movements. He also
34 struggled during the physical fitness training. And Gabriel had a bit of difficulty “fitting in” to the
35 group. I don’t know if it’s because Gabriel was born overseas or what, but he sometimes didn’t seem
36 to understand jokes, or he got offended easily. Even so, he worked hard, and he managed to
37 advance in rank before the school year ended. He even signed up for summer encampment in June.

38 Encampment is a challenging week-long camp at a local military base. I attended as a first-
39 year cadet the previous summer and went again in 2014 as a squadron leader. The camp schedule
40 includes daily calisthenics, obstacle courses and team fitness challenges, team leadership problems,
41 and sessions on aviation. We also get to go on several flights where we’re allowed to take control of
42 the airplane for short periods. It’s intense but awesome.

43 Gabriel wasn’t in my squadron at camp, but I saw him several times most days. He still
44 struggled to stay in formation during drill practice, and he also came in near the back of the pack on
45 the obstacle course. As the week went on, he seemed stressed or discouraged when I saw him. He
46 didn’t speak much in the dining hall and kept mostly to himself during free time. I tried to talk with
47 him a few times but he didn’t really look at me or say much. When I asked his squadron leader how
48 he was doing, the leader said “fine” but didn’t give any details.

49 I wasn’t sure if Gabriel would come back to CAP in the fall, but he did. I decided to make a
50 real effort to get to know him better. I figured it must be hard making friends in a place so different
51 from where he grew up. So after the second CAP meeting, I went up to him before he left and asked
52 how he was doing. He seemed sort of surprised that I was talking with him. He said, “Great!
53 Everything’s great! Hey, my birthday is next week. Want to come over for pizza?” I was caught a bit
54 off guard since we weren’t close friends or anything, but I said “Maybe...when is it?” He told me
55 Sept. 12, which was a Friday. I already had plans, so I told him I couldn’t come. He looked really
56 disappointed, so I said, “Hey, maybe another time.” He said okay and left.

57 I felt kind of bad, so the next week I asked what he liked to do after school. We got to talking
58 about computer games and discovered we both liked *War Thunder*, a massive multiplayer online
59 game (MMO) based on World War II. He invited me to come over sometime to play, so I said yes. We
60 got together a few days later at his house.

61 Gabriel’s room was pretty sparse. I noticed that he had a lot of books about weaponry and
62 tactics during World War II; he also had military-oriented posters covering the walls. He pretty
63 much talked non-stop about the specs of various guns and such while we were playing the game. I
64 learned more than I cared to about the topic, but some of it was interesting. Gabriel seemed really
65 happy that I came and invited me back anytime. So every couple of weeks, I’d go visit after school to
66 play video games. Sometimes we’d talk about CAP, but mostly we talked about the game or about

67 World War II weapons and tactics. Gabriel would go on and on about details of various guns and
68 planes. I couldn't believe he knew so much about it all – it was like he had memorized an
69 encyclopedia or something. That part got to be kind of boring, but Gabriel was decent at *War*
70 *Thunder*, and none of my other friends really liked the game. So I kept going over after school every
71 few weeks. Once or twice when I suggested coming over, he told me he already had plans to play a
72 different computer game with Blair Benjamin. I didn't know Blair at all – we didn't have any classes
73 together – so I didn't visit if Blair was there.

74 Gabriel continued to advance in CAP as the year went on, although more slowly than most of
75 the cadets. So I gave him extra help when I could. He seemed a bit happier overall. At least, he did
76 until late in the spring of 2015. One night we started discussing current events, and people brought
77 up some recent terrorist bombings in Paris. A student made a comment about the "ISIS terrorists"
78 and all of a sudden Gabriel jumped up and said, "I had nothing to do with that! I'm not even a
79 Muslim. Leave me alone!!!" Everyone was shocked, especially since no one had said anything about
80 Gabriel at all. Gabriel ran out of the room, and I ran after him.

81 When I caught up to him, he was shaking and half-crying. I sat down beside him and waited
82 for him to calm down. I asked what was going on. "Gabriel, no one was talking about you at all. We
83 were talking about ISIS. Why did you blow up like that?" Gabriel took a deep breath and said, "Ever
84 since those attacks, kids have been calling me 'Muslim terrorist,' shoving me into lockers and
85 knocking my books on the floor when no teachers are around. If they keep it up, I'll show them! They
86 can't treat me this way." He balled up his fists and looked like he wanted to punch someone. I was
87 surprised, especially since Arcadia High School has programs to prevent bullying. For instance, in the
88 mandatory Freshman Orientation, a school counselor talks about bullying: how to recognize it, how
89 to report it, how to help others. Posters are pasted all over the school, with helpline numbers and
90 reminders to "Banish Bullying." So of course I was disturbed to hear that Gabriel had been bullied.
91 But I have to admit, I was also concerned by how furious and aggressive he seemed, especially since
92 no one had said anything at all to set him off.

93 I asked if he'd told his teacher or guidance counselor about the bullying. He said, "I tried, but
94 they didn't listen to me. If they won't protect me, I'll take matters into my own hands!" I knew that
95 would only make matters worse, so I kept talking to Gabriel and finally got him calmed down. I made
96 him promise to tell me if he had any more problems. I told him we could go talk to the principal
97 together. He never came to me, though. And he seemed fine at the rest of the CAP meetings that
98 spring, although I never asked him if the bullying had stopped.

99 Because I was really busy with school, I didn't make it over to Gabriel's house to play video
100 games again before school let out for summer. In fact, I didn't see him at all for several months. I was

101 working at encampment, and he got a summer job in Arcadia. But once school started and I saw him
102 at CAP, he invited me over to play *War Thunder*. When I came, we talked about encampment, and he
103 told me about his summer job. He said he'd gotten to use a 3D printer, which sounded really cool. He
104 seemed pretty happy and glad to be back at school.

105 Gabriel invited me over for pizza again on his birthday, but I couldn't make it. The next time
106 I saw him at school, he was super-excited about his birthday present – a 3-D printer kit! He said he
107 put it together himself and invited me over to play around with it. I went over the next afternoon,
108 and it was awesome! We messed around and made some simple shapes, including a really basic
109 plane shape using plans he'd downloaded from Thingiverse. Gabriel brought the plane to CAP and
110 passed it around. Everyone thought it was cool, and they all gathered around Gabriel when the
111 meeting ended. He went into lots of detail on the printer, how he'd put it together and how he'd
112 made the plane – enough detail that several people got bored and wandered off, although he didn't
113 notice. He was clearly incredibly happy to be the center of attention.

114 Then Gabriel said he was going to make a remote-controlled model airplane using plans
115 he'd found online. He said he'd downloaded several different versions and would start with a Flying
116 Wing design that was more than 2 feet across. It sounded amazing. I asked if I could help, and he
117 said sure! So I came over several times in the next few weeks after school. We spent hours each
118 time, checking and rechecking the dimensions and then printing and assembling the parts. The
119 inner wing structure was pretty complicated, but we were making great progress. We'd almost
120 finished all the 3D printing and soon would be ready to add the motors and stuff. I thought we'd
121 have it finished by mid-October at the latest.

122 On September 30, I went to Gabriel's house after school to work on the plane. I hadn't seen
123 him at school that day, but I usually didn't. I texted him when I was almost there. He didn't reply, so
124 I knocked on the door, then I opened it and called out for him. All of a sudden he came running out
125 of his room, shouting, "Go away! I don't want you here! I hate you and everyone else at that @#!@
126 school!" He had the plane in his hand, and next thing I knew, he threw it on the ground and stomped
127 on it. I stood there for a moment, stunned. Then I shouted, "What are you doing? Are you crazy?!
128 We've been working on that for weeks! Why did you do that?"

129 He looked at me all wild-eyed and shouted, "Don't talk to me like that! I'm not crazy! I'm not
130 a terrorist!! I'm sick of being shoved into lockers! I'm sick of being told to 'go back where you came
131 from.' I'm not going to take it anymore! You'll all be sorry. They're gonna pay for what they've done.
132 I can make other things on this printer, you know! Now get out of my house and don't come back!!" I
133 tried to tell him to calm down, but he shouted, "Get out!! Now!!" So I turned around and left.

134 I was pretty keyed up when I left. I couldn't believe Gabriel was being bullied again. I didn't
135 know who was doing it, but I figured the principal, Dr. Melvin, needed to be aware it was happening.
136 I went to talk with Dr. Melvin the next day, to alert him to the situation. He listened to me and said
137 he'd talk with Gabriel to get more details, but he couldn't really do anything except to tell teachers
138 to be on the lookout for bullying.

139 I didn't have any classes with Gabriel and rarely saw him in the halls, so I figured I'd catch
140 up with him at CAP the next week. But he didn't come, and he didn't reply to my texts. I knew he'd
141 written a blog back in the spring but had stopped during the summer. I thought I'd check it out to
142 see if I could tell how he was doing. The spring postings had mostly talked about World War II
143 weapons and tactics. He didn't post anything from mid-June until mid-September, but he'd made
144 two recent posts on 3D printers. One linked to the online site with airplane plans; it was detailed
145 and talked about the plane he was making. But the post on October 8 worried me. It talked about
146 using 3D printers to make guns and how they could get through security because they didn't have
147 metal in them. I started getting concerned about what Gabriel might be planning. I was determined
148 to go see him at his house if he didn't come to CAP on October 13.

149 That very morning, October 13, I saw Gabriel at his locker before our second period class. I
150 started to walk over to say hi, then I saw him pull something that looked like a gun out of his coat
151 pocket and put it in his backpack. He didn't see me. He glanced around as if to make sure that no
152 one had seen the gun, then he grabbed his backpack and headed down the hall. I stood there for a
153 moment in shock. I didn't know what he was planning, but I knew I had to tell someone in authority
154 right away. I ran down the hall toward the office and bumped into Officer Carter on the way. I
155 grabbed the officer's arm and blurted out what I'd seen. Officer Carter listened intently, then told
156 me to go to class and stay there. As I turned to go, Officer Carter radioed to the office to ask where
157 Gabriel was. Then Officer Carter sprinted down the hall toward the math wing. I ran to class, hoping
158 I'd done the right thing.

159 My history class had barely started when an announcement came over the intercom, telling
160 all students and teachers to remain in their rooms and not leave for any reason. Minutes later the
161 "all-clear" bell rang, and our teacher went on with our discussion of the French Revolution. I
162 couldn't focus, though. I kept wondering what had happened, was Gabriel okay, was he really
163 planning to shoot up the school...I didn't know what to think. When second period finally ended, I
164 tried to go the principal's office to see what was going on. But an assistant principal was turning
165 everyone away at the end of the hall, and no one would tell me anything. I tried calling Gabriel after
166 school let out, but he didn't answer.

167 Later that night I was checking news headlines online when I saw the story: an “unidentified
168 student” at Arcadia High School had been detained for bringing a printed model handgun to the
169 school. The student was eventually released after the police determined that the gun wasn’t a
170 working model. I knew the student had to be Gabriel. I tried texting him, but he still didn’t reply.

171 The next day at school, everyone was talking about the news. I heard quite a few students
172 say they thought he should be suspended for the rest of the semester, or that he needed to get
173 counseling to make sure it was safe for him to return. A few people talked about “terrorism” and
174 said “they should kick him out of the country.” I didn’t see Gabriel in the hall at all, and he never did
175 come back to CAP. A few weeks later I heard he’d gone back to Saipan.

176 I’m still not sure how I feel about all of it. I mean, I don’t think Gabriel would’ve really tried
177 to hurt anyone, but he was out of control at his house that day. And even though that model gun
178 wasn’t functional, given the complexity of the plane we’d made, I was sure he could make a working
179 gun if he’d wanted to. I’m sorry he was bullied. I wish him well and hope he gets the counseling he
180 needs. But part of me is not sorry that he’s no longer at Arcadia High School. It’s pretty scary to
181 think we could have had our own “Columbine” if he’d tried to carry out his threats and “make the
182 bullies pay.”

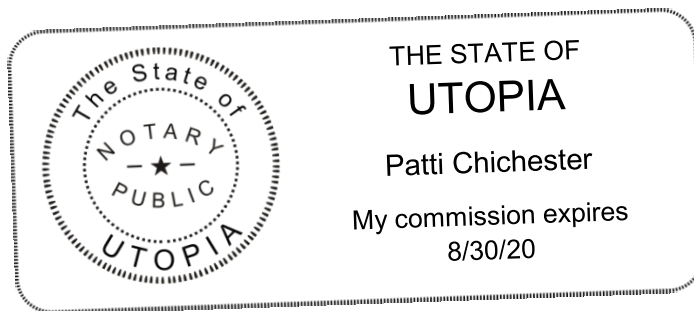
183 Of the available exhibits, I am familiar with the following and only the following: Exhibit 4
184 (Gabriel’s blog), Exhibit 6 (the 3D plane model Gabriel and I were making), and Exhibit 13 (the
185 handout on bullying that we receive at the school assembly each year). Exhibit 5 also looks a lot like
186 the gun I saw Gabriel put in his backpack, although I got such a quick glance at it that I’m not 100%
187 sure it’s the same

Sydney Singh

SIGNATURE

Patti Chichester

Patti Chichester
Notary Public



AFFIDAVIT OF JADYN ROSIER

1 My name is Jadyn Rosier and I am 56 years old. I am the Chief of Police for the Arcadia
2 Police Department, a position I have held since 2009. I was born in Flint, Michigan, where my dad
3 served as Chief of Police and my mom taught history and psychology at Huron High School. I
4 wanted to leave Michigan for college, so I moved to Fayetteville, NC and earned my BA in Criminal
5 Justice from Methodist College. In 1983, I joined the Fayetteville Police Department as a sworn
6 peace officer, and I swiftly advanced through the ranks, earning promotions to Captain and Division
7 Commander by 1990. I'd always set my sights higher, though, so I earned my Community Policing
8 Certificate from the NC Justice Academy in 1992 and completed their Management Development
9 Program by 1994. I was promoted to Major in 1995 and served in that role for 3 years.

10 At that time, my mom learned she had cancer, so I took a position in the Lansing, Michigan,
11 Police Department to be closer to home. I was heartbroken when my mom passed away in 2000,
12 right before I earned my M.S. in Criminal Justice from Michigan State University. Soon afterward, I
13 was hired as Deputy Chief of Police in Ann Arbor, Michigan. While I loved living in Ann Arbor, I
14 often found myself at odds with the Chief of Police when it came to the best approach to
15 maintaining a safe community. I wanted to implement "quality-of-life (QOL)" or "broken windows"
16 policing to reduce crime. QOL policing involves taking a stand on seemingly minor, but highly
17 visible, infractions – aggressive panhandling, sleeping on public benches, graffiti writing – leading
18 to arrests in situations where a warning or simple citation would otherwise be issued. QOL policing
19 puts perpetrators on notice that the police are serious about maintaining order. But the Ann Arbor
20 Chief of Police felt the policies I suggested were too harsh and did not take into account individual
21 circumstances. When I was offered the Chief of Police position in Arcadia in November of 2009, I
22 jumped at the chance.

23 In many ways, serving as Chief of Police is similar to being the CEO of a large corporation. I
24 manage our entire operation, develop and revise department policies and regulations, oversee our
25 officers (which includes promotions, disciplinary actions, and dismissals), devise strategic plans
26 and new programs to ensure community safety, present reports to the mayor and city council, and
27 work within an ever-shrinking budget. It's not a position for the faint-of-heart. Fortunately, the
28 courses I took at MSU were incredibly helpful to me as I took on my new role. Especially useful
29 were courses on "Assessment of Police Policies and Operations," "Crime Causation, Prevention, and
30 Control," "Risk Perception and Decision-Making," and "Budget Planning and Resource Allocation."

31 As the new Chief, I decided to spend a year getting to know the community and my officers
32 before trying to implement any new programs or major changes. In particular, I wanted to focus on
33 professional development. I had experienced first-hand the importance of advanced training and

34 continuing education, and I wanted to provide those same opportunities to my officers. But factors
35 soon intervened to make it impossible. The economy was suffering, and the city council reduced my
36 budget by 35% in 2011. I had to cut back on training, and I even had to reduce the force by 10%
37 (from 550 to 495 sworn officers). Fortunately, a number of officers were nearing retirement age,
38 and others decided to relocate. I left their positions unfilled. I only had to lay off three staff in all:
39 two psychologists and the head of the Internal Affairs Division (IAD). I'll admit, it's very unusual to
40 get rid of the head of the IAD. But my priority was keeping as many officers on patrol as I could. I
41 figured I could take on the IAD role by reviewing complaints against officers and making any "hard
42 calls" as needed. Because all our remaining officers were top-notch, I wasn't expecting to receive
43 many legitimate complaints anyway.

44 The budget cuts and reduction in force put a strain on everyone, for sure, but I was proud of
45 the way our people responded. Officers rarely called out sick, and everyone pitched in to cover
46 extra shifts when needed. Those who couldn't handle the heat left for jobs elsewhere, and we were
47 always able to fill their positions, no problem. It's true that some officers asked for counseling after
48 shootings or difficult situations and we just didn't have the staff to make it possible. When the
49 economy took a turn for the better, I asked the city council to increase our budget, but the council
50 decided to put the money toward parks and tax breaks for businesses instead. This decision
51 worried me, especially as gangs were becoming more active in Arcadia. But we just had to do the
52 best we could with what we had.

53 With the budget cuts, I could not afford to send officers to the Utopia Justice Academy for
54 advanced certifications. To compensate for the lack of off-site training, I set up a mentorship
55 program, pairing experienced officers with new officers to help them "learn the ropes." The
56 experienced officers could also offer advice on dealing with the stresses that come with the job,
57 leaving our one remaining psychologist to focus on really tough cases like PTSD or job-related
58 depression. I also arranged for more in-house training on topics including "Interview and
59 Interrogation," "Community-Oriented Policing," and "Gangs and Drugs."

60 One of the officers who had requested counseling was Max Carter. Officer Carter and Officer
61 Tylee Matthews had intervened in an altercation among several teenage gang members in
62 November of 2010. While Officer Matthews pursued two of the suspects, Officer Carter tried to
63 assist a third individual who reportedly pulled out a knife and attempted to stab Carter. Officer
64 Carter avoided injury but was unsuccessful in apprehending the individual. The other suspects
65 escaped as well. Carter reported having nightmares after the event and asked for counseling, but
66 our psychologist was already overburdened in assisting officers diagnosed with PTSD after being
67 injured or involved with shootings while on patrol. Given the facts of the situation (which were not

68 out of the ordinary for a patrol officer), I met with Carter myself and concluded Carter was able to
69 remain on patrol.

70 In general, the department received 50 – 75 complaints each year, mostly for “unfair treatment”
71 of suspects. When I looked into them, very few of the complaints had merit. They were mostly the kind
72 of whining one would expect from criminals trying to “game” the system. From January 1, 2011 –
73 December 31, 2011, official reprimands or warnings were issued against only five sworn officers:
74 Detective Dan Reagan, and Officers Tyler Steiner, Alex Boulton, Mike Cirillo, and Max Carter.

75 Officer Carter was reprimanded in February of 2011 for using excessive force in apprehending
76 two gang members accused of spray-painting graffiti on a downtown storefront. Neither of the
77 suspects was armed when apprehended, yet Carter had “Tased” the suspects when lesser force would
78 have been sufficient. I met with Carter myself, strongly admonished Carter, and issued a written
79 reprimand. I also required Carter to complete an online course on “Proper Use of Force” before
80 returning to patrol.

81 After Carter completed the online course, I received no more complaints against Carter. So
82 when Carter applied for a position as an SRO in August of 2011, I felt Carter was the right person for
83 the job. Aside from that one incident, Carter had always been one of my best officers. Even though
84 Carter had worked for the APD for only 6 years, Carter’s parents had both been vital members of
85 the APD before moving out of state. You might say Carter was “born to the job.” And Carter’s
86 relative youth was a benefit in some ways: Carter was young enough to relate to the students, yet
87 mature and experienced enough to be effective. I was certain Carter could enforce the rules fairly,
88 while also establishing good rapport with students, staff, and parents.

89 Officer Carter began working as the SRO at Arcadia High a week after being promoted.
90 Ideally, Carter would have attended two weeks of SRO training at the Utopia Justice Academy prior
91 to beginning the new position, but I had no funds in the budget for such training. Besides, students
92 were returning to school that very week and Carter was needed on campus. So I provided Carter
93 with SRO training manuals and instructed Carter to read through them in the evenings. I also
94 provided Carter with contact information for other SROs in Eldorado County, instructing Carter to
95 contact them if Carter had any questions. As far as I know, Carter never did so.

96 During Carter’s first year at Arcadia High, Carter pepper-sprayed several students while
97 breaking up fights on campus. On three occasions in 2011-12, parents of students at Arcadia High
98 filed complaints against Carter that were passed on to me. Of course I was concerned, but when I
99 investigated the complaints, Carter always had a reasonable explanation for the use of such force. In
100 addition, the school principal, Dr. Melvin, spoke highly of Carter and said that Carter’s presence had
101 made the school much safer for everyone. As a result, I deemed Carter’s use of force to be

102 appropriate in every instance, and no reprimands or other actions were taken against Officer
103 Carter. Two additional complaints were filed against Carter in 2012-13, but again, each complaint
104 was found to be without merit. While it may appear that the APD policy manual required that
105 Carter be suspended after so many complaints, I felt a strict application of departmental policy was
106 not warranted and would simply remove an excellent officer from duty for no reason.

107 It is true no complaints were filed against any SROs at other area high schools from January
108 2012 – August of 2015. However, the student population at Arcadia High was nearly 50% larger
109 than at any other school in the county. It was also more racially and economically diverse than in
110 any other county school, which sometimes led to altercations between various student factions. I
111 will admit I am concerned by statistics showing that minority students and students with learning
112 disabilities are suspended or expelled, or apprehended by SROs, in higher-than-expected numbers
113 in Arcadia High School and the Eldorado County school system as a whole. I'm not entirely sure why
114 that is the case. But I am confident that Officer Carter and our other SROs are committed to
115 "protecting and serving" students of all backgrounds and abilities. I will also make it a point of
116 emphasis in our in-service training sessions for the coming year.

117 Another area of concern was the increasing presence of gangs in the neighborhoods feeding
118 into Arcadia High. The school instituted a dress code policy banning gang colors or paraphernalia at
119 school, which eased tensions somewhat. But Officer Carter still had to remain alert for any potential
120 gang activity at the school, which made Carter's job more stressful than that of many SROs. If I had
121 had sufficient funds, I would have assigned a second SRO to Arcadia High. It just was not possible.
122 On the whole, it appeared Carter effectively established rapport with most students while
123 maintaining a safe environment.

124 Despite the increasing student enrollment at Arcadia High, the 2014-15 school year passed
125 without any additional complaints being filed against Officer Carter. The 2015-16 school year also
126 got off to a calm start – until October 13, 2015, when Carter pepper-sprayed Gabriel Torres after
127 receiving a report that a student had seen a gun inside Torres' backpack between first and second
128 period classes. Carter successfully subdued Torres without anyone sustaining injury and
129 appropriately asked the principal to call for back-up in transporting Torres to the station.

130 While it turned out the item in Torres' backpack was a non-working, 3D printed model of a
131 gun, I fully support Carter's decision to act quickly when faced with such a potentially dangerous
132 situation. It's easy for armchair quarterbacks to second-guess the split-second decisions of SROs
133 and other police officers – but if their own lives are at risk, they are grateful we are there to protect
134 them. Situations that may seem black-and-white after the fact, can be all-too-gray in the moment
135 when a decision must be made.

136 Each year I lead a training session for all APD officers on a topic that is timely and important.
137 In July of 2015, I presented information on the epidemic of gun violence and shootings in our nations'
138 schools. Discharge of firearms in schools is a much more common occurrence than most people
139 realize: in fact, between 2013 and mid-2015, an average of two school shootings took place at K-12
140 schools each month – and in more than half, the shooter was a minor. I stressed to all of our SROs that
141 if they had any doubts about the seriousness of a situation, it was best to err on the side of using force
142 to keep a situation under control. The stakes are just too high to do otherwise.

143 I interviewed Officer Carter for more than an hour on October 13, 2015, after Gabriel Torres
144 was released into the custody of his family member. Based on Carter's account of events, I was and
145 am confident that Carter acted appropriately under the circumstances. While it would have been
146 advisable for Carter to have taken Torres to the bathroom or a water fountain to rinse the pepper
147 spray out of his eyes, Carter was unable to do so both because Torres was belligerent and
148 uncooperative and because the school principal did not allow it. In his role as an SRO, Carter had to
149 abide by the principal's directives.

150 Carter was clearly upset by what had transpired and asked to be placed on desk duty for the
151 remainder of the week. But I was convinced that doing so would be a mistake – Carter's absence at
152 the school would make it appear that Carter was being disciplined for acting as Carter did. I also
153 had no officers qualified to take Carter's place. So I explained to Carter it was important for Carter
154 to return to the school as usual the next day, and Carter agreed.

155 I understand that Gabriel Torres never returned to Arcadia High, flying home to Saipan
156 instead. While it is a shame that events transpired in that fashion, Officer Carter did exactly as
157 Carter had been trained to do: act quickly under difficult circumstances to keep the students and
158 staff at Arcadia High School safe. Officer Carter should be commended for that, rather than vilified.

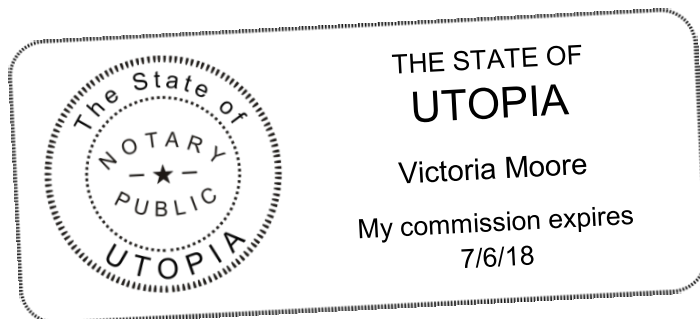
159 Of the available exhibits, I am familiar with the following and only the following: Exhibit 1
160 (the APD Policies & Procedures manual); Exhibit 5 (the 3D gun Gabriel Torres brought to school);
161 Exhibit 7 (Freeze + P pepper spray carried by all APD officers and SROs), Exhibits 8 - 10 (incident
162 reports and APD statistics on officer discipline), and Exhibit 11 (an article on SROs published in the
163 *Arcadia News & Record*).

Jadyn Rosier

SIGNATURE

Victoria Moore

Victoria Moore
Notary Public





ARCADIA POLICE DEPARTMENT POLICIES AND PROCEDURES

Revised 9/1/12



100. Officer Eligibility Requirements

In order to be eligible to serve as an officer of the Arcadia Police Department (“APD”), an officer must meet each departmental requirement.

101. Ethical Requirements

A. An officer candidate must pass a criminal background check prior to beginning the APD Basic Training Course.

B. An officer must not be charged or convicted of any crime or infraction while serving on the APD, with the sole exception of up to three (3) minor moving violations per five-year period.

1. Officers who are charged with any infraction or violation other than a minor moving violation will be placed on immediate suspension with pay, pending the outcome.

2. Officers who are convicted of any infraction or violation other than a minor moving violation will be immediately terminated, without exception.

102. Academic Requirements

A. An officer must have, at a minimum, a high school diploma or general equivalency degree.

B. An officer candidate must pass the APD officer entrance exam with a score of 75 or above.

C. An officer must complete the 20-week APD Basic Training Course, passing each component with a score of 80 or above.

103. Physical Requirements

A. An officer must be examined and deemed “fit for service” by an approved physician.

B. An officer candidate must take and pass the APD physical fitness test before that officer candidate may begin the APD Basic Training Course.

C. An officer must pass the APD physical fitness test annually.

104. Mental Requirements

A. An officer candidate must be examined and deemed “mentally healthy” by a city psychiatrist before entering the force as well as every year subsequent to the officer’s initiation.

B. A definitive diagnosis by a trained medical professional that an officer suffers from a mental illness is *per se* evidence that an officer is not “mentally healthy,” in which case the APD is required to place the officer on leave pending further examination.

C. An officer must be able to meet the mental health requirement at all times.

200. Duties of an officer

In order to serve as an officer of the Arcadia Police Department, an officer must know and adhere to all the departmental standards outlined in the Arcadia Police Department Policies and Procedure Handbook.

201. Departmental Behavioral Code

An officer must know and follow each departmental behavioral code.

202. Violation of Departmental Standards

An officer must report any violation of departmental standards on the part of a fellow officer.

300. Professional Development

A. An officer will be provided with appropriate training opportunities, either online, in-service, or at the Utopia Justice Academy, to maintain the highest standards of professional knowledge and conduct.

1. The APD will cover training costs, including room and per diem, for coursework at the Utopia Justice Academy.

2. An officer will be compensated at the normal salary rate for time spent in professional development.

B. A new School Resource Officer (“SRO”) should attend 80 hours of SRO training at the Utopia Justice Academy prior to assignment to a school campus.

1. In exceptional circumstances only, a new SRO will be provided with training manuals for self-study rather than attending SRO training at the Academy.

301. Annual Requirement

A. A patrol officer must complete 8 hours of approved professional development annually.

B. A detective must complete 12 hours of approved professional development annually.

C. An SRO must complete 10 hours of approved professional development annually.

400. APD Chief Eligibility Requirements

In order to be eligible to serve as the Chief of the Arcadia Police Department, an officer must meet each departmental requirement.

401. Length of Service

In order to be eligible to serve as the Chief of the Arcadia Police Department, an officer must have served a minimum of 5 years as a sworn peace officer.

402. Rank

In order to be eligible to serve as the Chief of the Arcadia Police Department, an officer must have achieved the rank of captain.

500. Duties of APD Chief

The Chief must ensure that each officer of the APD meets every departmental eligibility requirement and fulfills every duty outlined in the APD Policies and Procedure Handbook at all times.

501. Maintenance of Officer Files

A. The APD Chief is responsible for reviewing and maintaining each officer’s personnel file.

B. The APD Chief is responsible for reviewing and maintaining a record of the number of reports in each officer’s personnel file.

C. The APD Chief is responsible for reading and authorizing every report entered into an officer’s personnel file.

502. Determining the Nature and Severity of a Complaint or Report

A. The APD Chief is responsible for determining the nature and severity of every complaint or report at the time it is filed.

B. Whether a report warrants further investigation or disciplinary action is left to the sole discretion of the APD Chief.

503. Conduct Review

A. A conduct review may be called and must be supervised by the APD Chief.

B. A conduct review requires that the officer and the officer's personnel file be reviewed by the APD Chief in addition to two of the officer's superior officers, who are to be appointed by the Chief. The three officers constitute the conduct review panel.

C. The conduct review panel must determine whether the officer's conduct warrants further investigation or suspension.

600. Misconduct

A. If an officer violates, in any way, the Policies established by the Arcadia Police Department Policies and Procedure Handbook, suspension and/or termination are the only available sanctions.

B. The APD Chief has the sole discretion of determining whether an officer's conduct violates the Arcadia Police Department Policies and Procedure Handbook.

C. An officer may be suspended with pay or without pay, depending upon the nature and severity of the infraction. The APD Chief has sole discretion to determine whether suspension will be with pay or without pay.

601. Grounds for suspension

A. Insubordination. An officer may be suspended if the officer disregards the orders of his or her superior officer or shows disrespect for his or her superior officer. The APD Chief has the sole discretion of determining whether an officer's conduct qualifies as insubordination.

B. Misconduct. An officer may be suspended if his or her behavior violates, in any way, the Policies established by the Arcadia Police Department Policies and Procedure Handbook.

1. As noted in 101.B, an officer charged with any infraction other than up to three (3) minor moving violations per five year period will automatically be suspended, pending the outcome.

2. In all other situations, the APD Chief has the sole discretion of determining whether an officer's conduct violates the Arcadia Police Department Policies and Procedure Handbook. 1.

C. Conduct Unbecoming. An officer may be suspended if he or she engages in conduct unbecoming an officer. The APD Chief has the sole discretion of determining whether an officer's conduct is unbecoming an officer.

602. Besmirched Record

A. An officer must be suspended once three reports have been officially filed against him or her. The reports do not have to be of any specific degree or nature. In the event that a total of three reports are entered into an officer's file, the officer must be suspended immediately for an indefinite amount of time. The suspension period is to be used by the officer's superiors to review the officer's file and conduct.

B. An officer may be suspended or brought up for conduct review regardless of the number of reports in the officer's file if the APD Chief determines that a report filed against that officer violates the Arcadia Police Department Policies and Procedure Handbook.

603. Procedure for suspension

A. Forfeiture of gear and powers. When an officer is suspended, the officer must submit his or her badge, gun, and handcuffs to the APD Chief. The officer is not to undertake any of the duties or utilize any of the powers of an officer.

B. Length of suspension. If an officer is suspended, the length of the officer's suspension is to be determined at the time of his or her suspension by the APD Chief.

C. Termination of suspension. If an officer is deemed fit for active duty following a period of suspension, the officer's gun, badge, and handcuffs are to be returned to the officer and the officer's powers are to be restored.

604. Mandatory probation

A. After an officer's suspension period is terminated, the officer is to remain on probation for a period of at least 6 months. During the probation period, the officer's conduct must be closely monitored. The status of the officer's suspension must be re-evaluated at the end of each month.

B. The length of an officer's probation period is to be determined by the APD Chief but must be a minimum of 6 months.

605. Psychiatric Treatment

A. Any officer referred for psychiatric treatment must be closely monitored and must be evaluated on a bi-weekly basis by the APD Chief. The treating psychiatrist must make regular reports to the APD Chief on treatment and prognosis, and these reports must be considered by the APD Chief in determining the officer's fitness for active duty.

B. Where a psychiatrist expresses doubts about the ability of an officer to perform his or her daily responsibilities, the APD Chief should either (i) obtain a second psychiatric assessment of the officer or (ii) place the officer on immediate leave pending further examination; however, the ultimate decision on whether to place an officer on leave lies with the APD Chief based on his or her training and experience.

700. Termination

A. If an officer is not deemed fit for active duty, the officer's employment must be terminated. An officer's termination of service can never be reversed.

B. In the event of a termination of service, the officer's gear and powers are not to be returned to him or her after termination.

C. In the event of a termination of service, the officer's file must be marked permanently closed and all police departments in the state must be made aware of the officer's termination of service.

ADDISON WHITE, Ph.D., M.Ed.

521 Virgil Vale | Arcadia, UA | White@ACYD.com

EDUCATION

University of Virginia, Ph.D. in Developmental Psychology with Highest Honors, 2007

University of Virginia, M.Ed. in Educational Psychology with High Honors, 2001

Harvard University, B.A. in Psychology with Honors, Phi Beta Kappa, 1998

EXPERIENCE

Arcadia Center for Youth and Development

Clinical Psychologist, 2007 – present

ACYD Director, 2012 – present

Arcadia, Utopia

- Oversee forty staff, including clinical psychologists, physicians, speech and occupational therapists, and social workers, in multi-disciplinary evaluation and treatment center
- Evaluate, counsel, and develop treatment plans for youth with a variety of developmental disorders, including autism, Asperger’s syndrome, attention deficit disorder, and dyslexia
- Develop educational materials for staff, educators, non-profits, parents, and youth
- Conduct research on strategies to ensure academic success for at-risk students
- Instruct educators and SROs on assessing and preventing bullying and youth suicide

Institute for Academic Success of Youth

Guidance Counselor and Research Associate, 2001 – 2003

Johns Hopkins University, Center for Exceptional Youth, Baltimore, MD

PROFESSIONAL ACTIVITIES

Society for Research in Child Development, Executive Board Member, 2011 – present

Eldorado County School Board, Safe Schools Committee Chair, 2014 – present

Society for Research on Autism Spectrum Disorders, Co-Chair, 2013 – 2014

Association for Positive Behavior Support, Awards Reviewer, 2011 – 2012

Utopia SRO Conference, Presenter, “Recognizing Victims of Bullying,” 2011

Utopia Governor’s Advisory Panel on Bullying Prevention, Chairperson, 2009 – 2011

Centers for Disease Control Panel on Adolescent Suicide Prevention, Member, 2010

U.S. Department of Education, Bullying Prevention Conference, Presenter, 2004 – 2007

Baltimore City Schools Strategies for Success Conference, Co-Chair, 2002 - 2003

RECENT PUBLICATIONS

White, A. (2015). *Handbook on Bullying Prevention*. New York: Springer Publications.

White, A., & Quinlan, S. (2014). *Ensuring School Success for Exceptional Students*. New York: Patel.

White, A. et al. (2013). *Banish Bullying: Safe Schools for All*. Utopia University Press, Utopia City.

Franklin, S. & **White, A.** (2010). *Asperger’s Syndrome: A Guide for Educators*. Chicago: Piper Press.

DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS (DSM-IV)
Sec. 299.80: Asperger's Disorder

Six criteria must be present for a diagnosis of Asperger's Disorder:

- A.** Qualitative impairment in social interaction, as manifested by at least two of the following:
- (1) marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures, and gestures to regulate social interaction
 - (2) failure to develop peer relationships appropriate to developmental level
 - (3) a lack of spontaneous seeking to share enjoyment, interests, or achievements with other people (e.g., by a lack of showing, bringing, or pointing out objects of interest to other people)
 - (4) lack of social or emotional reciprocity
- B.** Restricted repetitive and stereotyped patterns of behavior, interests, and activities, as manifested by at least one of the following:
- (1) encompassing preoccupation with one or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus
 - (2) apparently inflexible adherence to specific, nonfunctional routines or rituals
 - (3) stereotyped and repetitive motor mannerisms (e.g., hand or finger flapping or twisting, or complex whole-body movements)
 - (4) persistent preoccupation with parts of objects
- C.** The disturbance causes clinically significant impairment in social, occupational, or other important areas of functioning.
- D.** There is no clinically significant general delay in language (e.g., single words used by age 2 years, communicative phrases used by age 3 years).
- E.** There is no clinically significant delay in cognitive development or in the development of age-appropriate self-help skills, adaptive behavior (other than in social interaction), and curiosity about the environment in childhood.
- F.** Criteria are not met for another specific Pervasive Developmental Disorder or Schizophrenia. Asperger's syndrome is also known as Asperger syndrome, or AS for short. It is a Pervasive Developmental Disorder, one of five neurological conditions characterized by difference in language and communication skills, as well as repetitive or restrictive patterns of thought and behavior. The other four related disorders or conditions are autism, Rett Syndrome, Childhood Disintegrative Disorder, and PDD-NOS (Pervasive Developmental Disorder Not Otherwise Specified).

See <http://www.usautism.org/definitions.htm> and <http://www.autism-help.org/asperger-syndrome-diagnosis.htm>

WEAPONS GURU

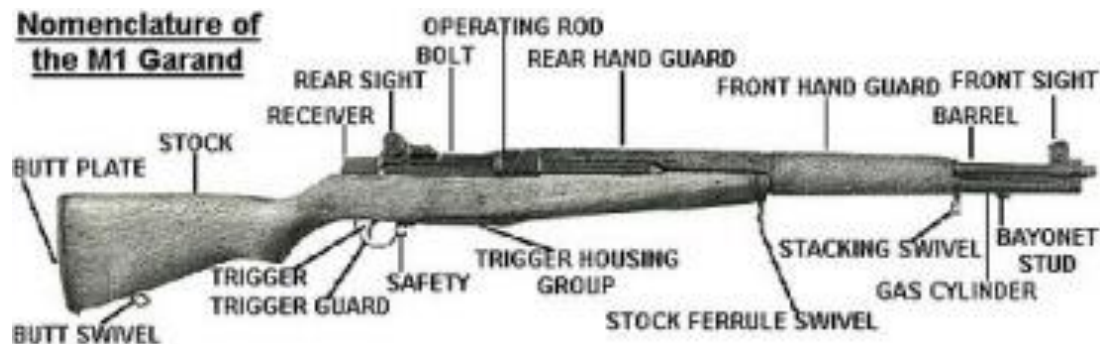
Gabriel Torres

May 2, 2015

Welcome to my new blog! I'm writing this to share my research and interest into weapons and tactics from World War II. I live now in Arcadia, Utopia. But I grew up on Saipan in the Northern Mariana Islands. Fierce fighting took place there between the US and Japan. My grandparents were alive then and told me stories about how scary it all was. I've been interested in WWII ever since. I like learning about tactics both sides used. But my main interest is WWII weapons.

Let's talk about the most effective weapons. Everyone has heard about the atomic bomb and Japanese Zero fighter plane. But new firearms were also developed during the war by both sides. These new guns made a huge difference in how the war was fought.

The best firearm, overall, was the M1 Garand semi-automatic rifle used by the U.S. It replaced the bolt action Springfield rifle used until the 1930s. It was the first standard-issue semi-automatic rifle. General George Patton called it the "greatest battle implement ever devised."



The M1 Garand was used by every branch of the U.S. military. Nearly 5.5 million were produced. It was used in the Korean War and some even in the Viet Nam war. Some military drill teams use it even today. Examples include the U.S. Marine Corps Silent Drill Team and almost all ROTC and JROTC drill teams.

Someday I hope I can buy one and own an important piece of American military history.

WWIIManiac: Cool article, Gabriel. I share your interest in WWII. Have you read about the M1 Carbine and M2? Those were pretty awesome, too.

Gr8testGen: Yeah, Gabriel. I agree. The M1 Garand was a game-changer. My granddad owns one that he bought at a gun show. He has some great stories to tell.

WeaponsGuru: Hey guys. Glad you liked it the article. I know all about the M1 Carbine and M2. They were pretty good, but I agree with Patton. M1 Garand was top gun. And Gr8testGen: wow. So cool!

May 22, 2015

Thought I'd write a bit about the M1 Carbine. It was smaller than the M1 Garand, and lighter. It wasn't as sturdy as the Garand. It also fired different ammunition. It wasn't as powerful, so its reputation in front-line combat was mixed. It didn't have as much stopping power as the Garand.

But it cost half as much to produce. So more of them were produced than the Garand: 6.5 million in WWII.

Here's a cool diagram that shows the difference between them.



WWIIManiac: Good research. Guess each gun served a different purpose, huh?

Gr8testGen: My granddad says he liked the Garand better. It was more effective.

WeaponsGuru: Yeah, that's what I read. I'd rather have a Garand if I was in a battle.

June 12, 2015

Today I want to change topics. I want to talk about weapons used in recent mass shootings. Weapons have changed a lot since WWII. Americans can get destructive weapons pretty easily. The New York Times says that the "majority of guns used in recent mass shootings were bought legally and with a federal background check." ([NYT](#))

The news makes it sound like all these shootings involve assault rifles. But most shooters use handguns. I guess they are easier to purchase and to sneak into places. Here are some of the guns used: Sig Sauer AR-15-style assault rifle, Glock pistols, Smith & Wesson assault rifle, Smith and Wesson handgun, Llama handgun, Del-Ton assault rifle, Taurus pistol, Beretta pistol, Bushmaster rifle, and Savage Mark II rifle. That sounds like a lot of rifles and assault weapons. But assault weapons were only used in less than 15% of mass shootings ([Everytown Research](#)). So reality is different than what the media make us think.

NoGuns: I checked out your links. I can't believe so many guns used in these shootings were bought legally. We need stronger gun laws.

WeaponsGuru: Ya, it surprised me to. But I also support our Second Amendment right to bear arms.

NoGuns: I think times are different now. The National Guard's like the militia. Individuals don't need guns. Or we need to test for mental illness before letting people buy guns.

WeaponsGuru: I'm not a big fan of those tests. I don't think they're accurate. People should be able to own guns. It's our right as citizens.

NoWayNoHow: No way, no how. Citizens don't need guns. Police can protect us. Why do you want a gun? Only criminals and terrorists want guns.

WeaponsGuru: You're crazy! Lots of people want guns to protect their families. Or because they appreciate their beaut. Or their history. That's what interests me.

NoWayNoHow: I'm not the one whose crazy, you are. What are you, a radical? You gonna go shoot up people? You remind me of a kid at my school. He's always talking about planes and weapons. He's weird. He's not from the US. He should go back where he came from.

NoGuns: Woah, why you talking like that? No need for personal attacks.

NoWayNoHow: Right, lets wait for more mass shootings instead, from psychos like WeaponsGuru. I'll bet he's got a stash of guns in his house right now.

WeaponsGuru: What?!?! You don't know me at all. Of course I don't. But someday I will.

NoGuns: Why? Why do you want one? Guns are scary.

WeaponsGuru: Not if you're trained to be safe. Guns don't kill. People do.

NoWayNoHow: Yeah, right. People WHO HAVE GUNS! I hate you and your kind. Terrorists. Immigrants. Criminals. We don't want any of you here.

WeaponsGuru: You really are crazy.

NoWayNoHow: Watch it!! You better hope I don't figure out who you are. Or I'll show you what's what, like I did to that weird kid at my school. I beat him up whenever I can. I can take you out, to. And I will, if I get the chance. You don't scare me.

WeaponsGuru: Maybe I don't now. But someday I will! You better watch out yourself.

NoGuns: You guys are both crazy. I'm outta here.

September 18, 2015

I haven't written in a while because I've been busy with other things. But I just got the coolest gift for my birthday. A 3D printer kit! I've wanted a 3D printer for a while. I even thought about making one myself. Here's an article that tells how: [DIY 3D Printer](#).

But it was even better to use a kit! I've just finished putting it together. I've already made some basic shapes, just to practice. Now I want to print model airplanes. I plan to start with a basic glider of some sort. When I finish that, I'm going to make models of WWI planes. Or maybe an open-source flying wing model. I found a really cool one online. Check it out here: [Flying Wing](#).

Not sure what to do. It's hard to choose! I'll post photos as I finish things. If anyone reading this has advice, please share.

WWIIManiac: Glad you're back! Sounds like a fantastic gift. Can't wait to see what you make.

Gr8testGen: Yeah, sounds really awesome! Models of WWII planes would be so cool.

WeaponsGuru: Thanks! Any advice?

NoWayNoHow: Yeah, I have advice. Why don't you take your nerd self somewhere else? No one cares what you got for your birthday. Plane models. You sound like a little kid.

WWIIManiac: What's wrong with you, NWNH? Get outta here. No one wants to hear from you. Ignore that troll, WG. I can't wait to see what you build.

October 8, 2015

3D printing is more complicated than I thought. I've made some simple plane models, but the delta wing didn't work out. I've decided to switch to different models: handguns. There's lots of patterns online, and it's a cool way to learn about gun design. Maybe I can make one for a Halloween prop.

Cool fact: It takes 10 – 18 hours to build parts for a plastic gun. And 3D printed guns aren't picked up by most x-ray scanners. That's because they don't have metal. One UK company has created a scanner that can detect them. But it's not available on the market yet. So if you want to sneak a plastic model gun into a school Halloween party, you oughta be able to. Awesome, huh?

WWIIManiac: Models could be cool. But I wouldn't take them to school.

Gr8testGen: Yeah, sounds like a way to get in big trouble. Don't think I'd do that, dude.

WeaponsGuru: Why? Models can't hurt anyone. I think it'd be cool. Maybe showing it around would impress people.

WWIIManiac: Not in the way you'd think. I bet the principal and SRO wouldn't like it. They might not think it's just a model. I wouldn't do that.

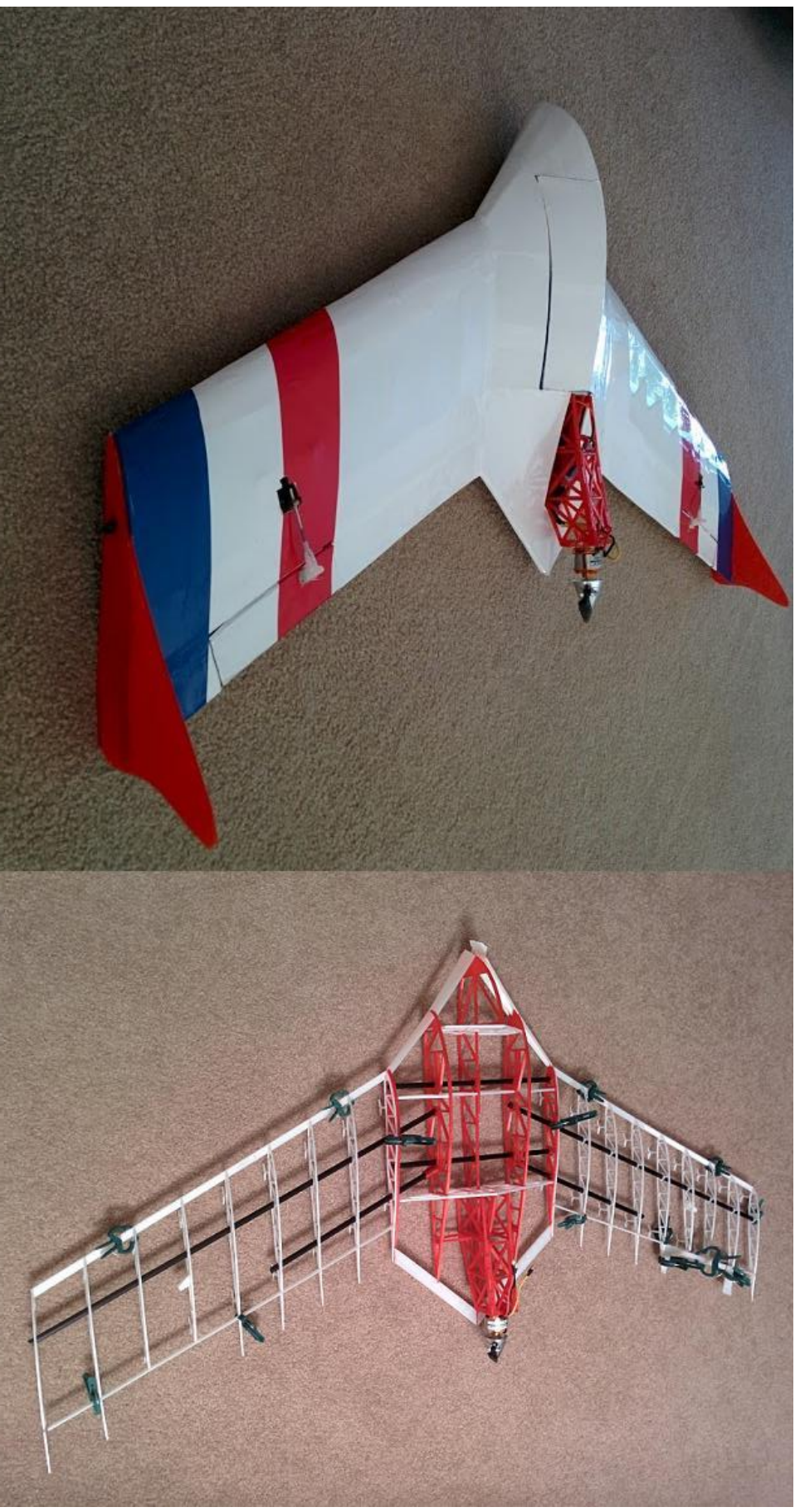
NoWayNoHow: Bet it won't be just a model. I'm telling you, this guy's crazy. Bet he makes a working model. When something happens, don't say I didn't warn ya. WG, if I find out where you are, I'm turning you in.

WeaponsGuru: Shut up, NWNH. I'm tired of you. If something happens to you, it'll serve you right.



3D printed model Walther PPK gun, found in Gabriel Torres' backpack on 10/13/15

EXHIBIT 6



Model of 3D plane being modified and built by Gabriel Torres and Sydney Singh in September of 2015

Freeze + P Pepper Spray



HAZARDOUS IDENTIFICATION

FREEZE 2K3 is a strong irritant effecting skin, eyes nose and breathing. It is a non-persistent acute (short term) exposure which can be relieved with running water and soap for cleanup of the oleoresin capsicum. One of the solvents used is a suspected carcinogen in laboratory testing with **chronic** (long-term) exposure. No health risk has been found from **acute** (short-term) exposure.

EYE: May cause pain. May cause slight transient (temporary) eye irritation, symptoms include stinging, tearing, redness and swelling of eyes.

SKIN: Short single exposure may cause skin irritation. Repeated contact may cause drying or flaking. A single prolonged exposure is not likely to result in the material being absorbed through skin in harmful amounts.

INHALATION: Irritant, stimulation of facial nerves causes feeling of restricted airway. No danger exists for asphyxiation. Remove persons to fresh air.

INGESTION: Single dose oral toxicity is considered to be extremely low. Small amounts swallowed incidental to normal handling operations are not likely to cause injury.

FIRST AID MEASURES

EMERGENCY AND FIRST AID PROCEDURE:

EYES: Flush eyes with large quantities of water to speed recovery. Face subject into wind or forced air source such as fans or air conditioning outlet. Wash face with mild soap

SKIN CONTACT: Remove contaminated clothing. Wash affected area with soap and water to avoid transfer to more sensitive areas. Burning sensation with skin contact in most areas. Use no creams or salves. Persons with preexisting skin disorders may be more susceptible to the effects of this agent. Remove contaminated clothing

INHALATION: Irritant stimulation of facial nerves causes feeling of restricted airway. No danger exists for asphyxiation Remove persons to fresh air. Move individual away from exposure to fresh air.

EYE EFFECTS: This product is an eye irritant. Tearing and redness may occur. This product has been thoroughly tested by FDA approved Labs and has been found to have minor non persistent eye irritation, to be non-toxic, and not to cause dermatitis.



ARCADIA POLICE DEPARTMENT INCIDENT REPORT



Incident Date: Friday, Feb. 11, 2011
Time: 6:20PM
Location: 231 Eden St., Arcadia, Utopia
Offending Officer: Officer Max Carter
Complainant: Officer Tylee Matthews

At approximately 6:20 PM on Feb. 11, 2011, Officer Max Carter and I answered a radio transmission from the station reporting that two African-American males between the ages of 14 and 17 were engaged in spray-painting gang slogans on the wall of the alleyway next to 231 Eden Street. When we drew near to the scene, we saw two young men of slight build, engaged in spray-painting graffiti. Upon seeing the patrol car, both perpetrators threw down their cans of spray paint and began to flee the area. Officer Carter immediately exited the vehicle and gave chase, while I followed in the patrol car.

Officer Carter gained on the perpetrators while chasing them down the alley, cornering both individuals at the end of the alley. Both perpetrators stopped running and raised their hands in the air when ordered to do so by Officer Carter. Neither perpetrator appeared armed, nor did either perpetrator make any sudden or threatening movements.

I expected Officer Carter to handcuff the perpetrators and read them their Miranda rights according to proper procedure. However, upon reaching the perpetrators' position, Officer Carter drew the department-issued Taser and proceeded to Tase both perpetrators in rapid succession. Both perpetrators fell to the ground, stunned. After performing these two actions, Officer Carter placed the perpetrators in handcuffs and read them their rights. The violent actions undertaken by Officer Carter against the perpetrators are not in line with departmental procedure.

Date Submitted: 2/14/2011

Date Filed: 2/17/2011

Authored by: Officer Tylee Matthews

Read and approved by: Chief Jady Rosier



ARCADIA POLICE DEPARTMENT INCIDENT REPORT



Incident Date: Tuesday, Sept. 20, 2011
Time: 6:43 PM
Location: Arcadia High School
Offending Officer: SRO Max Carter
Complainant: Amy Zhang Song

My daughter, Melody, was traumatized by SRO Carter at the Arcadia High School girls' soccer game on Tuesday afternoon. Melody plays soccer on the JV team, which had just beaten their rivals from Paradise Bay. Melody and her teammates planned to stay and watch the varsity game.

Melody went to the concession stand to purchase snacks before the varsity game. After paying for her items, she turned around quickly and bumped into SRO Carter by accident. Melody tells me that she quickly apologized.

In response, SRO Carter grabbed Melody's arm, startling her and causing her to drop her beverage and popcorn, and said in a very unfriendly tone, "Dammit, kid!! Who do you think you are? I'm keeping my eye on you. Do something like that again and you'll be sorry." SRO Carter squeezed Melody's arm very hard before letting go and walking away.

Melody was very upset and started crying. She told her coach she wasn't feeling well and called me to pick her up from the game. When I arrived, I could see a bruise on Melody's arm. I wanted to go speak to SRO Carter myself, but Melody was afraid of what would happen if I did.

I understand that SRO Carter is new to the school this year, but such behavior is unacceptable. Please speak to Officer Carter about appropriate ways to interact with students.

Date Submitted: 9/21/2011

Date Filed: 9/23/2011

Complaint received by: Sergeant Jamie Ford

Read and approved by: Chief Jady Rosier



ARCADIA POLICE DEPARTMENT INCIDENT REPORT



Incident Date: Friday, Nov. 11, 2011
Time: 9:16 PM
Location: Arcadia High School
Offending Officer: SRO Max Carter
Complainant: Maria Santibanez

My son, Juan Santibanez, was roughed up by SRO Carter on Friday night after the basketball game between Arcadia High and Paradise Bay High School. According to Juan, he and his friends were joking about how badly Arcadia had beaten the other team as they were leaving the gym. Students from Paradise Bay were joking back with them, but no one was upset.

Suddenly SRO Carter came up to Juan without warning, threw him to the ground, and handcuffed him. SRO Carter dragged Juan to the principal's office and told Dr. Melvin that Juan had been trying to start a fight with students from the other school and had cursed an Arcadia High School teacher when she asked him to stop. Juan denied both accusations to Dr. Melvin, but Dr. Melvin suspended Juan from school for 3 days for "Disrespect and Inappropriate Language Toward Staff."

I know my Juan. He is a very respectful boy and would never do such things. I don't know why SRO Carter lied about what Juan did. I do know that Juan is very upset. He also has bruises on both wrists from the handcuffs, and his shoulder is very sore from being thrown on the ground.

My Juan has always respected the police. I don't think you want SRO Carter to behave this way. That's why I'm filing this complaint.

Thank you.

Date Submitted: 11/14/2011

Date Filed: 11/15/2011

Complaint received by: Officer Alex Boulton

Read and approved by: Chief Jady Rosier



ARCADIA POLICE DEPARTMENT INCIDENT REPORT



Incident Date: Monday, March 26, 2012
Time: 12:32 PM
Location: Arcadia High School
Offending Officer: SRO Max Carter
Complainant: Giridhar Gupta

My son, Arvind Gupta, was treated unjustly by SRO Max Carter today in the lunchroom. According to Arvind, he was minding his own business, talking with his friends about their Biology class, when SRO Carter walked by. SRO Carter overheard their conversation and without any justification, grabbed Arvind, dragged him out of his seat, and forcibly took him to the principal's office. No explanation was given to Arvind.

When they reached Dr. Melvin's office, SRO Carter claimed that Arvind had been speaking disrespectfully about the Biology teacher, Ms. Spaller. SRO Carter claimed that Arvind said he planned to put the organs and other remains from their next laboratory dissection into Ms. Spaller's desk or purse when she wasn't looking. Arvind was promptly suspended for 3 days for showing disrespect to a staff member.

Arvind tells me he said no such thing. Arvind is a very conscientious student who has always told me the truth. If Arvind tells me he made no such statement, I believe him.

Arvind has a bruise on his shoulder from where SRO Carter grabbed him, and he is complaining that SRO Carter twisted his arm while walking him to the principal's office. I am outraged.

In addition, I am very concerned about the work that Arvind will have to make up as a result of being suspended, which includes a Biology test. Arvind's Biology teacher will surely be told about these untrue accusations, which will go on Arvind's permanent record and could impact him when he applies to college.

The SRO is supposed to keep our children safe at school, not abuse them and put them in danger. Please call me right away at 555-345-1987 to discuss this matter. Thank you.

Date Submitted: 3/27/2012

Date Filed: 3/30/2012

Complaint received by: Officer Tyler Steiner

Read and approved by: Chief Jady Rosier



ARCADIA POLICE DEPARTMENT INCIDENT REPORT



Incident Date: Wednesday, Oct. 16, 2012
Time: 11:16 AM
Location: Arcadia High School
Offending Officer: SRO Max Carter
Complainant: Obele Mbajamele

My child, Enzi Mbajamele, was pepper-sprayed by SRO Max Carter in gym class today at school. Enzi tells me that he was playing basketball in PE class when another student, Henrik Buck, aggressively pushed him, nearly knocking him to the floor. The PE teacher was at the other end of the gym and did not see what had just occurred.

Henrik had acted in similar fashion toward Enzi on prior occasions, and Enzi had always reacted peacefully. Today Enzi was fed up, so Enzi spoke to Henrik and told him not to do that again. Henrik became verbally aggressive and threatened to punch Enzi. Other students tried to intervene, but Henrik pushed them away and punched Enzi. At that moment, the PE teacher saw what was going on and called the office, requesting assistance from the SRO.

Enzi tells me that SRO Carter arrived right away, but instead of separating the students and listening to what had happened, SRO Carter immediately pepper-sprayed both Enzi and Henrik before handcuffing them and taking them to the principal's office. Enzi was suspended from school for 10 days without being given any chance to explain himself. I was called within the hour and required to pick up Enzi from school.

Enzi tells me he was not given a chance to rinse out his eyes after being pepper-sprayed. His eyes were still very red and watery when I arrived at the school. I took him to Urgent Care, where they rinsed out his eyes with distilled water and told me he should rest for several hours, avoiding bright lights. Enzi is still in pain now, nearly 4 hours later.

In my opinion, SRO Carter's actions were unjustified and subjected my child to needless physical and emotional pain. I ask that SRO Carter be disciplined and even removed from the school unless SRO Carter recognizes that such actions are inappropriate.

Date Submitted: 10/16/2013

Date Filed: 10/18/2013

Complaint received by: Officer Tylee Matthews

Read and approved by: Chief Jady Rosier



ARCADIA POLICE DEPARTMENT INCIDENT REPORT



Incident Date: Thursday, May 23, 2013
Time: 4:37 PM
Location: Arcadia High School
Offending Officer: SRO Max Carter
Complainant: Samir Gaballah

My son, Ahmed Gaballah, was almost pepper-sprayed by SRO Max Carter today at Arcadia High School. Ahmed is a senior and will attend Duke University in North Carolina in the fall.

According to Ahmed, he was with several of his classmates (Cameron Brown, Caitlin O'Neill, Henry Higgins, and Hans Klein) in the school parking lot after school. They were using chalk to draw funny sketches and clever sayings on the sidewalk in honor of the senior class.

When the students saw SRO Carter making rounds outside the school, they stopped and waited for Carter to approach them so they could explain what they were doing. Making such drawings is a tradition for seniors at the school. It is harmless, and the drawings wash away at the next rain.

When SRO Carter reached them, Ahmed began explaining what they were doing. Carter abruptly interrupted him and said, "I don't care about your excuses. You're breaking school rules. You need to come with me to the principal's office." When Ahmed began to speak again, Carter pulled out pepper spray in a threatening manner and said, "Don't say another word, or I'll use this. All of you, come with me now."

All five students went with SRO Carter to Dr. Melvin's office. When they arrived, SRO Carter said they were all "defacing school grounds" and accused Ahmed of being belligerent and disrespectful. Without giving the students a chance to speak, Dr. Melvin gave the other students a verbal warning but suspended Ahmed for three days!

When I called Dr. Melvin and reminded him of Ahmed's spotless record and class standing (third in his class), Dr. Melvin reluctantly lifted the suspension.

Even so, Officer Carter's actions were completely unjustified. Ahmed tells me SRO Carter has a reputation at school for singling out minority students for disciplinary action. I ask that you investigate further and suspend Carter if facts prove that such is the case.

Date Submitted: 3/23/2013

Date Filed: 3/27/2013

Complaint received by: Officer Sam Sachs

Read and approved by: Chief Jady Rosier



ARCADIA POLICE DEPARTMENT

Complaints and Officer Discipline

2011-2015



2015

COMPLAINTS

Citizens	10
Suspects	41
Officers	2
TOTAL	53

OFFICER DEMOGRAPHICS

> 3 Incident Reports Filed	0
2-3 Incident Reports Filed	1
1 Incident Report Filed	35
TOTAL	36

DISCIPLINARY ACTION

Probation	2
Suspension w/pay	0
Suspension w/o pay, < 2 months	1
Suspension w/o pay, 2-6 months	0
Suspension w/o pay, > 6 months	0
Termination	0
TOTAL	3

IAD INVOLVEMENT

Investigations conducted	2
Investigations resulting in conduct review	0
Investigations resulting in disciplinary action	0

2014

COMPLAINTS

Citizens	12
Suspects	43
Officers	1
TOTAL	56

OFFICER DEMOGRAPHICS

> 3 Incident Reports Filed	1
2-3 Incident Reports Filed	2
1 Incident Report Filed	46
TOTAL	49

DISCIPLINARY ACTION

Probation	1
Suspension w/pay	3
Suspension w/o pay, < 2 months	1
Suspension w/o pay, 2-6 months	0
Suspension w/o pay, > 6 months	0
Termination	1
TOTAL	6

IAD INVOLVEMENT

Investigations conducted	3
Investigations resulting in conduct review	0
Investigations resulting in disciplinary action	0

2013

COMPLAINTS

Citizens	15
Suspects	47
Officers	1
TOTAL	63

OFFICER DEMOGRAPHICS

> 3 Incident Reports Filed	3
2-3 Incident Reports Filed	4
1 Incident Report Filed	46
TOTAL	53

EXHIBIT 9

DISCIPLINARY ACTION

Probation	1
Suspension w/pay	3
Suspension w/o pay, < 2 months	2
Suspension w/o pay, 2-6 months	
Suspension w/o pay, > 6 months	1
Termination	0
TOTAL	7

IAD INVOLVEMENT

Investigations conducted	4
Investigations resulting in conduct review	2
Investigations resulting in disciplinary action	0

2012

COMPLAINTS

Citizens	20
Suspects	54
Officers	0
TOTAL	74

OFFICER DEMOGRAPHICS

> 3 Incident Reports Filed	4
2-3 Incident Reports Filed	12
1 Incident Report Filed	43
TOTAL	59

DISCIPLINARY ACTION

Probation	7
Suspension w/pay	3
Suspension w/o pay, < 2 months	0
Suspension w/o pay, 2-6 months	0
Suspension w/o pay, > 6 months	5
Termination	1
TOTAL	16

IAD INVOLVEMENT

Investigations conducted	2
Investigations resulting in conduct review	1
Investigations resulting in disciplinary action	1

2011

COMPLAINTS

Citizens	27
Suspects	66
Officers	0
TOTAL	93

OFFICER DEMOGRAPHICS

> 3 Incident Reports Filed	4
2-3 Incident Reports Filed	14
1 Incident Report Filed	48
TOTAL	66

DISCIPLINARY ACTION

Probation	13
Suspension w/pay	0
Suspension w/o pay, < 2 months	2
Suspension w/o pay, 2-6 months	1
Suspension w/o pay, > 6 months	0
Termination	3
TOTAL	19

IAD INVOLVEMENT

Investigations conducted	5
Investigations resulting in conduct review	3
Investigations resulting in disciplinary action	2



INCIDENT REPORT FORM

Complete this form immediately following an incident at the school resulting in suspension of a student for five (5) days or more. A copy of the form should be placed in the student's file.

Name of Student: Gabriel Torres

Location: On the sidewalk outside of Classroom Building A

Date: March 24, 2015 Time: 12:46 [] AM [x] PM

Report Filed by: SRO Max Carter

Brief Description of Incident:
While on routine patrol of the school grounds, SRO Carter intervened to stop a fight between Gabriel Torres and 2 other students. Carter reported seeing Gabriel punch Tom Smith in the mouth, then punch Adam Harrison in the stomach. Carter quickly subdued Gabriel Torres, securing his arms so he could not throw any more punches. Carter instructed Tom and Adam to report to the nurse's station and brought Gabriel to the office.

Personal Injury? Yes. Tom's nose was bleeding, and Adam complained of stomach ache.

Weapons: Yes [] No [x] Type: _____

Names of persons involved: Gabriel Torres, Tom Smith, Adam Harrison

Police Involvement:
Name of SRO: SRO Max Carter

Description of SRO's actions (if any):
See above description.

Name(s) of any additional officers: None

Additional information:
N/A

School Actions:

Parent(s)/Guardians notified: Yes [x] No [] [x] Suspension [] Expulsion [] Other (specify)

Attach copy of letter of suspension or expulsion

Francis Melvin, PhD
(Signature of Principal / Designate)

3/24/15
(Date)



**ARCADIA HIGH SCHOOL
Suspension Letter**

March 24, 2015

Nikki Mendoza
4873 Elysian Fields
Arcadia, Utopia

RE: Suspension of Gabriel Torres, DOB 9/12/99

Dear Nikki Mendoza:

Gabriel has been suspended from Arcadia High School and from engaging in all school-related activities from March 25, 2015 through March 31, 2015, inclusive, i.e., five (5) school days. This suspension applies to all school buildings, grounds, school functions, activities, and trips. Gabriel may return to school on April 1, 2015 at 7:30 AM. Gabriel must report to the office before returning to the classroom.

This suspension is made in accordance with the Eldorado County School Board's Safe School Policy and Arcadia High School's Code of Conduct.

The reason for the suspension is a violation of Rule 3.24, Prohibition against Fighting in School. My findings indicate that Gabriel engaged in a fight with another student on school grounds during today's lunch period. During that incident, Gabriel punched two students, one in the mouth and the other in the stomach. Such behavior cannot be tolerated.

School work is available at the office. Please make arrangements to have it picked up.

Should you wish to appeal this suspension, you must provide written notice of your intention to appeal to Dr. Francis Melvin, Arcadia High School Principal, within 24 hours of the date of this written notice, i.e., by 5:00 PM on March 25, 2015. Please be aware that an appeal does not stay the suspension.

Sincerely,

Francis Melvin, PhD
Francis Melvin, PhD

Cc Ms. Knight, Mr. Sills, Ms. Gray, Ms. Richardson, Ms. Brown (Gabriel Torres' teachers)
Ms. A. Marschall, MSW, M.Ed. (Gabriel Torres' school counselor)



INCIDENT REPORT FORM

Complete this form immediately following an incident at the school resulting in suspension of a student for five (5) days or more. A copy of the form should be placed in the student's file.

Name of Student: Gabriel Torres
Location: Classroom 246A
Date: Oct. 13, 2015 Time: 9:06 AM PM
Report Filed by: SRO Max Carter

Brief Description of Incident:
Sydney Singh approached SRO Carter between 1st and 2nd period classes, reporting a possible gun in Gabriel Torres' backpack. SRO Carter located Gabriel in his 2nd period class and asked him to hand over the pack and accompany Carter to the office. Gabriel responded aggressively, so SRO Carter used pepper spray to subdue him. Carter then handcuffed Gabriel and brought him to my office. After discussion, the Arcadia Police Department was contacted and Gabriel was transported to the police station.
Personal Injury? No
Weapons: Yes No Type: What appeared to be a gun in Gabriel's backpack
Names of persons involved: Gabriel Torres; suspected gun was reported by Sydney Singh

Police Involvement:
Name of SRO: SRO Max Carter
Description of SRO's actions (if any):
See description above.
Name(s) of any additional officers: Officer Tylee Matthews
Additional information:
Officer Matthews and SRO Carter transported Gabriel Torres to the police station, where it was determined that the gun was a non-functional, 3D model.

School Actions:
Parent(s)/Guardians notified: Yes No Suspension Expulsion Other (specify)
Attach copy of letter of suspension or expulsion

Francis Melvin, PhD
(Signature of Principal / Designate)

10/13/15
(Date)



**ARCADIA HIGH SCHOOL
Suspension Letter**

October 13, 2015

Nikki Mendoza
4873 Elysian Fields
Arcadia, Utopia

RE: Suspension of Gabriel Torres, DOB 9/12/99

Dear Nikki Mendoza:

Gabriel has been suspended from Arcadia High School and from engaging in all school-related activities from October 14, 2015 through October 27, 2015, inclusive, i.e., ten (10) school days. This suspension applies to all school buildings, grounds, school functions, activities, and trips. Gabriel may return to school on October 28, 2015 at 7:30 AM. Gabriel must report to the office before returning to the classroom.

This suspension is made in accordance with the Eldorado County School Board's Safe School Policy and Arcadia High School's Code of Conduct.

The reason for the suspension is a violation of Rule 4.12, Prohibition against bringing a Weapon to School; and of Rule 4.27, Resisting the Directives of an SRO or Staff Member. My findings indicate that Gabriel brought what appeared to be a gun in his backpack, and when ordered to turn over his backpack, Gabriel reacted aggressively, prompting the use of pepper spray by the SRO in order to bring Gabriel under control. Such behavior cannot be tolerated.

School work is available at the office. Please make arrangements to have it picked up.

Should you wish to appeal this suspension, you must provide written notice of your intention to appeal to Dr. Francis Melvin, Arcadia High School Principal, within 24 hours of the date of this written notice, i.e., by 9:00 PM on October 14, 2015. Please be aware that an appeal does not stay the suspension.

Sincerely,

Francis Melvin, PhD
Francis Melvin, PhD

Cc Ms. Fairchild, Ms. Jones, Mr. Smith, Mr. Bryson, Ms. Lemons (Gabriel Torres' teachers)
Ms. A. Marschall, MSW, M.Ed. (Gabriel Torres' school counselor)



ARCADIA NEWS & RECORD
JOURNALISM THAT MATTERS
September 20, 2015

School Resource Officers Under Scrutiny; Roles Re-Evaluated

- Danielle DaRos, Senior News Correspondent

After cameras captured a Paradise Bay Academy school resource officer (SRO) forcibly dragging a student from her chair to the floor in the school cafeteria, pundits and educators erupted over what happens – and what should happen – in the more than 84,000 schools around the nation that have a security presence on campus.

Numerous educators and law enforcement officials have weighed in, asserting that SROs should not intervene in routine discipline matters in schools. The Paradise Bay Academy incident reportedly stemmed from the student’s refusal to surrender her cellphone and report to the principal’s office.

More broadly, though, what happened at Paradise Bay Academy has presented an urgent opportunity to evaluate the role of SROs in schools. Important questions include where and how to draw the line between disciplinary and criminal matters, and how to clarify specific duties and procedures for SROs and staff in schools.

The highest priority for SROs is to ensure the safety of students, Utopia State School Superintendent Eve Astuto proclaimed. She, along with Eldorado County School Superintendent Celia Walker, Police Chief Jadyne Rosier, and other local and statewide leaders say SROs continue to have an important and appropriate function in schools.

“Fortunately, violent crimes are rare in our schools, but they have been increasing as gangs become more active. When crimes happen, you want a trained SRO on site to deal with the problem,” Rosier said. “It’s particularly important to have SROs in schools with a higher percentage of students from neighborhoods where gangs are prevalent.”

Blurred lines and mission creep

But “a mission creep problem occurs when that safety role morphs into involvement in routine discipline,” said Justin Piper, an assistant professor at the University of Utopia School of Law.

“SROs shouldn’t be called in when someone won’t put their cellphone away,” said Piper, who teaches juvenile justice and child welfare law. “Teachers and administrators should

be discouraged from calling on SROs for most issues. After all, they have a wide range of school consequences they can impose on a disobedient student.”

SROs in the Arcadia school system have three primary roles: to perform law enforcement duties such as handling assaults, thefts, threats, and other crimes; to counsel students on law-related issues; and to teach law-related topics to students. On the other hand, disciplining students for violations of school rules is a school responsibility.

But officers’ roles are muddied by a Utopia law that essentially criminalizes discipline issues in schools. The state’s statute for “disturbing schools” makes it a misdemeanor criminal offense to “interfere with or to disturb in any way or in any place the students or teachers of any school or college.”

“When you’ve got nonviolent disobedience, or you’ve got a teenager acting obnoxiously – yes, that violates the law,” Piper said. “But involving the SRO is not good law enforcement policy or good education policy.”

Nearly 1,200 “disturbing schools” cases were generated statewide during 2014, including 98 cases in Eldorado County – a shockingly high number of instances in which students are brought into the criminal justice system for very minor offenses.

Profiling and improper use of force

Concerns have also been expressed about the number of students entering the “school-to-prison pipeline” through involvement of SROs in school discipline situations.

According to the 2013-14 Civil Rights Data Collection, a nationwide survey conducted by the U.S. Department of Education, minorities and students with disabilities are disproportionately suspended and expelled from school, often after interactions with SROs.

Black students are nearly four times as likely to be suspended and twice as likely to be expelled as are white students. And black students are more than twice as likely to be referred to law enforcement or subject to a school-related arrest as white students.

The same holds true for students with disabilities. While students with disabilities overall are more than twice as likely to receive suspensions as students without disabilities, minority students with disabilities are two to four times more likely to be suspended than are white students with disabilities.

And of the more than 100,000 students nationwide who were placed in seclusion or involuntary confinement, or physically restrained at school and unable to move freely, 67,000 of them – two-thirds! – were students with disabilities.

The corresponding numbers for Utopia and the Eldorado County School system are in line with these national statistics, which raises worrying questions about the impact of such disruptions in school attendance on the future of our most vulnerable students.

As Walker notes, “To ensure success for all students in Eldorado County, it is imperative that SROs be trained to engage appropriately with students from all backgrounds.”

Evaluate and improve training and resources

Statewide, most Utopia SROs are trained through the state criminal justice academy, and many are given the option to attend additional professional development seminars along with school educators. Such training costs money, however, and not every police department has the resources to provide those options to all SROs.

Both Rosier and Walker said they soon will be convening their major players, including SROs, school administrators, and other educators, to review and refine the policies and procedures already in place regarding student discipline, especially in light of what happened at Paradise Bay Academy.

“When should you intervene? How far do you need to go? How do you de-escalate a situation?” are all issues to be discussed and clarified, Rosier said. “I think we all could use a refresher course in that.”

SRO training should include “at least some concepts related to understanding the teen brain and adolescent emotional issues, things you’re dealing with in the school environment,” said Thomas Magnum, executive director of the National Association of School Resource Officers. The Association has offered to conduct a free statewide training course in Utopia in the wake of the Paradise Bay Academy incident, Magnum said.

In addition to better training for SROs, schools and school districts should be assessing the availability of “wraparound services” for students facing discipline issues, said Elvira Kuhn, president of the Utopia Education Association, a union representing public school teachers in the state.

Those services include access to and relationships with guidance counselors, nurses, mental health professionals, teachers and administrators, said Kuhn, who has been a math teacher for more than two decades at Ligon Middle School in Eden.

“When a student acts out or misbehaves, there’s a reason,” Kuhn said. “If we have the proper resources (and training) to address the underlying factors that cause those behaviors ...we can counsel students and prevent outbursts. We all have the goal of helping students succeed. Working together, we can make it happen.”



U.S. Department of Education
Office for Civil Rights

2013-2014 CIVIL RIGHTS DATA COLLECTION

A FIRST LOOK

KEY DATA HIGHLIGHTS ON EQUITY AND OPPORTUNITY GAPS IN OUR NATION'S PUBLIC SCHOOLS

The **2013-14 Civil Rights Data Collection (CRDC)** is a survey of all public schools and school districts in the United States. The CRDC measures student access to courses, programs, instructional and other staff, and resources — as well as school climate factors, such as student discipline and bullying and harassment — that impact education equity and opportunity for students. The U.S. Department of Education (ED) will release additional data highlights later in 2016 on key topics such as student discipline, early learning access, teacher and staffing equity, access to courses and programs that foster college and career readiness, and chronic student absenteeism. The full CRDC data file may be downloaded now; please visit crdc.ed.gov for more information. In Fall 2016, the public will be able to look up 2013-14 CRDC data for individual schools, school districts, and states by visiting the CRDC website at ocrdata.ed.gov.

Who's in the 2013-14 CRDC?

Number of school districts: 16,758 (99.2% of all school districts)

Number of schools: 95,507 (99.5% of all public schools)

Total number of students: 50,035,744

Nationwide Student Demographics:

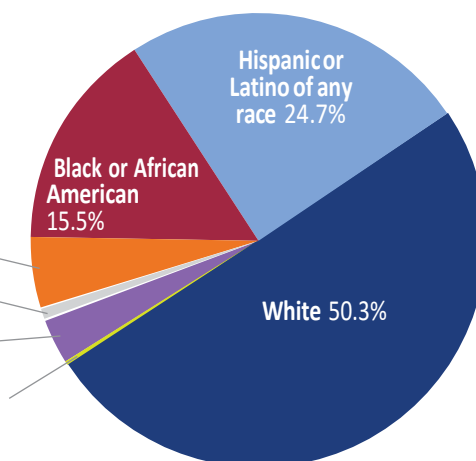
Race/Ethnicity:

Asian 4.8%

American Indian
or Alaska Native
1.1%

Two or More Races 3.1%

Native Hawaiian
or Other Pacific Islander
0.4%



Boys: 51.4% **Girls:** 48.6%

English Learners: 9.9%

Students with Disabilities: 14.0%
(includes students receiving services under IDEA and/or Section 504 of the Rehabilitation Act)

2013-14 CRDC DATA HIGHLIGHTS: A FIRST LOOK[†]

School Discipline

Black public preschool children are suspended from school at high rates:

- Black preschool children are **3.6 times** as likely to receive one or more out-of-school suspensions as white preschool children.
- Black children represent **19%** of preschool enrollment, but **47%** of preschool children receiving one or more out-of-school suspensions; in comparison, white children represent **41%** of preschool enrollment, but **28%** of preschool children receiving one or more out-of-school suspensions.
- Black boys represent **19%** of male preschool enrollment, but **45%** of male preschool children receiving one or more out-of-school suspensions.
- Black girls represent **20%** of female preschool enrollment, but **54%** of female preschool children receiving one or more out-of-school suspensions.

Most public preschool children suspended are boys:

- While boys represent **54%** of preschool enrollment, they represent **78%** of preschool children receiving one or more out-of-school suspensions.

Nationwide, 2.8 million K-12 students received one-or-more out of school suspensions:

- These include approximately 1.1 million black students; 600,000 Latino students; 660,000 students served by IDEA; and 210,000 English learners.

Racial disparities in suspensions are also apparent in K-12 schools:

- While **6%** of all K-12 students received one or more out-of-school suspensions, the percentage is **18%** for black boys; **10%** for black girls; **5%** for white boys; and **2%** for white girls.
- Black K-12 students are **3.8 times** as likely to receive one or more out-of-school suspensions as white students.
- Black girls are **8%** of enrolled students, but **14%** of students receiving one or more out-of-school suspensions. Girls of other races did not disproportionately receive one or more out-of-school suspensions.
- American Indian or Alaska Native, Latino, Native Hawaiian or other Pacific Islander, and multiracial boys are also disproportionately suspended from school, representing **15%** of K-12 students but **19%** of K-12 students receiving one or more out-of-school suspensions.
- Asian and white students did not disproportionately receive one or more out-of-school suspensions.

Students with disabilities in grades K-12 are disproportionately suspended from school:

- Students with disabilities served by IDEA (**11%**) are more than twice as likely to receive one or more out-of-school suspensions as students without disabilities (**5%**).
- More than one out of five American Indian or Alaska Native (**22%**), Native Hawaiian or other Pacific Islander (**23%**), black (**23%**), and multiracial (**25%**) boys with disabilities served by IDEA received one or more out-of-school suspensions, compared to one out of ten white (**10%**) boys with disabilities served by IDEA.
- One in five multiracial girls with disabilities served by IDEA (**20%**) received one or more out-of-school suspensions, compared to one in twenty white girls with disabilities served by IDEA (**5%**).

[†] Note: Except where the percentage is below 1%, the percentages listed in these data highlights are rounded to the nearest whole number.

The numbers in these data highlights reflect a privacy protection protocol and other methodologies for collecting and preparing the data.¹ For additional information on the methodology for collecting and preparing the data cited in this document, please visit ocrdata.ed.gov.

Black students are expelled from school at disproportionately high rates:

- Black students are **1.9 times** as likely to be expelled from school without educational services as white students.
- Black boys represent **8%** of all students, but **19%** of students expelled without educational services.
- Black girls are **8%** of all students, but **9%** of students expelled without educational services.

American Indian or Alaska Native, white, and multiracial boys are also disproportionately expelled from school without educational services:

- White boys represent **26%** of all students, but **35%** of students expelled without educational services.
- American Indian or Alaska Native boys represent **0.6%** of all students, but **2%** of students expelled without educational services.
- Multiracial boys represent **2%** of all students, but **4%** of students expelled without educational services.

Latino and Asian boys and girls, as well as Native Hawaiian or other Pacific Islander and white girls, are not disproportionately expelled without educational services from schools.

- Latino students represent **25%** of all students, but **15%** of students expelled without educational services.
- Asian students represent **5%** of all students, but **1%** of students expelled without educational services.
- Native Hawaiian or other Pacific Islander girls represent **0.2%** of all students, but **0.1%** of students expelled without services.
- White girls represent **24%** of all students, but **12%** of students expelled without educational services.

Black students are more likely to be disciplined through law enforcement: Black students are **2.3 times** as likely to receive a referral to law enforcement or be subject to a school-related arrest as white students.

A significant number of schools have sworn law enforcement officers (SLEOs), including school resource officers (SROs):

- **24%** of elementary schools (grades K-6, excluding justice facilities) have SLEOs; **42%** of high schools (grades 9-12, excluding justice facilities) have SLEOs.
- **51%** of high schools with high black and Latino student enrollment* have SLEOs.

Restraint and Seclusion

More than 100,000 students were placed in seclusion or involuntary confinement or were physically restrained at school to immobilize them or reduce their ability to move freely — including more than 67,000 students with disabilities served by IDEA:

- Students with disabilities served by IDEA represent **12%** of all students, but **67%** of students subject to restraint or seclusion.
- American Indian or Alaska Native and multiracial boys represent **2%** of all students, but **5%** of students subject to restraint or seclusion.
- Black boys and white boys represent **8%** and **26%** of all students, respectively, but **18%** and **43%** of students subject to restraint or seclusion.
- Asian, Latino, and Native Hawaiian or other Pacific Islander boys are not disproportionately subject to restraint or seclusion; neither are girls of any race or ethnicity.

Chronic Student Absenteeism

Nationwide, more than 6.5 million students—or 13% of all students — are chronically absent (15 or more school days during the year).

More than 3 million high school students—or 18% of all high school students—are chronically absent.

- **20%** or more of American Indian or Alaska Native (**26%**), Native Hawaiian or other Pacific Islander (**25%**), black (**22%**), multiracial (**21%**), and Latino (**20%**) high school students are chronically absent.
- High school students with disabilities served by IDEA are **1.3 times** as likely to be chronically absent as high school students without disabilities.

Steps To Take If Your Child Is Being Bullied At School

It is important that parents approach this situation in a calm manner and that parents keep records of facts in the situation. It is helpful if parents and school staff work together to resolve the issue. Parents can use the following steps to resolve the issue.

I. Work With Your Child

Thank your child for telling you. Tell your child that the bullying is not his or her fault.

Talk with your child about the specifics of the situation and ask:

- Who is doing the bullying?
- What happened? Was it
 - o Verbal bullying?
 - o Physical bullying?
 - o Cyberbullying? (Meet directly with the principal if this is the case.)
- What days and times were you bullied?
- Where did the bullying take place?

Also find out how your child responded to the bullying and if other children or adults might have observed the bullying. Does your child know the names of these people? Keep a written record of this information.

Practice possible ways for your child to respond to bullying.

Tell a school staff (teacher, principal, other staff).

Go to step two if needed.

II. Work With The School

Meet with your child's teacher:

- Discuss what is happening to your child using information from Step One.
- Ask what can be done so your child feels safe at school.

Keep a written record of what happened at this meeting, including names and dates.

Make an appointment to meet with the principal to discuss the bullying situation:

- Share information from Step One.
- Mention your work with your child regarding the situation.

- Share the outcome of your meeting with the teacher.
- Mention how the situation is impacting your child:
 - o Does not want to come to school
 - o Is fearful he or she will be hurt
 - o Complains of stomach aches, headaches, etc.
 - o Has other new behavior as a result of bullying
- Ask if school has a written policy on bullying and harassment. If so, ask for a written copy.
- Ask what the school can do to keep your child safe at school, on school bus, etc.

Go to step three if needed.

III. Work With District Administration

Write a letter or send an email to district superintendent requesting a meeting to discuss the situation. Include name of child, age, grade, school, your address and phone number, background information of the bullying situation and how you have tried to resolve it. This letter should be as brief and factual as possible. Include the times you are available for this meeting. Send copies of this letter to the principal, special education director (if child is receiving special education) and chair of the school board. Be sure to keep a copy for yourself.

Prepare for this meeting by organizing the information you have kept and the questions you want to ask. Remember to ask what can be done to keep your child safe in school so he/she can learn.

Decide if you want to take someone with you. Clarify their role (e.g., take notes, provide support, contribute information about your child).

Be sure to keep a written record of this meeting, including who was present, what was discussed and any decisions that were made.

If after taking these three steps, the bullying issue has not been resolved, you may wish to contact a parent center or advocacy organization for assistance.

**Email is an acceptable way of contacting persons.*