

**CITY OF MINNEAPOLIS
OFFICE OF POLICE CONDUCT REVIEW**

	<p>exists:</p> <ul style="list-style-type: none"> • To prevent bodily harm to the accused or another. • To prevent further criminal conduct. • There is a substantial likelihood that the accused will fail to respond to a citation. • The officer cannot verify the identity of the accused. • The officer has found that the accused has an outstanding warrant. <p>The officer must be able to articulate to the court and in the CAPRS arrest report the reason(s) why it was necessary to arrest a person rather than issuing a citation.</p>
Steward, Christopher S (006823)	See allegations above
ALLEGATION SUMMARY	
<p>Complainant was stopped for allegedly changing lanes repeatedly within a small period of time. Complainant speaks only Spanish and very little English. Complainant alleges that Officers asked him and his passenger for their ID's and Complainant and Passenger provided their Honduras Passports. Complainant alleges that he requested a translator to better understand the Officer's requests, but that the Officers arrested him for driving without a Minnesota Driver's License instead. Complainant alleges that Officers only arrested him because he did not speak English, and thus wouldn't show up for court if he was issued a citation. Complainant alleges that he was not permitted to speak with an individual who spoke Spanish until he was booked at the Hennepin County Jail. Complainant also alleges that he was held in the Hennepin County Jail for 3 days (over the weekend) until he was released to ICE. Complainant alleges he was never cited for driving without a Minnesota Driver's License, even after being released by ICE. Complainant did not have an ICE hold or outstanding warrant at the time of the incident.</p>	
SUPERVISOR ASSESSMENT	
<p>MEDIATION <input type="checkbox"/> Refer to Mediation</p> <p>COACHING <input type="checkbox"/> Refer to Precinct</p> <p>INVESTIGATIONS <input type="checkbox"/> Preliminary Investigation: Investigator <input type="checkbox"/> Admin Investigation: Investigator</p>	<p>DISMISS</p> <ul style="list-style-type: none"> <input type="checkbox"/> Reckoning Period Expired <input type="checkbox"/> No Basis <input type="checkbox"/> Failure to State a Claim <input type="checkbox"/> Failure to Cooperate <input type="checkbox"/> Exceptionally Cleared <input type="checkbox"/> Lack of Jurisdiction <input type="checkbox"/> Withdrawn <input type="checkbox"/> Duplicate
<p>FINAL APPROVED INVESTIGATIVE REPORT <input type="checkbox"/> Refer to Panel</p>	
IAU Commander	Date
Director – Office of Police Conduct Review	Date

**CITY OF MINNEAPOLIS
OFFICE OF POLICE CONDUCT REVIEW**

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OFFICE OF POLICE CONDUCT REVIEW**

COMPLAINT INFORMATION					
Case Number	Precinct	CCN	Date of Incident	Time	Preference
14-13294	4	14-040997	February 07, 2014	08:07 PM	Civilian Investigation
Location of Incident		City/State/Zip		Date of Complaint	
WEST BROADWAY / GIRARD AV		Minneapolis, MN 55411		July 09, 2014	
Complainant Name (Last, First, Middle Initial)			Sex	Race	DOB
Hernandez Antunez, Dennis Rodolfo			Male	Chicano/ Latino	April 24, 1991
Home Address		City/State/Zip		Primary Telephone	
1147 N 7th St. Apartment E-3041		Minneapolis, MN 55411		(612) 272-7628	
BADGE/NAME		ALLEGED POLICY VIOLATIONS			
Steward, Christopher S (006823)		13.43 - Personnel Data			
		<p>MPD P&P § 9-103 MISDEMEANOR ARRESTS – ADULTS (A-B)</p> <p>Adult misdemeanor violators shall be issued citations in lieu of arrest unless the officer believes that one of the following circumstances exists:</p> <ul style="list-style-type: none"> • To prevent bodily harm to the accused or another. • To prevent further criminal conduct. • There is a substantial likelihood that the accused will fail to respond to a citation. • The officer cannot verify the identity of the accused. • The officer has found that the accused has an outstanding warrant. <p>The officer must be able to articulate to the court and in the CAPRS arrest report the reason(s) why it was necessary to arrest a person rather than issuing a citation.</p>			
		13.43 - Personnel Data			

**CITY OF MINNEAPOLIS
OFFICE OF POLICE CONDUCT REVIEW**

Steward, Christopher S (006823)

13.43 - Personnel Data

ALLEGATION SUMMARY

1. Complainant speaks Spanish and very limited English. Complainant alleges that Officers asked his passenger and him for their ID's and Complainant and Passenger provided their Honduras Passports. Complainant alleges that Officers only arrested him because he did not speak English, and thus wouldn't show up for court if he was issued a citation.
2. It is further alleged that Officers failed to “articulate to the court and in the CAPRS arrest report the reason(s) why it was necessary to arrest a person rather than issuing a citation.”
3. It is further alleged that the Officers failed to offer and/or provide language assistance services to individuals whom they encounter and believe to have Limited English Language Proficiency.

SUPERVISOR ASSESSMENT

MEDIATION

Refer to Mediation

COACHING

Refer to Precinct

INVESTIGATIONS

Preliminary Investigation: Investigator

Admin Investigation: Investigator Stephen McKean

DISMISS

Reckoning Period Expired

No Basis

Failure to State a Claim

Failure to Cooperate

Exceptionally Cleared

Lack of Jurisdiction

Withdrawn

Duplicate

FINAL APPROVED INVESTIGATIVE REPORT

Refer to Panel

IAU Commander

Date

Director - Office of Police Conduct Review

Date

POLICE CONDUCT COMPLAINT FORM

CITY OF MINNEAPOLIS
 OFFICE OF POLICE CONDUCT REVIEW
 350 S. 5TH ST. ROOM 239, MINNEAPOLIS, MN 55415
 612-673-5500

Monday through Friday, 8:30 a.m. – 4:30 p.m.

The completion of this form is the first step in the complaint process. This form needs to be filled out completely and accurately; attach additional pages if necessary. Sign and date the bottom, and return the form to the address at the top of this form. For more information, visit www.minneapolismn.gov/civilrights/police-review.

Select Investigator Preference: You may indicate a preference as to whether a civilian or sworn officer investigates your complaint. This will be taken into consideration by managers but does not guarantee that your preference will be accommodated.

Civilian Investigator Police Investigator No Preference

Name (Last, First, Middle)		Date of Birth	Phone
Hernandez Antunez, Dennis Adolfo		04/24/1991	612-272-7628
Home Address Street	City/State	Zip	Email Address
2634 Colfax Ave N #1	Minneapolis MN	—	— 612-3534647

second phone #

Please indicate your race(s):

- Asian African White Latino Other
 Pacific Islander Black Native American Middle Eastern Refused

I AM ALLEGING:

- Excessive Force Inappropriate Language or Attitude Discrimination Theft
 Harassment Failure to Provide Protection Retaliation Other

Officer Badge Number(s)	Officer Name(s)	Squad Number
Case Number on Blue Card	Incident Location/Address	Incident Date & Time
14 04 0997		
Witness Name(s)	Address	Phone Number

Narrative – Please describe the incident in detail; use back page if necessary.

Apparently, I was taken to jail for making 3 lane changes while driving. That is not true because I only made 1 light [lane] change. The police car turned on its lights and asked him for ID and license. I only had my honduras passport with me and then they arrested me. I was in jail for 3 days and then Immigration came for me. Immigration let me go but now I am in the process of being deported. I don't think it is fair that they are doing this to me. I know I am not from this country but I am here to bring my family forward and in Honduras I cannot help them. Neither officer spoke Spanish and I was not allowed to speak to someone who spoke Spanish until I arrived at

Please be advised that Minnesota law (Minn. Stat. § 609.505) makes it a criminal offense to make a knowingly false and defamatory report of police officer misconduct.

Complainant Signature	Date & Time
Dennis Adolfo Hernandez	7/9/14

This form is available in alternative format - Please contact ADA staff, Human Resources Department 612-673-2694. Deaf/Hard of Hearing people can call 612-673-2626 TTY for more information or to make an appointment with a certified sign language interpreter to help fill out this form.

Case Number:

Revised 6/2013

POLICE CONDUCT COMPLAINT FORM

the Hennepin County Jail. I did ask several times for a translator.
The traffic stop and arrest lasted about 3 minutes. I was
told by Immigration that I was not being cited for not
having a license before I was released.

Written by Intake Investigator
Cardale Broth for Complainant

Case Number:

Revised 6/2013

OFFICE OF POLICE CONDUCT REVIEW
Investigative Report

Complaint Number: 14-13294

Investigator Stephen J McKean

Officer (s) 13.43 - Personnel Data Christopher Steward

Jurisdiction **M.C. O. §§ 172.20**

Date of Incident February 07, 2014

Complaint Filed July 09, 2014

INCIDENT

On 02/07/2014, at 20:07, the Complainant was driving a motor vehicle on W. Broadway and Aldrich Ave N. The Complainant's uncle was a passenger in the vehicle. Officers Patrick McMahon and Christopher Steward were driving in Squad 460 and reported seeing the vehicle which the Complainant was driving change lanes "several times without signaling the lane changes."

The officers conducted a traffic law enforcement stop for the alleged violation. Officer Steward contacted the Complainant and requested proof of insurance and a driver's license. The Complainant is a citizen of Honduras and is not a licensed driver in Minnesota. His sole form of identification was his Honduran passport. When the Complainant informed Officer Steward that he didn't speak or understand English, Officer Steward immediately removed him from the automobile he had been driving, placed him in handcuffs, and placed him in the squad car.

The Complainant's automobile was impounded and the Complainant was booked into Hennepin County Jail.

SUMMARY OF ALLEGATIONS

Complainant was stopped for allegedly changing lanes repeatedly within a small period of time. Complainant speaks Spanish and very little English. Complainant alleges that Officers asked him and his passenger for their ID's and Complainant and Passenger provided their Honduras Passports. Complainant alleges that he requested a translator to better understand the Officer's requests, but that the Officers arrested him for driving without a Minnesota Driver's License instead. Complainant alleges that Officers only arrested him because he did not speak English, and thus wouldn't show up for court if he was issued a citation. Complainant alleges that he was not permitted to speak with an individual who spoke Spanish until he was booked at the Hennepin County Jail. Complainant also alleges that he was held in the Hennepin County Jail for 3 days (over the weekend) until he was released to ICE. Complainant alleges he was never cited for driving without a Minnesota Driver's License, even after being released by ICE. Complainant did not have an ICE hold or outstanding warrant at the time of the incident.

DISCUSSION

One thing that would enhance this file is a copy of the Complainant's Hennepin County Jail booking records for this incident. It would clear up some questions regarding the original offense given by the officers for which the Complainant was arrested and lodged in Hennepin County Jail. Based upon a check of the Hennepin County Court records, no formal charges were filed against him as a result of this arrest. According to the Complainant, he was released into the custody of the U.S. Immigration and Customs Enforcement. A big question that has not been answered is, "What was the purpose for this arrest and why was he not charged?"

One of the allegations is that the MPD Officers did not provide a translator during the stop. However, the Complainant stated during his interview that he did not ask the officers specifically for a translator or interpreter, he only asked them if they spoke any Spanish. Once he arrived at Hennepin County Jail, he was provided with a Spanish speaking interpreter.

The CAPRS report states that the officers "observed the deft [sic] change lanes several times without signaling the lane changes." The digital video recorded by the dash camera of the squad they were operating does not show any lane changes by the vehicle driven by the Complainant prior to the stop. The Complainant's statement is consistent with the contents of the squad video. The Complainant yielded and stopped right away. Officer Steward was the officer who made contact with the driver of the vehicle and demanded a driver's license and proof of insurance. As soon as the Complainant stated that he did not understand English, Officer Steward ordered him out of the car, handcuffed him, and escorted him to the squad car.

Officer Steward was equipped with a portable microphone that captured his conversations with the Complainant as well as with Officer McMahan. It is clear from the video that the Complainant did not understand all of Officer Steward's questions. The following are excerpts from those conversations:

As Officer Steward escorted the Complainant to the squad car, he asked the Complainant if he had a driver's license and the Complainant replied, "No." Officer Steward then asked the Complainant, "What are you doing driving." There was no answer from the Complainant. Officer Steward asked the Complainant several times if he had any "ID" [he never used the word "identification", which sounds very similar to the Spanish word, "identificación"].

The Complainant finally said that his ID was in the car. Officer Steward asked him, "What kind of ID do you have? Minnesota State ID or Mexican ID?" The Complainant replied, "Honduran." Again, Officer Steward asked the Complainant if he had a driver's license and the Complainant replied, "No English." Officer Steward then stated, "If you don't understand English, how do you know how to drive and understand the rules of the road?" The Complainant replied, "Spanish? Español?" Officer Steward then said, "No. have a seat."

It should be noted that there is no reference in the CAPRS report to the fact that the Complainant did not speak English. There is also no mention that the Complainant possessed a passport from Honduras. It simply states that the Complainant had no valid driver's license and he was transported to Hennepin County Jail for identification purposes. Based upon the conversations captured on the Squad Video, between Officer Steward and the Complainant as well as between Officer Steward and Officer McMahan, the fact that the Complainant did not speak English is a main factor in this incident. As soon as the Complainant said he did not speak English, Officer Steward immediately ordered him out of the car, handcuffed him and put him in the squad car. Officer Steward also asked, "If you don't understand English, how do you know how to drive and understand the rules of the road?" Knowing how to drive and

understand the rules of the road is not dependent upon which language a person speaks. Minnesota DVS provides driving manuals and other related materials printed in Spanish to provide individuals who speak Spanish with the tools to learn the rules of the road.

The Complainant's inability to speak English also appears to be the determining factor in Officer Steward's decision to take the Complainant to Hennepin County Jail rather than issuing him a citation for traffic violations. In a conversation with Officer McMahon to decide whether or not to issue the Complainant a citation, Officer Steward asked Officer McMahon if they should issue the Complainant a citation or book him in Hennepin County Jail. Officer McMahon replied that they could cite him because he had an "official form of ID" (his passport). Officer Steward then stated, "Well, if he doesn't understand English, he's not going to respond to a citation." Officer McMahon then replied, "It's up to you. You can do what you want. I don't mind." Again, understanding English is not essential for responding to a citation in Minnesota. This statement is additional evidence suggesting that the Complainant may have been discriminated against due to his ethnicity and national origin.

While Officer Steward held the Complainant in the squad car, two additional males appeared on the scene and started talking to the passenger, who had also been ordered out of the car. One of the men spoke English and wanted to help the Complainant by speaking with Officer Steward. Officer Steward did speak briefly with this person and told the man that the Complainant did not have a driver's license had he had to go to jail. This person referred to the Complainant by his first name, "Denny" and asked Officer Steward if "Denny" had his passport with him. This information could have been used to confirm the identity of the Complainant and this individual could have provided assistance in explaining to the Complainant how to respond to a citation.

I confirm that the information I provided in this case is true to the best of my knowledge.



OPCR Investigator: Stephen J McKean

07/30/2015

Date

OFFICE OF POLICE CONDUCT REVIEW
Investigative Report

Complaint Number: 14-13294

Investigator Stephen J McKean

Officer (s) Christopher Steward #006823
13.43 - Personnel Data

Jurisdiction **M.C. O. §§ 172.20**

Date of Incident February 07, 2014

Complaint Filed July 09, 2014

CASE OVERVIEW

On 02/07/2014, at 20:07, the Complainant was driving a motor vehicle on W. Broadway and Aldrich Ave N. The Complainant's uncle was a passenger in the vehicle. Officers Patrick McMahon and Christopher Steward were driving in Squad 460 and reported seeing the vehicle which the Complainant was driving change lanes "several times without signaling the lane changes."

The officers conducted a traffic law enforcement stop for the alleged violation. Officer Steward contacted the Complainant and requested proof of insurance and a driver's license. The Complainant is a citizen of Honduras and is not a licensed driver in Minnesota. His sole form of identification was his Honduran passport. When the Complainant informed Officer Steward that he couldn't understand English, Officer Steward immediately removed him from the automobile he had been driving, placed him in handcuffs, and detained him in the back seat of the squad car.

The Complainant's automobile was impounded and the Complainant was booked into Hennepin County Jail.

SUMMARY OF ALLEGATIONS

13.43 - Personnel Data

13.43 - Personnel Data

MPD P&P § 9-103 MISDEMEANOR ARRESTS – ADULTS

Allegation: It is further alleged that the Officers failed to offer and/or provide language assistance services to individuals whom they encounter and believe to have Limited English Language Proficiency.

13.43 - Personnel Data

EVIDENCE

1. Statements
 - a) Dennis Rodolfo Hernandez Antunez, Complainant
 - b) Officer Christopher Steward
 - c) Officer Christopher Steward, given to Investigator Allison McGuire, Minneapolis Department of Civil Rights
2. Records
 - a) Minneapolis Police Department CAPRS CCN #14-040997
 - b) VisiNet Incident Detail Report #14-040997
 - c) Minnesota DVS registration record – **18 USC 2521** (current license plate on vehicle – **18 USC 2521**)
3. Media
 - a) DVD copy of Squad Video P# 76627 (Certified Copy #4934)
 - b) Minnesota DVS Driver's Instruction Manual (Spanish language version)

SUMMARY OF EVIDENCE

Based on a review of the evidence gathered during the OPCR investigation, the following occurred:

1. On 02/07/2014, at approximately 20:07 hours, Officer McMahon and Officer Steward were working Squad 460 together. The officers were in the area of West Broadway and Aldrich Avenue North. Officer Steward was driving the squad car.
2. At that same time, the Complainant was driving an automobile west bound on West Broadway from Aldrich Avenue North, ahead of the squad car driven by Officer Steward.

3. The Complainant is a citizen of Honduras whose native language is Spanish. His understanding of the English language is extremely limited.
4. Squad 460 was equipped with a digital mobile video recording device (MVR), which captured video and audio of the interaction between Officer Steward and the Complainant. Officer Steward was equipped with a portable microphone connected to the digital MVR, which captured conversation between Officer Steward and the Complainant, as well as between Officer Steward and Officer McMahon.
5. The officers alleged in their CAPRS report that the vehicle driven by the Complainant made several lane changes without signaling in advance. They stopped the vehicle in the area of West Broadway and Girard Avenue North.
6. The squad video did not capture the vehicle in question performing any changes in direction prior to the traffic law enforcement stop. The digital recorders are set up to save video recorded by the device approximately thirty (30) seconds prior to activation of the squad car's emergency lights.
7. Officer Steward made contact with the Complainant and requested from him his driver's license and proof of insurance.
8. Officer Steward asked the Complainant if he understood "driver's license". As soon as the Complainant said "No", Officer Steward ordered him out of the car, handcuffed him, and escorted him to the squad car.
9. While escorting the Complainant to the squad car, Officer Steward asked him, "*Do you have ID on you?*" After a delay, the Complainant said, "*ID is in my car.*"
10. Officer Steward asked the Complainant, "*What kind of ID do you have? Minnesota State ID or Mexican ID?*" The Complainant replied, "*Honduran.*"
11. Again, Officer Steward asked the Complainant if he had a driver's license and the Complainant replied, "*No English.*" Officer Steward then stated, "*If you don't understand English, how do you know how to drive and understand the rules of the road?*" The Complainant replied, "*You speak Spanish? Español?*" Officer Steward then said, "*No. have a seat.*"
12. Officer Steward returned to the vehicle and asked the passenger, "*Where's his ID?*" The passenger replied something in Spanish before Officer Steward said, "*You speak enough English. Where's his ID?*" The passenger did not understand English and was ordered out of the car. He was searched and directed to stand on the sidewalk.
13. Both officers returned to the squad car and discussed whether or not to issue the Complainant a citation or book him into Hennepin County Jail. Officer McMahon said that it would be permissible to issue him a citation because he had a valid ID. Officer Steward replied, "*If he doesn't understand English, he's not going to respond to a citation.*"
14. Acquaintances of the Complainant and the passenger arrived at the scene of the stop. One of the men spoke some English and talked to Officer Steward, asking him if there was anything he could do to help. Officer Steward declined any assistance, saying that the Complainant had to go to jail and the vehicle was going to the Impound Lot.

15. The male told Officer Steward that his wife was present and she has a driver's license. He asked if she could drive the car. Officer Steward replied that the owner of the car had to be present to release it to them.
16. The Complainant is, in fact, the owner of the vehicle in question. The CAPRS report prepared in this incident lists the Complainant as the owner of the vehicle. Minnesota DVS records list the Complainant as the owner of record, as well.

DISCUSSION

13.43 - Personnel Data

The Complainant was interviewed on 01/27/2015. Because the Complainant's primary language is Spanish, OPCR Police Conduct Committee Clerk Leda Schuster attended the interview and provided English-to-Spanish/Spanish-to-English translation of the questions and answers. The Complainant's statement is consistent with the contents of the squad video.

The Complainant stated that he was driving home from work with his uncle when he was stopped. He said he made a lane change just before being pulled over. The Complainant said he understood when the officer asked for his identification, but he did not understand anything else Officer Steward said to him. He did not know why the officers stopped him. The Complainant said he was told to get out of his car, searched, handcuffed, and put in the squad car for 20 to 30 minutes. He added that, at the time of his interview, he still did not know why he was stopped. The Complainant said he was not given a citation and no charges were filed against him. The Complainant also said he believed he was arrested simply because he did not speak English.

One of the original allegations in the complaint submitted by the Complainant is that the MPD Officers did not provide an interpreter during the Complainant's detention. However, the Complainant stated during his interview that he did not ask the officers specifically for a translator or interpreter; he only asked them if they spoke any Spanish. He added that he didn't want to ask them for anything because they weren't going to understand. Once he arrived at Hennepin County Jail, he was provided with a Spanish speaking interpreter.

As of the writing of this report, the Complainant's Hennepin County Jail booking records for this incident have not been obtained. Hennepin County Sheriff's Records Bureau will not release them to the Office of Police Conduct Review without first obtaining a signed release authorization. A letter was mailed, along with a release form, to the Complainant on 09/10/2015. The letter was composed in both English and Spanish and it requested that the Complainant sign the release form and return it to the OPCR. This letter was mailed via U.S. Certified Mail. The USPS attempted delivery 09/16/2015, at 15:45 hours, and left a notice of attempted delivery. The Complainant has not responded to the Post Office to retrieve the letter, according to Postal Service tracking on their website. These records would clear up some questions regarding the original offense given by the officers for which the Complainant was arrested and lodged in Hennepin County Jail.

Based upon a check of the Hennepin County Court records, no formal charges were filed against the Complainant as a result of this arrest. According to the Complainant, he was released into the custody of the U.S. Immigration and Customs Enforcement after being held in jail for three (3) days.

Officer Steward was interviewed on 09/01/2015. Prior to the interview, Officer Steward read and signed the data practices advisory, otherwise known as the Tennesen Warning.

Officer Steward stated that he stopped the vehicle driven by the Complainant for changing lanes without signaling his intentions. He said that he contacted the driver, the Complainant, and asked him for his driver's license and proof of insurance "*just like I do on every stop.*" Instead, the Complainant handed him a passport. He then returned to his squad car and attempted to identify the Complainant via the Minnesota DVS computer system on his squad computer.

Officer Steward said he noticed that the passport did not have a U.S stamp inside. Regarding this item, Officer Steward stated, "*Ah, not seeing that, that, ah, stamp in the U.S. passport, or the U.S. stamp in that passport, um, I was, I was not positive that that passport that he provided me was correct and accurate...Without seeing that U.S. stamp, I was not certain that that passport he provided me was a fake or real.*" However, when asked, Officer Steward stated he has not had any law enforcement training in the field of passport identification. Officer Steward acknowledged that the photograph on the passport was a photograph of the driver (Complainant).

Officer Steward was asked to explain his statement to the Complainant when he stated, "*If you don't understand English, how do you know how to drive and understand the rules of the road?*" He stated, "*The question about driving a car is understanding, ah, ah state laws and stuff like that so that's what I was, I was referring to. How's he supposed to read road signs or, ah, caution signs or anything else like that was more of along the lines of what I was trying to refer to.*"

Officer Steward was also asked to explain his statement to Officer McMahon when he stated, "*If he doesn't understand English, he's not going to respond to a citation.*" Officer Steward stated, "*That is not the only way a person can respond to a citation but there was also, um, further conversation between my partner and I, ah, regarding the passport. And I felt that, um, due to him not having a, a U.S. stamp in the passport, um, that he would not respond to a citation. There was a high likelihood that if he's here illegally, that an illegal citizen, um, would not respond to a citation if given one. Um, there was also the, the fact that we weren't able to positively confirm that that passport was not fake.*"

Officer Steward based his reasoning for booking the Complainant on "*if he's here illegally*" and he could not "*positively confirm*" the Complainant's passport "*was not fake.*"

Officer Steward was asked directly if the Complainant's inability to speak or understand English was a determining factor for taking him to Hennepin County Jail. Officer Steward answered this way:

"No. Absolutely not. And, in the video, you can see him actually responding, ah, to my questions in English so he did understand, um, at least limited English and he responded back to me in English as well. So that...him not speaking English was not a reason we book 'em at all."

This is in direct conflict with the response he made to Officer McMahon during the time of this incident while deciding book the Complainant into Hennepin County Jail (*"If he doesn't understand English, he's not going to respond to a citation."*).

The Minneapolis Police Department's Policy and Procedure Manual states in part:

13.43 - Personnel Data

MPD P&P § 9-103 MISDEMEANOR ARRESTS – ADULTS (05/29/02) (09/16/04)

(A-B)

Adult misdemeanor violators shall be issued citations in lieu of arrest unless the officer believes that one of the following circumstances exists:

- To prevent bodily harm to the accused or another.
- To prevent further criminal conduct.
- There is a substantial likelihood that the accused will fail to respond to a citation.
- The officer cannot verify the identity of the accused.
- The officer has found that the accused has an outstanding warrant.

The officer must be able to articulate to the court and in the CAPRS arrest report the reason(s) why it was necessary to arrest a person rather than issuing a citation.

13.43 - Personnel Data

The CAPRS report states that the officers “observed the deft [sic] change lanes several times without signaling the lane changes.” The digital video, recorded by the dash camera of the squad they were operating, does not show any lane changes by the vehicle driven by the Complainant prior to the stop. The events described in the CAPRS report may have occurred prior to the point at which events were saved by the recorder. The Complainant yielded and stopped right away.

Officer Steward was equipped with a portable microphone that captured on the squad video his conversations with the Complainant as well as with Officer McMahon. The following are excerpts from those conversations:

Officer Steward was the officer who made contact with the driver of the vehicle and demanded a driver’s license and proof of insurance. Officer Steward then asked the Complainant if he understood “driver’s license”. The Complainant said “No.” Immediately, Officer Steward ordered him out of the car, handcuffed him, and escorted him to the squad car.

As Officer Steward escorted the Complainant to the squad car, he asked the Complainant if he had an ID on him and the Complainant replied, “No.” The Complainant eventually said, “ID is in my car.” Officer Steward asked him, “*What kind of ID do you have? Minnesota State ID or Mexican ID?*”

The Complainant replied, “*No, Honduran.*” Officer Steward asked the Complainant if he had a driver’s license and the Complainant replied, “No.” Officer Steward then asked the Complainant, “*What are you doing driving.*” The Complainant replied, “*No English.*” Officer Steward then stated, “*If you don’t understand English, how do you understand how to drive and follow the rules of the road?*” The Complainant replied, “*You speak Spanish? Español?*” Officer Steward then said, “*No. have a seat.*”

As evidenced above, within the video, there are several instances where the Complainant responded in a manner that indicates he did not understand what was being asked.

Officer Steward then returned to the stopped vehicle, made contact with the passenger (who was still seated in the car), and asked, “Where’s his ID?” He asked this question several times. The passenger responded in Spanish to this repeated question. Officer Steward then said, “You speak enough English. Where’s his ID?” When the passenger did not provide the Complainant’s identification and did not respond to being told to move back to the passenger seat, Officer Steward ordered the passenger out of the car and pat-searched him. He then pointed toward the curb and told the passenger to stand on the sidewalk. Officer Steward then pulled a document appearing to be similar to a passport out of the side pocket of the driver’s door, thumbed through the pages, and returned to the squad car.

Minneapolis Police Department Police and Procedure Manual §9-103 states that misdemeanor violators *shall* be issued citations in lieu of arrest unless certain circumstances exist. The policy also states, “The officer must be able to articulate to the court *and in the CAPRS arrest report the reason(s) why it was necessary to arrest a person rather than issuing a citation.*” The report presented in this matter fails to articulate the circumstances necessitating the Complainant’s arrest. The entire narrative of the CAPRS report states:

“Officers observed the deft driving MN 263-EVU WB on West Broadway ave [sic] from Aldrich Ave N. Officers observed the deft change lanes several times without signaling [sic] the lane changes. The deft was stopped and it was discovered that the deft had no valid DL. Deft was transported to HCJ for ID purposes and his vehicle was towed.”

The report fails to mention that the Complainant had in his possession a passport from Honduras. A passport is valid identification, issued by a governmental agency. During his interview, Officer Steward stated that he did not see a stamp in the passport that, according to his personal travel experience, he said should be there to indicate when the Complainant entered the United States. Because of the lack of a stamp, he said he didn’t know if the passport was a forgery or not. During this same interview, Officer Steward acknowledged that he is not an expert in the identification of fraudulent or forged passports nor has he ever had any training on that issue. He could provide no evidence to support his thought that the Complainant’s passport itself was not a valid document. Without evidence to support his belief, the document could be accepted as identification.

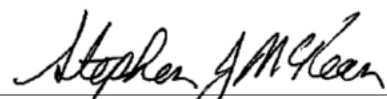
It should be noted that there is no reference in the CAPRS report to the fact that the Complainant did not speak English. It simply states that the Complainant had no valid driver’s license and he was transported to Hennepin County Jail for identification purposes. As soon as the Complainant said he did not understand English, Officer Steward immediately ordered him out of the car, searched him, handcuffed him, and put him in the squad car. Officer Steward also asked, “*If you don’t understand English, how do you understand how to drive and follow the rules of the road?*” As evidenced by the conversations captured on the Squad Video, between Officer Steward and the Complainant as well as between Officer Steward and Officer McMahon, the fact that the Complainant did not speak English is a main concern for Officer Steward in this incident. Knowing how to drive and understand the rules of the road is not dependent upon which language a person speaks. Additionally, Minnesota DVS makes available driving manuals and other related materials printed in Spanish to provide individuals who speak Spanish with the tools to learn the rules of the road.

In a conversation with Officer McMahon, Officer Steward discussed whether or not to issue the Complainant a citation. Officer Steward asked Officer McMahon if they should issue the Complainant a citation or book him into Hennepin County Jail. Officer McMahon replied that they could cite him because he had an “official form of ID” (his passport). Officer Steward then stated, “*Well, if he doesn’t understand English, he’s not going to respond to a citation.*” Officer McMahon then replied, “*It’s up to you. You can do what you want. I don’t mind.*” The Complainant’s inability to speak English appears to be the determining factor in Officer Steward’s decision to take the Complainant to Hennepin County Jail rather than issuing him a citation for traffic violations. Understanding English is not a prerequisite to responding to a citation in Minnesota. This statement is additional evidence suggesting that the Complainant was being discriminated against due to his ethnicity and national origin.

While Officer Steward held the Complainant in the squad car, two additional individuals appeared on the scene and started talking to the passenger, who had also been ordered out of the car. One of the men spoke English and wanted to help the Complainant by speaking with Officer Steward. Officer Steward did speak briefly with this person and told the man that the Complainant did not have a driver’s license and he had to go to jail. This person referred to the Complainant by his first name, “Denny” and asked Officer Steward if “Denny” had his passport with him. This information could have been used to help confirm the identity of the Complainant and this individual could have provided assistance in explaining to the Complainant how to respond to a citation.

Additionally, this individual asked Officer Steward about being able to drive the Complainant’s vehicle from the stop rather than it being towed away. He told Officer Steward that his wife held a driver’s license. Officer Steward said that was not a possibility as the owner of the vehicle had to be present to allow the release of the car. However, the Complainant is, in fact, the owner of the vehicle in question. The Complainant was listed in CAPRS by the officers themselves as being the owner and he is listed in MN DVS as the owner of record. Officer Steward could have verified if any of these individuals were licensed drivers and asked the Complainant if he wished to authorize the release of his vehicle. Officer Steward’s statement to these individuals that he could not release the vehicle because the owner was not present was not a truthful statement.

I confirm that the information I provided in this case is true to the best of my knowledge.



OPCR Investigator: Stephen J McKean

10/23/2015

Date

**Case Report with
Supplements****Minneapolis Police Department****CCN: MP-14-040997****Report Details**

Reporting Officer:	004636: Patrick Mc Mahon	Approval Status:	Approved
Assisting Officer:	006823: Christopher Steward	Approval Date:	Feb 8, 2014
Supervising Officer:	002120: Michael Friestleben	Date Returned:	
Approving Supervisor:	002120: Michael W Friestleben	Return Count:	0
Call/Sqd:	460	Date Printed:	Jul 10, 2014
Precinct:	04	Last Uploaded:	Feb 8, 2014
Related CCN :	--	Solvability:	100
Reported Date:	Feb 7, 2014 20:30	Primary Routed Unit:	4055 - Traffic
Entered By:	004636		

Incident Details

Offense1:	NODL	Desc:	No Valid DI	Statute:	171.02S1	Attempted:	
Address:			Broadway AV W MINNEAPOLIS, MN 55411				
Intersection:			Girard AV N				
Occurred From:			02/07/2014 20:07	Dispatched:			20:07:00
Occurred To:			02/07/2014 20:10	Arrived:			20:07:00
Location:			WEST BROADWAY / GIRARD AV N	Cleared:			21:30:00
Minor Involved:			No				

Public Data

Officers observed the deft driving MN 263-EVU WB on West Broadway ave from Aldrich Ave N. Officers observed the deft change lanes several times without signalling the lane changes. The deft was stopped and it was discovered that the deft had no valid DL. Deft was transported to HCJ for ID purposes and his vehicle was towed.

Arrestee

Role / Role #:	A001	MPD#:	0020140305
Name:	Hernandez-Antunez, Denis Rodolfo		
Residence:	2230 Irving AV N Minneapolis, MN 55411		
Telephone:	O:612-213-9501		
Date of Birth:	04/24/1992	Event Age:	21
Race:	White	Medical Treatment:	No
Sex:	Male	Prior Injury:	No
Height:	507	City of Origin:	Yoro Honduras
Build:	LI		

Arrest Information

Arrest Address:	Broadway AV W MINNEAPOLIS, MN	Precinct:	04
Intersection:	Girard AV N		
Arrest Date:	Feb 7, 2014 20:15		
Arrest Location:			
Disposition:	Booked County		
Arresting Officer:	004636: Mc Mahon, Patrick B	Call/Sqd:	460
Arresting Officer:	006823: Steward, Christopher Stephen	Call/Sqd:	460

Charges

<u>Status</u>	<u>Type</u>	<u>Charge Code</u>	<u>Statute</u>	<u>Citation</u>	<u>Related CCN</u>
Other	Misdemeanor	nodl - No Valid DI	171.02S1		

Personal Description

<u>Category</u>	<u>Description</u>	<u>Related Offense</u>	<u>Comments</u>
Appearance	Nervous		
Complexion	Medium		
Cultural Ethnic	Hispanic		
Employment Status	Self-Employed		
Force Used	No		
Hair Color	Black		
Hair Length	Short		
Hair Style	Curly/Wavy		

Alias

Role / Role #:	AL001	MPD#:	
Name:	Hernandez, Denis Rodolfo		
Residence:	Npa		
Telephone:	N:		
Date of Birth:	04/24/1991	Event Age: 22	Est. Age: 22 - 22
Race:	Other/Mixed Race	Medical Treatment:	No
Sex:	Male	Prior Injury:	No
Height:	510	City of Origin:	Honduras
Build:	ME		

Arrest Information

Personal Description

<u>Category</u>	<u>Description</u>	<u>Related Offense</u>	<u>Comments</u>
Employment Status	Self-Employed		
Force Used	No		

Relationships

<u>Subject</u>	<u>Relationship Type</u>	<u>Object</u>
A001 Hernandez-Antunez, Denis	Alias	AL001 Hernandez, Denis

Vehicle

Vehicle Number:	1	Owner Name:	Hernandez-Antunez, Denis
Owner Role:	A001	Model:	PROTEGE DX-LX
Make:	Mazda	VIN #:	13.37
Model Year:		Plate Year:	14
Plate:	18 U.S.C. 2521 DMV Data		
Estimated Value:	\$1.00		

Vehicle Status

<u>Category</u>	<u>Date</u>	<u>Description</u>
Vehicle Comments		MAZD 4DR SEDAN
Vehicle Impounded		Yes

Vehicle Description