

**OFFICE OF INSPECTOR GENERAL
CITY OF ALBUQUERQUE**



**Investigative Report
Case # 12-213**



OFFICE OF INSPECTOR GENERAL
CITY OF ALBUQUERQUE

June 25, 2012

Bruce Rizzieri
Director, ABQ-Ride Department
City of Albuquerque

Re: OIG-12-213: Collision Involving a Motor Coach Operator

Dear Mr. Rizzieri,

On March 23, 2012, the Office of Inspector General (OIG) was contacted by Peter Ennen, Risk Management regarding a city bus collision that occurred on March 21, 2012. Ennen was concerned that the bus driver may have set up the collision in order to claim workman's compensation. On April 3, 2012, the OIG began an investigation looking into the collision to determine if the workman's compensation claim was legitimate and whether there was any collusion between the motor coach operator (MCO) and the driver of the white vehicle.

Enclosed please find a copy of the OIG's investigative report regarding this matter.

Respectfully,

Neftali Carrasquillo, Jr.
Inspector General

cc: Richard J. Berry, Mayor
City Council
Robert J. Perry, CAO
John Soladay, COO
Lou Hoffmann, DFAS
Peter Ennen, Risk Management

Executive Summary

On March 23, 2012, the Office of Inspector General (OIG) was contacted by Risk Manager, Peter Ennen, regarding a City bus collision that occurred on March 21, 2012. Ennen was concerned that the bus driver may have set up the collision in order to claim workman's compensation. On April 3, 2012, the OIG began an investigation looking into the collision to determine if the workman's compensation claim was legitimate and whether there was any collusion between the motor coach operator and the driver of the white vehicle.

The OIG investigation included conducting interviews with Transit employees, the driver of the white vehicle involved in the collision, an expert in the motor coach field, reviewing video, documents, information provided, and gathering evidence. Based on the investigation conducted, the OIG concludes the following:

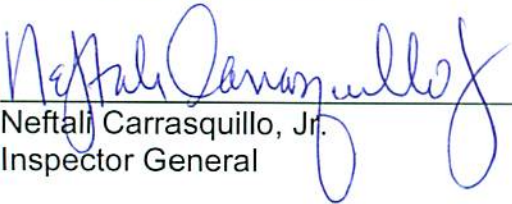
- 1. That on March 21, 2012, a collision occurred between a City motor coach vehicle and a white vehicle, and that a review of the video of the incident caused concern.**
- 2. That according to the motor coach driver, the collision re-aggravated an injury the motor coach driver had sustained from a prior collision in which he was involved. This collision also occurred while in his official capacity as a motor coach operator.**
- 3. That the motor coach operator was not wearing his seat belt or shoulder harness at the time of the March 21, 2012, collision. The motor coach operator stated that the length of the shoulder harness was too short and did not allow his body-size type to be seat-belted. Being seat-belted while driving is a safety concern and is required both by city policy and vehicle operating regulations.**
- 4. That it is undetermined if the impact of the collision was sufficient to cause an independent injury or re-aggravate a previous injury sustained by the motor coach operator. It is also undetermined whether that by not wearing the shoulder harness, as is required, the injury could have been prevented.**
- 5. That the driver of the white vehicle admitted to intentionally being the cause of the collision due to road rage.**
- 6. That the motor coach operator and driver of the white vehicle did not know each other or have any kind of a relationship that the OIG could discern.**

The OIG makes the following recommendations for consideration by the Transit Department:

- 1. That the Transit Department review and consider revising its policy regarding vehicle and collisions. According to this motor coach operator, this would have been his 8th or 9th collision in approximately seven (7) years.**

2. That the Transit Department takes steps to ensure their operators and vehicles all have seat belts and shoulder harnesses that fit and can be utilized as prescribed by policy, regulations and safety standards.
3. That the Transit Department considers additional training/assessments for operators who are involved in multiple collisions based on a revised policy.

Details of the investigation are contained within the investigative report and are attached to this executive summary.



Neftali Carrasquillo, Jr.
Inspector General

OIG INVESTIGATIVE REPORT

On March 23, 2012, the Office of Inspector General (OIG) was contacted by Risk Manager, Peter Ennen regarding a City bus collision that occurred on March 21, 2012. Ennen was concerned that the bus driver may have set up the collision in order to claim workman's compensation. On April 3, 2012 the OIG began an investigation looking into the collision to determine if the workman's compensation claim was legitimate and if there was any collusion between the motor coach operator and the driver of the white vehicle.

In reviewing the video, a white vehicle passes the City bus and pulls off to the right side of the street, as the bus gets closer; the vehicle enters back onto the street nearly hitting the bus. As the bus continues its route, the white vehicle drives ahead of the bus and does a u-turn on a side street and appears to go forward to cross the intersection when the driver suddenly puts the white vehicle in reverse and goes back to the side street. It appears that he is waiting for the bus. The bus stops to drop off and pick up passengers and as the bus starts to accelerate the driver of the white car also accelerates forward getting in front of the bus where the bus hits the back end of the white vehicle. The actions of the driver of the white vehicle were not logical and left open the following possible explanations/possibilities:

- a) The driver of the white vehicle intentionally caused the collision in order to pursue a claim with the City for monetary gain; or,
- b) The driver of the white vehicle and the motor coach operator colluded to cause the collision to pursue a claim against the City for monetary gain; or,
- c) The driver of the white vehicle was acting irrationally due to driving under the influence or possible road rage.

I. On April 12, 2012, Driver1, the driver of the white vehicle, was interviewed regarding the collision he was involved in on March 21, 2012 with a City bus. Driver1 was advised that the interview would be taped and that he would have an oath administered to which he acknowledged.

Driver1 was asked to recall the particulars regarding the collision which occurred on March 21, 2012. Driver1 stated that he works nights and got off that morning at 3:30am and by the time he unwound and finally fell asleep it was about 4:30-5:00 am. Driver1 stated that his brother woke him up because he needed a ride to the bus stop. Driver1 was asked if he was tired and he stated he was. Driver1 was asked if he was in full control of his faculties while driving and he stated yes. Driver1 was asked if he had been drinking or was under the influence of any drugs and he stated no.

Driver1 was advised that the bus that he collided with has video cameras and that based on what we had reviewed, the collision looked suspicious because of the erratic driving behavior. Driver1 was told that the collision looked staged based on what was observed in the video. As such, Driver1 was given the opportunity to view the video and asked to explain his actions as seen. While reviewing the video Driver1 stated the following:

- He was passing the bus to get to the first bus stop to drop off his brother.
- He was going to let his brother off real fast but the bus did not make the stop so his brother stayed in the car to get to the next stop.
- He saw the bus coming and thought he could beat the bus and get in front of it. At this point, you can hear, on the video, the bus honking because the white car had cut in front of him.
- He stated he dropped his brother off at the bus stop before the stop where the collision occurred.
- He stated that in the second encounter, with the bus, he had turned onto a side street and was going to turn around to go home. He partially went forward onto the street and went in reverse because he could not see around the bus. The bus was stopped and he thought he could pull out and beat the bus, but he got hit.

Driver1 was asked if he thought he was at fault and he stated he knew he had to yield to oncoming traffic but did not. Driver1 was asked if he had made an insurance claim to which he stated he had not and would not because he was going to fix his vehicle himself. Driver1 was asked if he knew the bus driver personally to which he stated no. Driver1 was asked if he stopped on purpose to get hit to which he stated no. Driver1 was told that there could only be three (3) explanations or reasons for his actions which were:

- He was just irresponsible and may have been under the influence; or,
- He was looking to get hit to try to collect insurance claim; or,
- He was in collusion with bus driver.

At this point, Driver1 was asked if he would be willing to voluntarily submit himself to take a polygraph test to which he agreed.

II. The OIG contacted Resource1 in order to utilize his expertise and experience in reviewing the video of the collision. Resource1 has over 35 years in the Transit field with 13 years in a supervisory and management capacity. Resource1 has investigated numerous collisions, over his career, has testified in court and is also on the City's Transit Advisory Board. On April 18, 2012, Resource1 viewed the video of the collision, at the office of the OIG and was asked to give us his opinion of what he observed.

Resource1 stated that he has investigated many collisions like this and that he has personally experienced this type of collision while he drove buses. He stated that the driver of the white vehicle may have been angry that his passenger did not get picked up at the first stop where he almost collided with the motor coach the first time. Resource1 stated that sometimes drivers of vehicles will pull in front of a bus to make sure it stops. Resource1 stated that based on the first near collision with the vehicle, he would have been cautious and watched the vehicle. He is not going to drive like he normally would; he is going to watch the vehicle cautiously.

Resource1 was asked if based on what he saw on the video, which included the short distance from the where the bus was stopped to where the collision occurred, if it seemed viable for the motor coach driver to claim an injury. Resource1 stated that

based on the short distance the bus traveled it does not appear the motor coach driver would have a legitimate claim for back injury but that he is not a doctor. Resource1 stated that many times people will claim injuries that are hard to prove such as whiplash. Resource1 went on to state that training is so important for bus drivers because things constantly change and so must the driver. Resource1 stated that bus drivers should have a minimal amount of training hours per year.

III. On May 7, 2012, the OIG interviewed the City Transit Motor Coach Operator. MCO acknowledged that he had received and signed a letter of investigation provided to him by the Transit Department. MCO was advised that he had the right to consult with a union representation and stated that his union representative was unable to make it but that he was fine with being interviewed without his union representative. MCO was advised that the interview would be taped and that an oath would be administered to which he acknowledged.

MCO was asked how long he has been a City Motor Coach Operator and what training he has received. MCO stated that he has been a driver for seven years and received initial training when he first started driving to include how to control a vehicle, length and weight of the vehicle and how to stop the vehicle. He also received a CDL Class B and passenger endorsement when he was hired.

MCO was advised that the OIG's review of the collision video caused concern because the collision looked suspicious due to the erratic driving behavior of the driver of the white vehicle. The OIG also expressed concern over his claim of injury due to the minimal distance between the stop and collision and impact.

MCO was asked to explain what he recalled of the collision that occurred on March 21, 2012. MCO stated that when he was picking up passengers, a white vehicle pulled in front of him as he was pulling out. He stated that the white vehicle pulled up beside him and that the driver cursed at him. He stated that he then slowed down to let the white vehicle get ahead of him. MCO stated that the white vehicle drove ahead of the bus, stopped and he saw a passenger get out of the vehicle and then the white vehicle leaves. MCO stated that he had already proceeded on his way and thus did not pick up the person the white vehicle had dropped off. MCO stated that he then observed the white vehicle drive ahead about 3 or 4 blocks and pull onto a side street where the driver pulled a u-turn. MCO stated that as he was stopping to pick up passengers the white vehicle pulled into the intersection and then reversed back to the side street. MCO stated that as he started to take off, the white vehicle entered the intersection and slammed on the break and stopped. MCO stated that at this point he could not stop the bus that fast and hit the white vehicle.

MCO stated that he pulled over and called dispatch, to report the collision, and then checked with his passengers for any injuries to which there were none. MCO was asked if he knew the driver of the white vehicle and he stated no. MCO was asked if he had colluded with the other driver to collect insurance and he stated no.

MCO was asked if he had filed an injury complaint and he stated yes. MCO stated he re-aggravated an injury he had sustained from a previous bus collision he had had.

MCO was asked to explain how he had sustained his injury for this collision and he stated that the impact caused his neck to go forward and he got whiplash and when he tightened up he re-aggravated his previous injury. MCO stated that though the movement by the collision was minimal that due to his preexisting injuries the impact was enough to re-aggravate it. MCO stated the City doctor checked him over and told him that he had muscle strain in his upper and lower back, not his neck.

MCO was asked if there were any policies or procedures in place that addressed how to proceed when other drivers are acting the way the driver of the white vehicle was. MCO stated that if he recognizes a suspicious vehicle he would call it in but this incident occurred within 2 to 3 minutes and it usually takes dispatch a lot longer to pick up their end of the call and call back so he did not have time to call dispatch.

MCO was asked if he was wearing a seat belt and he stated no. MCO stated that he is supposed to wear a seatbelt but he has never been told he had to wear his seatbelt. MCO stated that in the past he has had a number of situations where he has had to jump out of his seat to deal with situations and that passengers have attacked drivers and he does not want to be stuck to his seat. MCO stated the bus has a lap belt and a shoulder harness, but that the shoulder harness does not extend far enough to fit and buckle so he doesn't use it.

The OIG advised MCO that in reviewing the collision video, it did not seem like the impact was sufficient or strong enough to cause injury and MCO stated that he agreed but that because of his pre-existing injury, it re-aggravated it. MCO was asked if wearing the shoulder harness would have prevented re-aggravation of his injury and he stated he didn't know. MCO was asked if he would be willing to voluntarily submit himself to polygraph examination and he stated yes.

IV. On May 15, 2012 Driver1 was asked to come to the OIG office where upon his arrival he was asked if he was still willing to voluntarily take a polygraph test. Driver1 stated that he was and he was then taken to APD where the polygraph examination was administered. The initial polygraph administered showed deception as to the question of whether it was just a simple accident. In the post-test, Driver1 admitted that his erratic driving was not the cause of the accident but rather that the accident was caused as a result of his road rage. Driver1 admitted that he pulled in front of the bus assuming the driver would stop so he could yell out his window to the driver because he was angry the driver did not pick up his brother.