

Case Number: P200606009

Date of Violation: 06/05/2006

Date Closed: 12/18/2007

Date Received: 06/05/2006

Complainant(s):

No Complainants

Involved Officers:

McAlexander, Kachina (P99076)

<u>Violation</u>	<u>RR Code</u>	<u>OMS Code</u>	<u>Other Desc</u>	<u>Disposition</u>	<u>Penalty</u>	<u>Fined</u>	<u>Hours</u>	
							<u>Suspended</u>	<u>Abeance</u>
Drinking to Excess	110			Sustained	Suspended Time		40	40
Law Violation - Other	115		Possession of a Firearm	Sustained	Suspended Time		200	200
Conduct Prejudicial	105			Not Sustained				
Improper Procedure - Other	402		Careless Handling of a Firearm	Sustained	Fined Time	40		



John W. Hickenlooper
Mayor

CITY AND COUNTY OF DENVER

DEPARTMENT OF SAFETY
FIRE • POLICE • SHERIFF

Office Of Manager
1331 Cherokee Street
Room 302
Denver, CO 80204
Phone: (720) 913-6020
Fax: (720) 913-7028

December 13, 2007

DEPARTMENTAL ORDER OF DISCIPLINARY ACTION Case No. P2006 06 009

KACHINA McALEXANDER (99076)
Officer in the Classified Service
of the Denver Police Department

Officer:

It appearing to the undersigned Manager of Safety of the City and County of Denver that the Order of Discipline directed to you on November 29, 2007, should be approved,

IT IS HEREBY ORDERED:

That pursuant to the authority vested in me by the Charter of the City and County of Denver, the Order of Discipline recommended by the Chief of the Police Department of the City and County of Denver is approved. You are hereby suspended for twenty-five (25) days for violation of RR-115 of the Operations Manual as it pertains to Law Violation, of which twenty-five (25) days will be held in abeyance for a period of one year, five (5) days for violation of RR 110 as it pertains to Drinking to Excess, of which five (5) days will be held in abeyance for a period of one year, and fined forty (40) hours for violation of RR 402 as it pertains to Careless Handling of Firearms. The fined time will be assessed as follows: Eight (8) hours each in periods 1, 2, 3, 4, 5, of 2008. The abeyance for a period of one year will start December 30, 2007 through and inclusive of December 30, 2008. During this abeyance time frame, the abeyance penalty may be imposed if you commit any rule violation that the Chief of Police or the Manager of Safety believes warrants the imposition of the abeyance penalty or any portion of the abeyance penalty.

Please be advised that pursuant to Denver City Charter § 9.4.15(A), you have ten days from receipt of this order to file an appeal with the Civil Service Commission.

BY ORDER:

Blain J. LaCabe, Jr. 12/13/07

Manager of Safety Date
Mary Malatenta
Deputy Manager of Safety

OFFICER'S RETURN

I hereby certify that I received the within Order and Command of Disciplinary Action and have delivered a true copy thereof to the within-named Kachina McAlexander this 12th day of December 12th 2007.

[Signature]
Kachina



JOHN W. HICKENLOOPER
Mayor

CITY AND COUNTY OF DENVER

DEPARTMENT OF SAFETY

DENVER POLICE DEPARTMENT
ADMINISTRATION BUILDING
1331 CHEROKEE STREET
DENVER, COLORADO 80204-2787
PHONE: 720-913-6019

October 12, 2007

To: Officer Kachina McAlexander, 99076

Subject: Contemplation of Discipline Letter

RE: Internal Affairs Bureau Case Number P2006 06 009

This letter is to inform you that the Denver Police Department (DPD) is contemplating disciplinary action against you for violations of the DPD Operations Manual. The actions described below may have violated the following policies or procedures:

Specification #1:

RR-115 Law Violation

Officers shall obey the Charter of the City and County of Denver, all City Ordinances, and all State or Federal Statutes.

**Disciplinary Recommendation by Division Chief of Patrol Mary Beth Klee:
Suspended Twenty (20) Days Without Pay.**

Specification #2:

RR-110 Drinking to Excess:

Officers shall not drink alcoholic beverages while off duty to an extent which renders them unfit to report for duty or that results in the commission of an obnoxious or offensive act that might tend to bring discredit upon the department.

**Disciplinary Recommendation by Division Chief of Patrol Mary Beth Klee:
Suspended Five (5) Days Without Pay.**

Specification #3:

RR-105 Conduct Prejudicial:

Officers shall not engage in conduct prejudicial to the good order and police discipline of the department or conduct unbecoming an officer which may not specifically be set forth in department rules.

**Disciplinary Recommendation by Division Chief of Patrol Mary Beth Klee:
Suspended Five (5) Days Without Pay.**

Specification #4:

RR-402 Careless Handling of Firearms:

Officers shall not carelessly handle a firearm at any time.

Disciplinary Recommendation by Division Chief of Patrol Mary Beth Klee: Unfounded

This action is based upon the following information. This is not intended to be a complete summary of the case file:

The facts of this case indicated that you were at your residence in Adams County. You were considering [REDACTED] You admit to firing several rounds from your handgun into your television. You stated that you did that because you didn't want to think about [REDACTED] [REDACTED] You stated that you were going to fire several rounds and then [REDACTED] but you were unable to [REDACTED] You then admit to drinking a bottle of Jack Daniels. In your statement you stated that you drank half the bottle upstairs and half the bottle downstairs. You then crawled back into your bed. In your bed was your handgun. You admit to putting the gun in your bed under the blanket. Adams County Deputies responded to your residence and took you into custody. The Adams County Deputies stated that you were uncooperative with them during your arrest. The deputies asked you if you would like to make a statement and your response was that you were too drunk and all you needed was a lawyer. You were taken to the Adams County sub-station. Members of the Denver Police Internal Affairs Bureau responded to the Adams County sub-station. They observed you to be intoxicated to the point where you could not walk on your own and had to be assisted by two deputies. Lieutenant Chuck made several attempts to get you to sign that you were served with orders from Chief Whitman, but you were unable to do that. In your interview with Internal Affairs you were asked if you were intoxicated and your response was "yeah, like pretty much unconscious."

You have the option of accepting this recommended penalty now; however, the Chief of Police may later change this penalty, at which time your acceptance will be automatically voided.

I (waive the D.R.B.) and accept the recommended penalty: _____
Signature of Officer

If the above signature block is not signed, the officer is hereby informed that:

A pre-disciplinary meeting has been scheduled for 10:00 (a.m.) p.m., on NOV 27 2007, in the conference room of the Chief of Police, on the 4th floor of Police Headquarters. At the pre-disciplinary meeting, the Denver Police Department may consider the attached disciplinary/commendation history. You are entitled to have a representative of your choice at the meeting with you, and your response may be verbal or in writing.

The purposes of the meeting are to: (a) Allow you the opportunity to correct any errors in the department's information or facts upon which it proposes to take disciplinary action. (b) Allow you to tell your side of the story and present any mitigating information as to why the proposed action should not be taken.

Certificate of Delivery

A true copy of this Contemplation of Discipline Letter was personally delivered to

KACHINA MC ALEXANDER, on NOV 7TH 2007.

Det. Larry McCune 75031
Agency Representative 11-7-07

Kachina
Signature of Officer

Findings by the Chief of Police/or Designee - Pre-Disciplinary Conference

Date: _____

Time: _____

Specification #1: RR 115

Finding: Sustained

Discipline: Suspended 25 Days

Specification #2: RR 110

Finding: Sustained

Discipline: Suspended 5 Days

Specification #3: RR 105

Finding: Not Sustained

Discipline: None

Specification #4: RR 402

Finding: Sustained

Discipline: Fined 40 Hours

Officer Kachina McAlexander, 99076: You are hereby notified that pursuant to the authority vested in me as Chief of the Police Department of the City and County of Denver, Colorado, I am hereby recommending to the Manager of Safety that you be suspended for twenty-five (25) days for violation of Rule and Regulation 115 of which twenty-five (25) days will be held in abeyance for a period of one year, five (5) days for violation of Rule and Regulation 110 of which five (5) days will be held in abeyance for a period of one year, and fined forty (40) hours for violation of Rule and Regulation 402. The fined time will be assessed as follows: eight (8) hours each in periods 1, 2, 3, 4, 5 of 2008. The abeyance for a period of one year will start December 30, 2007 through and inclusive of December 30, 2008. During this abeyance time frame, the abeyance penalty may be imposed if you commit any rule violation that the Chief of Police or the Manager of Safety believes warrants the imposition of the abeyance penalty or any portion of the abeyance penalty.



Signature of Chief of Police

112907
Date

SUMMARY OF PRIOR DISCIPLINARY ACTIONS AND COMMENDATIONS

Human Resource Management Bureau and Internal Affairs Bureau records indicate that Kachina McAlexander was appointed to the Denver Police Department on November 1, 1999 and has the following commendations and disciplinary actions on his record:

COMMENDATIONS:

Official Commendation, 1.
Commendatory Action Report, 1.
Commendatory Letter, 4.
Letter of Appreciation, 1.

Total Number Commendations - 7

DISCIPLINARY ACTIONS:

02/18/01	RR 102 OMS 106.02.1	Personal and Found Property	Fined 8 Hours
02/18/01	RR 608	Completing Official Reports	Written Reprimand
02/18/01	RR 105	Conduct Prejudicial	Written Reprimand
07/02/01	RR 502	Court Violation	Oral Reprimand
09/13/03	RR 809	Preventable Accident	Oral Reprimand

Total Number Disciplinary Actions - 5

WRITE-UP COMPLETION SIGN OFF FORM

The attached "write-up" for case # P 2006 06 0097, involving Officer Kachina McAlexander, has been completed by:

Sgt. Scott Murphy 9462 Date: 10-12-07
Sergeant Scott Murphy, Internal Affairs Bureau Investigator

The attached "write-up" has been reviewed and approved by:

Lt. Joe Montoya 91011 Date: 10-12-07
Lieutenant Joseph Montoya, Internal Affairs Bureau

[Signature] Date: 10-12-07
Commander John Lamb, Internal Affairs Bureau

M. B. Klee 83013 Date: 10-16-07
Mary Beth Klee, Division Chief of Patrol

APPROVED FOR PRESENTATION AT THE CHIEF'S HEARING

City Attorney (If Needed) Date: _____

**DENVER POLICE DEPARTMENT
INTER-DEPARTMENT
CORRESPONDENCE**

TO: Deborah K. Dilley, Commander, District 6

FROM: Joe Black, Captain, Detail 2

DATE: May 21, 2007

SUBJECT: Case Number: P200606009
Complainant: Adams County Sheriff Office
Type of Complaint: Law Violation, Conduct Prejudicial, Drinking to Excess
Subject Officer: Kachina Mc Alexander #99076

Incident and Complaint

On June 5, 2006, members of the Adams County Sheriff Department arrested Denver Police Officer Kachina McAlexander #99076 inside her home for Reckless Endangerment, after it was alleged that she had discharged her duty weapon multiple times.

Investigation

The criminal elements of the case were investigated by Adams County Sheriff investigators. The Adams County District Attorney's Office accepted a misdemeanor filing on two counts: CRS 18-12-106(1) (b) Reckless Discharge with a Firearm, and CRS 18-3-208, Reckless Endangerment. A trial was held. The judge dismissed the case because he concluded that no reasonable jury could convict the defendant. The DA's office lost the case on appeal. The Internal Affairs Bureau became the collection point for all of the documentation produced by Adams County.

On April 20, 2007, after the criminal portion of the case was adjudicated, Officer McAlexander was given a Garrity Advisement and a taped interview was conducted to further clarify McAlexander's version of the events that transpired on the evening she was arrested.. The Independent Monitor was present for Officer Mc Alexander's statement. The statement was transcribed, as was the court session in Adams County. They are included in the case and will be cited by page number and line number in parenthesis when appropriate in the Conclusion section of this document. The case was sent to District 6 for a follow up review. Due to the complexity of the case, the format of the Conclusion section has been modified for a more comprehensive understanding.

**Point Number 1
RR-110-Drinking to Excess**

- Adams County Deputy Sheriff Craig (D-32) stated that when he entered the basement saw a female, told her not to move and place her hands where they could be seen. The female did not comply so she was handcuffed. He noticed an empty bottle of Jack Daniels (later ID'ed by McAlexander as a 1.75 ltr. bottle) by the side of the bed. The female appeared to be intoxicated and stated that she was a Denver Police officer and asked for some professional courtesy.
- In the Affidavit in Support of a Warrantless Arrest drafted by Deputy Sheriff Matthew Espinoza (D-29) both responding deputies, Craig and Cano stated that when dealing with Kachina McAlexander in this incident, they noticed a strong odor of an alcoholic beverage coming from her breath.
- (D-29) Later, the affiant, Matthew Espinoza asked Officer McAlexander if she would be willing to give a statement. McAlexander told the affiant, "No I'm too drunk, all I need is a lawyer."
- Lieutenant Mark Chuck, assigned to IAB responded to the Adams County sub-station to contact Adams County authorities, observed McAlexander to be visibly intoxicated to the point that two deputies had to physically assist her to the visitation room. She was unable to walk unassisted, and a smell of alcoholic beverage was on her breath. Chuck stated that McAlexander was unable to acknowledge most of the questions asked of her and was unable to sign the orders from Chief Whitman, so Lt. Chuck signed for her. Lt. Chuck is an 18 year veteran of law enforcement.
- (D-7, Line 139) of McAlexander's statement indicated, "So I went upstairs and had like a half a bottle (Jack Daniels). Once at the bottom of my stairs, I finished off the bottle and then went crawling back to my bed...And then I just laid on top of my blankets just waiting for the alcohol to take effect." (Line 163) "Well I would not say unconscious—maybe just blacked out."
- (D-12, Line 396) Sergeant Randy Royal conducting the interview with McAlexander asks, "And were you intoxicated?" (Line 397) McAlexander replies "yeah like pretty much unconscious. That was the other thing I was thinking of too(sic) was, you know, maybe if I drink a lot to get [REDACTED] or something...to drink to excess very fast."
- (D-12, Line 403) Royal asked McAlexander, "So you wanted to drink to excess?" (D-12, Line 405) McAlexander replied "Um-hmn [affirmative], yes."
- (D-79, Line 14-21) Adams County Deputy Sheriff Craig is a 17 year veteran of law enforcement and stated on record that he deals with intoxicated people every day.
- (D-97, Lines 22, D-98, Lines 1-16) Deputy Cano, the assisting officer noticed indicia of alcohol at the scene. Specifically a nearly empty bottle of Jack Daniels and an intoxicated

defendant. Cano stated that McAlexander had slurred speech. He is a 5 year veteran of law enforcement.

40 collective years of law enforcement personnel dealing with intoxicated people reported Officer McAlexander appeared intoxicated. Officer McAlexander made a statement to IAB investigators that she had drank to excess and passed out or blacked out. Officer McAlexander made a statement to Adams County Deputies that she was drunk and needed a lawyer. (B-9) Officer McAlexander was unable to sign the order issued by Chief Whitman. A reasonable person would conclude that there is sufficient documentation that **RR-110 Drinking to Excess**, should be carried as **SUSTAINED** regarding Officer Kachina McAlexander #99076.

Point Number 2
RR-402-Careless Handling of Firearms

“Officers shall not carelessly handle a firearm at any time.”

After reviewing the case, Captain Black elected to add this point to consider.

- Dictionary.com Unabridged (v1.1) defines careless as:
 1. not paying enough attention to what one does
 2. not exact, accurate, or thorough
 3. done or said heedlessly or negligently; unconsidered
 4. not caring or troubling; having no care or concern
 5. possessed or caused without effort or art; unstudied.

- (Page D-6, Line 122), Officer McAlexander stated, “I shot my gun several times into the TV to get used to the trigger action.”
- (D-11, Line 333), “Yeah I just fired it that many times so I would not think about it.” (Line 344) Mc Alexander tells Sgt. Royal that the only time that she has fired her handgun in a similar situation is at the range.
- (D-31) Deputy Cano stated that he recovered 7 spent cartridges on the bed.
- D-33 Lt. Chuck learned from the responding deputies that 13 spent shell casings were found and a TV set had been shot up. This coincides with the 14 shot magazine capacity of the Glock 17, 9mm semi automatic handgun plus one round in the chamber for a total of 15 rounds. (B-23) The Adams County Sheriff’s Office Firearms Unloading Worksheet confirms this fact.

The Denver Police Department goes to extraordinary lengths to prepare recruit officers for the safety and discipline of carrying a loaded handgun. This training and practice continues throughout an officer’s career regardless of rank. There are dry fire places, paint ball scenarios, Range 2000 and 3000 simulations and classroom lecture on proper care and handling of firearms, as well as situations of when shooting in a crowd full of people or other hazard may be dangerous. Much of this training is done before the recruit officer is brought to a live fire range.

The recruit officer learns that practicing at the range is a safe and effective way of honing one’s skills, not to mention the quarterly qualification required by the department. There is nothing

suggested by the Denver Police Department or taught by Department personnel that justify discharging a weapon inside a home, much less multiple times for any reason except those outlined in the Colorado Revised Statutes dealing with deadly force. Any reason outside these parameters would be considered careless and dangerous.

RR-402-Careless Handling of a Weapon, shall be carried as **SUSTAINED**, regarding Officer Kachina McAlexander #99076.

**Point Number 3
RR-115-Law Violation**

“Officers shall obey the Charter of the City and County of Denver, all city ordinances, and all State or Federal statutes.”

- On June 5, 2006, Officer McAlexander was charged with prohibited use of a firearm: CRS 18-12-106 (B)(1)(a), and reckless endangerment: CRS 18-3-208. Both counts are misdemeanors. She plead Not Guilty and the matter was set for trial in Adams County (F-5).
- On February 1, 2007, Officer McAlexander was acquitted of both counts by the judge. In the case of reckless endangerment, the court ruled that there must be a substantial disregard for the safety of persons or property, and a substantial risk of serious bodily injury to another person. That burden was not met. (F-6). The judge ruled that for Officer McAlexander to be criminally negligent, there must be a danger to another person, or property other than one's own. Since Officer McAlexander did all of the discharging of her weapon in her basement, the judge ruled that there was no substantial risk (F-6).
- (B-39) On April 23, 2007, an appeal to the District Court initiated by the Adams County District Attorney's Office was denied on the charges filed against Officer McAlexander.
- (D-113, Line 11) of the court transcript, the judge stated that there was plenty of evidence under (d) of the reckless endangerment statute that McAlexander was a person who had possession of a firearm while intoxicated. There was no intoxilyzer, blood or urine sample to determine a blood alcohol level that rises to the legal limit of what constitutes a person being intoxicated, and no way to positively determine to what extent Officer McAlexander may have been intoxicated during this incident. Although not stated anywhere in the case, this is probably why the Adams County District Attorney's Office elected to not file this count against Officer Mc Alexander, because there was no reasonably likelihood of conviction.

Officer McAlexander was acquitted of the charges brought against her, the prosecution lost on appeal, and there is no scientific evidence to support the charge of possession of a firearm while intoxicated. **RR-115, Law Violation**, shall be carried as **Unfounded**, regarding officer Kachina McAlexander #99076.

Point Number 4
RR-105-Conduct Prejudicial

“Officers shall not engage in conduct prejudicial to the good order of the department or conduct unbecoming an officer which may not be specifically set forth in department rules.”

- (D-5, Line 91) Officer McAlexander wrote a [REDACTED] letter addressing it to [REDACTED] [REDACTED] an individual that she had a relationship with over the previous 6 months. (D-6, line 105) She got [REDACTED] outside her front door.
- (D-6, line 123) Officer McAlexander shot her gun several times into the TV to get used to the trigger action. (D-6, line 133) She took a bottle of Jack Daniel in her refrigerator and placed the gun underneath her blankets of her bed. (D-7, line 139) She had approximately one-half bottle of Jack Daniels. (Line 147) She text messaged 10 different people including [REDACTED] [REDACTED] (Line 158) Her phone starting ringing, but she elected to turn her phone off.
- (C-1) In her statement, [REDACTED] [REDACTED] stated that she received a text message from McAlexander who wanted [REDACTED] to pick up [REDACTED] Upon arrival to the home, McAlexander left a letter to [REDACTED] indicating [REDACTED] McAlexander [REDACTED] After entering the home through the dog door, [REDACTED] smelled gunpowder, ran outside and called 9-1-1.
- Numerous Adams County Sheriff’s Deputies arrived at the scene, as did paramedics. (D-32) Deputy Craig heard Officer McAlexander state that she was a Denver Police officer and asked for some professional courtesy.
- (D-33) Lt. Mark Chuck and Lt. Joe Montoya contacted Officer McAlexander at the Adams County sub-station. Lt. Chuck stated that Officer McAlexander was crying and unable to answer most of the questions asked of her. She appeared drunk and was unable to walk without assistance. She could not sign Chief Whitman’s order.
- (D-43, line 12) Ms. St. Clair, the attorney for Officer McAlexander made a pre trial motion, that Kachina McAlexander was a Denver Police officer and was worried that the jury having that knowledge would hold Kachina McAlexander to a higher standard.
- McAlexander stated that she wanted to [REDACTED] because of a culmination of events:
 1. In 1997, her friend [REDACTED]

2. In 2001, she was accused of a domestic violence and placed on paid leave. She was placed in another assignment and believed she was falsely accused. Charges were not sustained in that case.
3. In 2005, McAlexander had a relationship end on Christmas Eve
4. In 2006, McAlexander [REDACTED] which caused her stress (D-9,line231). Her vehicle sustained damage from a hit and run where McAlexander was forced to pay \$1300.00 to have her car fixed.
5. Her house was on the market and not selling.
6. She could not take the FTO test because she used too much sick time in 2005.
7. She was working undercover which was stressful.
8. She had problems with a supervisor. (D-10).

In all of this there is not one event of Officer McAlexander trying to mitigate her emotional well being or develop coping skills necessary to perform her job in a safe and meaningful way. She did not:

- Call Peer Support
- Call Department Chaplains
- Use Nicoletti-Flater and Associates until after this incident
- Use her personal medical carrier
- Document in any way the mounting stress in both her personal and professional life that was having an impact.
- Notify a supervisor
- Notify a labor organization
- Notify an ethnic organization

Officer Mc Alexander set this incident in motion by making the conscious decision to [REDACTED] [REDACTED] Once she notified many people by text messaging including [REDACTED] it would be a reasonable assumption to conclude that [REDACTED] [REDACTED] have first responders come to the scene and check on McAlexander' [REDACTED]

Once first responders arrived, it was determined that alcohol was involved and the person of interest was a Denver police officer. Internal Affairs personnel responded to the Adams County sub-station and had the less than pleasant task of dealing with a person that could not stand up on her own accord, understand directions or sign an order given by the Chief of Police. Members of the Adams County District Attorney's Office prosecuted the case and an Adams County Judge heard the facts of the case. Officer McAlexander's attorney tried and was successful in keeping out the fact to the jury that the person on trial, Kachina McAlexander, was a Denver police officer. In the attorney's own words, she knew that the jury would hold Officer McAlexander to a higher standard. We are in fact expected to be held to a higher standard than other members of society. In this case, Officer McAlexander set a series of events in motion that placed the Denver Police Department in a negative light from adjoining jurisdictions. The only aspect missing was exposure by the electronic and printed media.

RR-105, shall be carried as **SUSTAINED**, regarding Officer Kachina McAlexander #99076.

Findings

I concur/disagree with Captain Black's conclusions regarding RR-110, Drinking to Excess.

Comparative Discipline- Written Reprimand to Dismissed

PENALTY- 7 days suspended

I concur/disagree with Captain Black's conclusion regarding RR-115, Law Violation.

Comparative Discipline- 16 hours suspended time to Dismissal.

PENALTY-

I concur/disagree with Captain Black's conclusion regarding RR-402, Careless Handling of Firearms.

Comparative Discipline- Written Reprimand to 16 fined hours

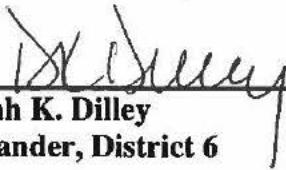
PENALTY- 16 hrs fined

I concur/disagree with Captain Black's conclusion regarding RR-105, Conduct Prejudicial.

Comparative Discipline- Oral Reprimand to Dismissal

PENALTY- 30 days suspended

Commander's Findings

 84018 6/13/07

Deborah K. Dilley **Date**
Commander, District 6

I have been made aware of the penalty recommendations regarding this case.

 06/13/07

Officer Kachina McAlexander #99076 **Date**

Division Chief's Findings

I concur/disagree with Commander Dilley recommendations RR-110, Drinking to Excess.

I concur/disagree with Commander Dilley's recommendations regarding RR-115, Law Violation.

I concur/disagree with Commander Dilley's recommendations regarding RR-402, Careless Handling of Firearms.

I concur/disagree with Commander Dilley recommendations regarding RR-105, Conduct Prejudicial.

**Mary Beth Klee
Division Chief of Patrol**

Date

COMMENTS: