

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board *Joanne Fine, Chair* *Dr. Carlotta Garcia, Vice Chair*
Johnny J. Armijo *Susanne Brown* *Eric H. Cruz*
Rev. Dr. David Z. Ring III *Leonard Waites*
Edward Harness, Executive Director

POLICE OVERSIGHT BOARD AGENDA

Thursday, June 8, 2017 – 5:00 PM
Vincent E. Griego Chambers

- I. Welcome and call to order.
- II. Pledge of Allegiance – *Leonard Waites*
- III. Mission Statement – *Joanne Fine, POB Chair*
“Advancing Constitutional policing and accountability for APD and the Albuquerque Community.”
- IV. Approval of the Agenda
- V. Public Comments
- VI. Review and Approval of Minutes
- VII. Discussion:
 - a. APD Training as it relates to CPR and restraints
- VIII. Consent Agenda Cases:
 - a. Administratively Closed Cases
116-17 118-17
 - b. Cases investigated
114-17
 - c. CIRT Cases – None
- IX. POB’s Review of Garrity Materials:
 - a. I-10-17
- X. Reports from Subcommittees
 - a. Community Outreach Subcommittee – *Dr. Ring*
 - b. Policy and Procedure Review Subcommittee – *Susanne Brown*
 - c. Case review Subcommittee – *Leonard Waites*
 1. The Review of Officer Involved Shooting Cases
 2. Appeals – CPC 188-16

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- XI. Reports from City Staff**
 - a. APD**
 - 1. Presentation re: Officer Involved Accidents – *Natalee Davila, APD Data Analyst***
 - b. City Council**
 - c. Mayor’s Office**
 - d. City Attorney**
 - e. CPOA – *Edward Harness, Executive Director***
- XII. Meeting with Counsel re: Pending Litigation or Personnel Issues:
Closed Discussion and Possible Action re: Pending Litigation or Personnel Issues**
 - a. Matters subject to the attorney-client privilege pertaining to threatened or pending litigation in which the public body is or may become a participant pursuant to NMSA 1978, Section 10-15-1(H)(7); and**
 - b. Limited personnel matters pursuant to NMSA 1978, Section 10-15-1(H)(2)**
- XIII. Other Business**
 - a. Training Attendance Discussion for POB members to attend either Daigle IA Certification training in Albuquerque or NACOLE in Spokane, WA.**
 - b. Rescheduling the September 14, 2017 POB meeting because of NACOLE**
- XIV. Adjournment- *Next Regularly scheduled POB meeting will be on July 13, 2017 at 5 p.m. in the Vincent E. Griego Chambers.***

(POB will be taking a dinner break prior to Committee Reports, if possible.)

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June 9, 2017

Via email

Re: CPC #114-17

Dear Mrs.

Our office received the complaint you filed on March 3, 2017 against Officers of the Albuquerque Police Department (APD), regarding an incident that occurred on March 2, 2017. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint on April 27, 2017. The CPOA thoroughly and impartially investigated the complaint.

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Upon completion of the investigation, the CPOA determined, based on a preponderance of the evidence, whether or not the APD Officer(s) involved violated Standard Operating Procedures (SOPs). A preponderance of the evidence means that one side has demonstrated a greater weight of evidence (more than 50%) that is more credible and convincing than the other side. If the credible evidence is 50-50, the proper finding is Not Sustained.

Please be aware, the contract between the Albuquerque Police Officers' Association (APOA) and the City of Albuquerque requires that officers cooperate in the investigation; therefore, the officer's statements may not be made public. Below is a summary of the complaint, the CPOA's investigation, and findings.

I. THE COMPLAINT AND INVESTIGATION

CYFD contacted Mrs. [redacted] and her two children initially about educational neglect while they were staying in a motel room. The CYFD caseworker observed other red flags that concerned her about the safety of the children. While she was conducting her site visit, Mrs. [redacted]'s brother arrived at the room and caused the caseworker to feel unsafe so she left the room and called police. APD officers responded and assisted her in continuing her investigation. CACU detectives came out for further investigation. Mrs. [redacted] filed her complaint over the phone concerning the conduct of CACU Detective J. However, Mrs. [redacted] did not participate in the investigative process.

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable SOPs, the complaint, the police report, the Computer Aided Dispatch (CAD), the various lapel videos from APD officers and detectives, and the interview of the CYFD caseworker.

II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING DETECTIVE J'S CONDUCT

A) The CPOA reviewed Standard Operating General Order 1-1-4D regarding Detective J's conduct, which states:

Personnel will treat the public with respect, courtesy, and professionalism at all times.

Mrs. [REDACTED] claimed CYFD called APD due to bruises on her children. Detective J responded and spoke to her two sons. Mrs. [REDACTED] wrote her older son was upset about statements Detective J made to her son about his parents. Mrs. [REDACTED] felt Detective J did not know how to handle young children appropriately, especially those with special needs such as her son. Mrs. [REDACTED] claimed Detective J argued with her about how much school her son missed and told her he did not care what she said; he would rely solely on APS' information. Mrs. [REDACTED] complained that Detective J threatened her with drug testing and profiled her as a drug user, which she is not. Mrs. [REDACTED] did not participate in the investigative process.

The CYFD caseworker had concerns about Mrs. [REDACTED]'s children, but called police due to a personal safety concern with the arrival of Mrs. [REDACTED]'s brother. Mrs. [REDACTED]'s brother as she described was clearly under the influence of a substance, was agitated by CYFD's presence, and was armed. Mrs. [REDACTED] did not participate in the investigative process so it was unknown what specifically her son reported to his mother about Detective J's statements to him. Mrs. [REDACTED] was not in the room when Detective J interviewed the children. The lapel video showed Detective J asked investigative questions in a manner appropriate and understandable to a child. Detective J said nothing derogatory about the boy's parents. Aside from investigative questions, Detective J also engaged the boy in conversation about toys and activities. Detective J asked the boy about his school attendance and the boy indicated he had not been all week. Detective J also confirmed with the CYFD caseworker about how much school Mrs. [REDACTED]'s son had missed. When Detective J and Mrs. [REDACTED] discussed the school issue, the lapel video showed Mrs. [REDACTED] seemed unsure of the day and fuzzy as to when her son had been to school; she brought up challenges from two years ago instead of focusing on present day. The lapel video showed Detective J never said he did not care and would ignore what she had to say. The lapel video showed Detective J asked Mrs. [REDACTED] about medical conditions, diagnoses she received, and medications she took. Detective J asked her if she took other substances and advised CYFD would likely order testing so it was best to be honest. Mrs. [REDACTED] claimed she was only addicted to coffee and cigarettes. Detective J asked her about her husband and Mrs. [REDACTED] admitted he was previously into meth, but she did not know now. Detective J again asked her to be honest because she shared a room with Mr. [REDACTED]. The video showed Detective J never accused her of being a drug user. Detective J specifically told her more than once that no one was

calling her a bad mother or threatened to take her children. He told her she was just in a rough situation at this time and needed assistance.

The CYFD caseworker stated that Detective J handled the situation exceptionally well. She believed if anything was upsetting to the children, it was the situation and not directly related to Detective J's questioning. The CYFD caseworker said Detective J was very patient while they tried to figure out an appropriate short-term safety plan for the children. The CYFD caseworker stated any questions Detective J had about possible substance use was appropriate given the mood swings and indicators Mrs. [redacted] presented; she asked the same questions of Mrs. [redacted]. The CYFD caseworker said she, as a representative of CYFD, told Mrs. [redacted] she and Mr. [redacted] would be drug tested, which both tested positive for methamphetamine. Currently CYFD has custody of the children while Mrs. [redacted] undergoes a treatment plan.

The CPOA finds Detective J's conduct to be **Unfounded** where the investigation determined that the alleged misconduct did not occur.

You have the right to appeal this decision.

1. If you are not satisfied with the findings of the CPOA, please request an appeal in a signed writing to the undersigned within 30 days of receipt of this letter. Include your CPC number.

The POB may grant a Request for Reconsideration only upon the complainant offering proof that:

- A) The APD policy or APD policies that were considered by the POB were the wrong policies or they were used in the wrong way; or,
- B) The APD policy or APD policies considered by the POB were chosen randomly or they do not address the issues in your complaint; or,
- C) The findings of the POB had no explanation that would lead to the conclusion made by the POB; or,
- D) The findings by the POB were not supported by evidence that was available to the POB at the time of the investigation.

2. If you are not satisfied with the final disciplinary decision of the Chief of Police, you can request a review of the complaint by the city's Chief Administrative Officer. Your request must be in writing and within 30 days of receipt of this letter. Include your CPC number.

If you have a computer available, we would greatly appreciate your completing our client survey form at <http://www.cabq.gov/cpoa/survey>.

Thank you for participating in the process of civilian oversight of the police, ensuring officers and personnel of the APD are held accountable, and improving the process.

Letter to Mrs. , CPC 114-17
June 9, 2017
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Sincerely,
The Civilian Police Oversight Agency by



Edward Harness, Esq.
Executive Director
(505) 924-3770

cc: Albuquerque Police Department Chief of Police

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Edward Harness, Executive Director

June 9, 2017

Via Certified Mail

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Re: CPC #116-17

Dear Mr.

Our office received the complaint you filed on March 21, 2017 against the Albuquerque Police Department regarding an incident that occurred on March 19, 2017. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint on April 28, 2017.

PO Box 1293

I. THE COMPLAINT

filed the complaint over the phone regarding a PSA's conduct while the PSA was visiting his parents who live next door to Mr. The complaint taken over the phone was unclear who initiated the verbal confrontation, but essentially, it ended with the PSA saying he would resolve it. Mr. claimed on two different occasions the PSA revved his engine in front of Mr. home.

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On the two dates Mr. lists, PSA C was not on duty. Mr. wrote in his complaint the verbal altercation was while PSA C was off duty. Two different calls were made to Mr. in order to try to get a statement from him and more information. Two emails were sent on the same dates without response by the deadline.

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II. INVESTIGATION

Based on the information provided by Mr. nothing indicated PSA C involved his position, at most, this appeared to be a neighbor dispute. There was insufficient information provided by Mr. to determine if a violation occurred even if everything Mr. alleged was true. If a violation occurred, it would be of a minor nature.

III. CONCLUSION

The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** the complaint as there was insufficient information provided in the complaint and the citizen failed to cooperate in order to provide more information.

Letter to Mr. - CPC 116-17
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Thank you for participating in the process of civilian oversight of the police, ensuring officers and personnel of the APD are held accountable, and improving the process.

Sincerely,
The Civilian Police Oversight Agency by



Edward Harness, Esq.
Executive Director
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cc: Albuquerque Police Department Chief of Police

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Edward Harness, Executive Director

June 9, 2017
Via Certified Mail

Re: CPC #118-17

Dear Ms.

Our office received the complaint you filed on March 24, 2017 against the Albuquerque Police Department regarding an incident that occurred on March 23, 2017. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint on April 28, 2017.

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I. THE COMPLAINT

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filed a complaint because she is estranged from her sister and niece and her niece is married to an APD officer. On March 23, 2017, police contacted Ms. at her mother's home. The responding officer told her calls came into APD that she was driving erratically and that she tried to run one of the callers off the road, all of which Ms. denied. Ms. believed Officer C used his position and influenced the officer to contact her.

II. INVESTIGATION

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The CPOA Investigator reviewed the CAD and the calls into police. The CAD was created by a call into police from an anonymous female caller. The recording showed the caller alleged Ms. drove erratically, swerved, and almost hit her and her daughter before stopping at a home. The caller, identified as Mrs. based on her phone number, alleged the driver was drunk, but did not accuse Ms. by name or indicate that she knew the alleged offender. The caller wished to remain anonymous and said nothing about her connection to law enforcement. Officer M was dispatched in the usual way on the attempt to locate call for service. Officer M contacted Ms. and wrote comments into the call there were no indicators Ms. was intoxicated and cleared the call. Ms. immediately called police and wanted to make a report of her suspicions that Officer C abused his position. Officer M was dispatched to make the report.

The CPOA Investigator spoke with Ms. and she repeated her belief that the call was created due to Officer C. The CPOA Investigator informed Ms. that calls

came into police the usual way and that the CAD was created in the usual way with no evidence of influence. Ms. [REDACTED] agreed she had no contact with Officer C that day, but has said other times in the past he somehow used his position. The CPOA Investigator explained to Ms. [REDACTED], Mrs. [REDACTED] did not use her name or say anything about her connection with APD and there was no evidence of Officer C's involvement with the call. Therefore, there was no SOP violation to be investigated against Officer C and Mrs. [REDACTED] was outside of the agency's jurisdiction. Ms. [REDACTED] understood. The CPOA Investigator mentioned to Ms. [REDACTED] if Officer C specifically did take some improper action involving his position then she should file a complaint and she could pursue whatever other legal means she had available to her against Mrs. [REDACTED]. Ms. [REDACTED] wished to withdraw her complaint because she was relieved to hear the call was handled normally. Ms. [REDACTED] stated Officer M was very nice and had no issues with his conduct.

III. CONCLUSION

The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** the complaint as the complaint was preliminarily investigated and found not to involve the target officer and was withdrawn by Ms. [REDACTED].

If you have a computer available, we would greatly appreciate your completing our client survey form at <http://www.cabq.gov/cpoa/survey>.

Thank you for participating in the process of civilian oversight of the police, ensuring officers and personnel of the APD are held accountable, and improving the process.

Sincerely,
The Civilian Police Oversight Agency by



Edward Harness, Esq.
Executive Director
(505) 924-3770

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