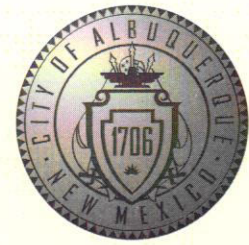


# CITY OF ALBUQUERQUE

## CIVILIAN POLICE OVERSIGHT AGENCY



April 15, 2025

Via Email

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**Re: CPC # 058-23**

### **COMPLAINT:**

PO Box 1293

Albuquerque

NM 87103

[www.cabq.gov](http://www.cabq.gov)

On March 1, 2023, Mr. N submitted a complaint to the CPOA for an incident that occurred on February 24, 2023 at approximately 1430 hours in the vicinity of Cottonwood Mall at 1000 Coors Blvd NW. The complainant alleged that he was racially profiled by an officer who told him "you need to stop, I know what you are doing" while he was walking through the parking lot. The complainant noted that the officer was accusing him of stealing cars and he does not want to be profiled because he was a black guy, wearing black clothing and black glasses.

### **EVIDENCE REVIEWED:**

Video(s): Yes

APD Report(s): Yes

CAD Report(s): Yes

Complainant Interviewed: No

Witness(es) Interviewed: N/A

APD Employee Interviewed: Yes

APD Employee Involved: Officer D

Other Materials: 911 Calls, Applicable SOPs

Date Investigation Completed: June 26, 2024



## **FINDINGS**

1. **Unfounded.** Investigation classification when the investigator(s) determines, by clear and convincing evidence, that alleged misconduct did not occur or did not involve the subject officer.

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2. **Sustained.** Investigation classification when the investigator(s) determines, by a preponderance of the evidence, the alleged misconduct did occur by the subject officer.

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Policies Reviewed: General Orders 1.4.4.A.1.a & 1.1.5.A.1

3. **Not Sustained.** Investigation classification when the investigator(s) is unable to determine one way or the other, by a preponderance of the evidence, whether the alleged misconduct either occurred or did not occur.

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4. **Exonerated.** Investigation classification where the investigator(s) determines, by a preponderance of the evidence, that alleged conduct in the underlying complaint did occur but did not violate APD policies, procedures, or training.

☐

Policies Reviewed: Procedural Orders 2.8.5.A

5. **Sustained Violation Not Based on Original Complaint.** Investigation classification where the investigator(s) determines, by a preponderance of the evidence, misconduct did occur that was not alleged in the original complaint (whether CPC or internal complaint) but that other misconduct was discovered during the investigation, and by a preponderance of the evidence, that misconduct did occur.

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6. **Administratively Closed.** Investigation classification where the investigator determines: The policy violations of a minor nature and do not constitute a pattern of misconduct (i.e. a violation subject to a class 7 sanction, -the allegations are duplicative; -the allegations, even if true, do not constitute misconduct; or -the investigation cannot be conducted because of the lack of information in the complaint, and further investigation would be futile.

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### **Additional Comments:**

This case was investigated by an external investigative agency. The complainant could not be reached for an interview after several attempts.

1.4.4.1.a: Mr Neal alleged he was racially profiled as Officer stopped him for questioning because he was an African American. The officer had no independent recollection of his interaction with Mr. N. The witness officer described the interaction as a consensual conversation between Mr. Neal and Officer D and he was not detained or stopped.

1.1.5.A.1: Mr. N. alleged that Officer D implied he was engaged in criminal activity and he would arrest him. Witness officer confirmed Officer D telling Mr. N. "We know what you are doing". Officer D failed to activate his OBRD and did not have an independent recollection of his interaction and the context of the statement is unknown.

2.8.5.A: The search of the OBRD database for this frame failed to disclose a recording. The witness officer confirmed a consensual encounter and the OBRD was not activated as required by department policy. If the investigation had been timely the CPOA would have recommended a written reprimand.

**You have the right to appeal this decision. If you are not satisfied with the findings and/or recommendations of the CPOA Executive Director within 30 calendar days (inclusive of holidays and weekends) of receipt of this letter, communicate your desire to have an appeal hearing before the CPOA Advisory Board in a signed writing addressed to the CPOA Director. Please send your request to P.O. Box 1293, Albuquerque, NM 87103, or by email to [CPOA@cabq.gov](mailto:CPOA@cabq.gov). Include your CPC number. Upon receipt of the communication, a hearing on the matter will be scheduled at the Board's next regularly scheduled meeting provided there is at least 14 business days between the receipt of the request and the next meeting. In order for the Advisory Board to modify the Director's findings, your appeal must demonstrate one or more of the following:**

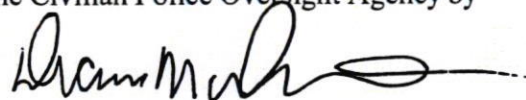
- 1) A policy was misapplied in the evaluation of the complaint;
- 2) That the findings or recommendations were arbitrary, capricious or constituted an abuse of discretion; or
- 3) that the findings and recommendations were not consistent with the record evidence.

Administratively closed complaints may be re-opened if additional information becomes available. Please provide your additional information in writing to the CPOA Director as listed above.

If you are not satisfied with the final disciplinary decision of the Chief of Police or any matter relating to the Chief's handling of the complaint you may request a review of the complaint by the City's Chief Administrative Officer. Your request must be in writing and within 30 calendar days (inclusive of holidays and weekends) 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>. There was a delay in the issuance of findings due to multiple staff changes including investigators and the Director along with a high volume of investigations and reviews to process. Thank you for your patience and participation in the process of civilian oversight of the police.

Sincerely,  
The Civilian Police Oversight Agency by



Diane McDermott  
Executive Director  
(505) 924-3770

cc: Albuquerque Police Department Chief of Police