

**CIVILIAN POLICE OVERSIGHT AGENCY**

**Police Oversight Board** *Leonard Waites, Chair* *Chantal M. Galloway, Vice Chair*

*Eric H. Cruz*

*Joanne Fine*

*Dr. William J. Kass*

*Valerie St. John*

*Chelsea Van Deventer*

Edward Harness, Executive Director

**POLICE OVERSIGHT BOARD AGENDA - Amended**

Thursday, June 14, 2018 – 5:00 PM

Vincent E. Griego Chambers

- I. Welcome and call to order.
- II. Pledge of Allegiance – *Eric H. Cruz*
- III. Mission Statement – *Leonard Waites, 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. Reports from City Staff
  - a. APD
    - i. Use of Force 2-52
      - a. Public questions and comments
  - b. City Council
  - c. Mayor’s Office
  - d. City Attorney
  - e. CPC
  - f. CPOA – *Edward Harness, Executive Director*
- VIII. Reports from Subcommittees
  - a. Community Outreach Subcommittee – *Chantal Galloway*
  - b. Policy and Procedure Review Subcommittee – *Eric Cruz*
    1. Further Amending the Ordinance
      - i. Make semiannual reports, annual reports
      - ii. Discussion around changing the rule that the chair and vice-chair cannot secede themselves
      - iii. Updating the Ordinance further
      - iv. Other
    2. Exit interview to Chief
  - c. Case Review Subcommittee – *Valerie St. John*
  - d. Personnel Subcommittee – *Eric Cruz*

**IX. Discussion:**

**a. Questions for new Counsel, Attorney Tina M. Gooch**

**X. Consent Agenda Cases:**

**a. Administratively Closed Cases**

**033-18      068-18      087-18      105-18      106-18**

**107-18      112-18      120-18      121-18      231-17**

**b. Cases Investigated**

**219-17**

**XI. Non-Consent Agenda:**

**111-18                  116-18**

**XII. Non-Concurrence Cases:**

**XIII. Review of Appeals**

**038-18                  162-17**

**XIV. Serious Use of Force/Officer Involved Shooting Cases:**

**I-20-17                  I-24-17**

**XV. POB's Review of Garrity Materials:**

**a. I-50-17**

**XVI. 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)**

**XVII. Other Business**

**XVIII. Adjournment- *Next Regularly scheduled POB meeting will be on July 12, 2018 at 5 p.m. in the Vincent E. Griego Chambers.***

## **CIVILIAN POLICE OVERSIGHT AGENCY**

**Police Oversight Board**      *Leonard Waites, Chair*  
*Eric H. Cruz*                      *Joanne Fine*  
*Valerie St. John*                *Chelsea Van Deventer*  
Edward Harness, Executive Director

*Chantal M. Galloway, Vice Chair*  
*Dr. William J. Kass*

June 15, 2018  
Via Certified Mail

**Re: CPC #033-18**

Dear Ms.

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint against Officers of the Albuquerque Police Department (APD) on March 1, 2018 regarding an incident that occurred on or about January 13, 2017.

### **I. THE COMPLAINT**

Ms.            submitted an online complaint in February 2018 concerning the investigation or lack of investigation into her rape allegation. Ms.            reported a rape that occurred September 2015 to APD in January of 2017. Ms.            claimed her former supervisor drugged and raped her, but she was never notified about the status of the investigation. When she finally inquired, she was told the case was closed. Ms.            alleged the offender has had numerous sexual harassment complaints filed against him where they both used to work. Ms.            alleged APD did not put effort into collecting evidence to prove the criminal allegations. Ms.            stated she did not have a memory of the incident, but knew what the offender did. Ms.            desired outcome was a comprehensive investigation, arrest, charges, trial, and conviction of the offender.

### **II. INVESTIGATION**

The CPOA Investigator reviewed the police report and investigation conducted by the detective assigned. Ms.            had reported the incident to the Family Advocacy Center. Detective B interviewed Ms.            about her allegations, which the CPOA Investigator reviewed for possible policy issues or indications Detective B marginalized the allegations or Ms.           . At different times during the interview, Ms.            sometimes said the rape occurred in 2015 and sometimes she said it occurred in 2005. Ms.            reported she and her co-workers went out. She became very intoxicated and remembered vomiting near her boss' truck in the parking lot. Ms.            did not have additional memories from that night, but when she woke up the next day, she was at her boss' home with her pants inside out and believed her boss raped her. She said a week later, she was at her boss' home again and he offered for her smoke marijuana as she had the week prior. She did not remember that and despite her questions, her boss said nothing more about what happened. Detective B interviewed the alleged offender and witnesses Ms.            named. Detective B's conclusion was that due to the delay in reporting there was no physical evidence in the case. The witnesses did not provide any information to lead to charges so he determined there

was insufficient probable cause to charge the alleged offender with criminal sexual penetration. The case was closed pending further leads.

The CPOA Investigator spoke to Ms. [redacted] over the phone to set up an appointment for an interview. Ms. [redacted] had the expectation that the CPOA could force APD to investigate further and charge the alleged offender with a crime. The CPOA Investigator explained to Ms. [redacted] the purpose and scope of the CPOA investigations. Ms. [redacted] did not see the point of the complaint because she did not care about the detective getting in trouble, but made an appointment anyway. The day of the appointment Ms. [redacted] did not show or call. The CPOA Investigator called Ms. [redacted] to reschedule and left her a voicemail advising important information was missing in order to proceed and the complaint might need to be closed for the lack of information. Ms. [redacted] never responded.

### III. CONCLUSION

The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** the complaint, as Ms. [redacted] did not participate in the investigative process to provide information. Ms. [redacted] wrote the investigation was incomplete, but she did not elaborate as to how or what her expectations were. A preliminary investigation showed an adequate investigation was done based on the information she provided in her interview. She could not be questioned as to what additional conversations she had with the detective about the outcome or expectations.

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

cc: Albuquerque Police Department Chief of Police

**CIVILIAN POLICE OVERSIGHT AGENCY**

**Police Oversight Board**

*Eric H. Cruz*

*James A. Larson*

Edward Harness, Executive Director

*Leonard Waites, Chair*

*Joanne Fine*

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*Chantal M. Galloway, Vice Chair*

*Dr. William J. Kass*

*Chelsea Van Deventer*

June 15, 2018

To file

**Re: CPC #068-18**

Dear Ms.

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint against Officers of the Albuquerque Police Department (APD) on March 21, 2018, regarding an incident that occurred on March 18, 2018.

**I. THE COMPLAINT**

filed an online complaint regarding an incident involving her relatives at the UNM PIT. Ms. wrote there was a fight between her relatives and another car of individuals where her family members were the victims. Her mother called 911 and then told an officer directing traffic what happened. The officer her mother spoke to said he could not assist, but that another officer was on the way. The offenders were stuck in traffic, but left the area because the officers did not stop them. The officer that was dispatched did not arrive until everyone left. Ms. was upset that the officers that had been present did not do anything and did not care.

**II. INVESTIGATION**

The CPOA Investigator reviewed the 911 calls. The first one was from an unidentified male that said there was a fight and then hung up, providing nearly no details. The second call was from a She was very excited and answered some of the questions from the Operator. She wanted the individuals stopped and arrested for what they did to her. She ignored the Operator and went to talk to the officer. The conversation could not be heard and then the call disconnected.

The CPOA Investigator pulled the chief's overtime roster for the event. There were several officers assigned. I emailed Sgt. N to see if he was aware of the incident and to try to identify which officer might have been the person Ms mother might have contacted. Sgt. N had not heard specifically about the incident, but if he had more information such as location and description, he might be able to identify the target officer.

The CPOA Investigator called Ms. twice and left voice messages. The CPOA Investigator gave Ms deadline to response of May 3, 2018 with information to help in identifying the officer. Ms did not response to the calls. She did not provide an email address or a physical address so the letter will be to the file.

**III. CONCLUSION**

The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** the complaint, as there was not enough information to identify the officer.

Administratively closed complaints may be re-opened if additional information becomes available. Please contact the CPOA in regards to your Civilian Police Complaint if you can provide further details and wish to have the complaint re-opened.

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

cc: Albuquerque Police Department Chief of Police

# CITY OF ALBUQUERQUE



## CIVILIAN POLICE OVERSIGHT AGENCY

### Police Oversight Board

*Johnny J. Armijo*

*Chantal M. Galloway*

*Chelsea Van Deventer*

*Leonard Waites, Chair*

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*Dr. William J. Kass*

*Valerie St. John, Vice Chair*

*Joanne Fine*

*James A. Larson*

Edward Harness, Executive Director

June 15, 2018

Via Certified Mail

**Re: CPC #087-18**

Dear Ms.

Our office received the complaints you filed on July 1, 2017 against Albuquerque Police Department (APD) Officer H. regarding a traffic stop which occurred on June 29, 2017. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaints. The CPOA thoroughly and impartially investigated the complaints.

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**

Ms. said she was traveling in her vehicle when an unmarked APD vehicle pulled her over. She didn't realize it was a police vehicle until the emergency lights were activated. She made a left turn and pulled over when Officer H. said something over the speaker. She complained he yelled over the speaker again, telling her to pull into a shopping center, and his tone of voice frightened her. She complained Officer H. didn't initially tell her the reason he stopped her and complained he wouldn't accept her proof of insurance that she pulled up on her cellphone. She complained Officer H. walked away stating he would make up more tickets for her because she wanted to argue with him about whether, or not, proof of insurance on a cellphone was valid proof. She complained Officer H. wrote her four citations, including

citations for an invalid registration, no proof of insurance, and speeding. (See original written complaints for more details.) She complained Officer H. abused his power as an officer and his treatment of her was unacceptable.

## II. THE INVESTIGATION

A CPOA Investigator reviewed the CADS report, the citations written by Officer H. and the history of your case through [www.nmcourts.gov](http://www.nmcourts.gov). The evidence showed the case had been adjudicated on July 11, 2017. The CPOA Investigator spoke with you over the phone regarding your complaint against Officer H. and you agreed that the complaint could be handled, informally, by Officer H.'s supervisor, Lieutenant (Lt.) C.. Your complaint was forwarded to Lt. C., who informed the Investigator that he made attempts to contact you for more information, but was unsuccessful.

## III. CONCLUSION

Based on the aforementioned information, the CPOA has made the decision to **ADMINISTRATIVELY CLOSE** your complaint for lack of information.

Administratively closed complaints may be re-opened if additional information becomes available. Please contact the CPOA in regards to your Civilian Police Complaint if you can provide further details and wish to have the complaint re-opened.

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

cc: Albuquerque Police Department Chief of Police



## **CIVILIAN POLICE OVERSIGHT AGENCY**

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*James A. Larson*

*Chelsea Van Deventer*

Edward Harness, Executive Director

June 15, 2018

**Re: CPC # 105-18**

Dear Mr. :

April 23, 2018 we received your complaint.

### **I. THE COMPLAINT**

You submitted a complaint in which you wrote your daughter, your wife and yourself were involved in a car accident on April 21, 2018. You wrote that your interaction with Officer V. determined that Officer V. has a chip on his shoulder and lacks training. You stated, as you were cursing and yelling at the driver that hit your car, Officer V. walked up and told you to “shut up and stand by your car or he was going to arrest you”. You stated by his demeanor, you could tell Officer V. was very angry with you. You wrote that after Officer V. spoke to the other driver and came to talk to you he was even more agitated and when you informed him that you were a retired police officer he began questioning you about whether you had a gun in the car and told you “you’re not a cop so quit acting like one”. You wrote Officer V. also stated “the way you are acting puts dirt on all of us that are cops”. Also in your complaint you wrote the officer spoke with a witness and after he did he informed you of what the witness stated. You stated Officer V. told you he was going to cite both your vehicle and the other driver and that he stated “since you are insisting on a citation, I’ll cite you both”. You wrote that every time you tried to explain to Officer V. how the accident happened he ignored you and only seemed to be getting more antagonized. You wrote you found it disparaging that Officer V. never asked about injuries to you, your daughter or your wife. You wrote that because you offended Officer V. he was not able to act like a professional.

### **II. THE INVESTIGATION**

In an effort to assist you, a CPOA Investigator was assigned to your complaint. The Investigator spoke to you over the phone to gather more information. The Investigator reviewed the incident report, the audio file you provided and the full lapel video of Officer V.

The investigation showed that Officer V. did not walk up and tell you to “shut up, go stand by your car or he was going to arrest you”. Officer V. walked up as you were yelling and cursing

at the other driver. Officer V. politely asked you to stop. You're demeanor was at a high level and you continued to berate the other driver, at which point Officer V. did raise his voice and gave you a lawful order to go over to your car and that he was tired of hearing you. When Officer V. does make contact with you, Officer V. is not agitated at all. Officer V. calmly and politely asks you for documentation and to tell him what happened. When you tell Officer V. you are a "retired 34" Officer V. never says a word about a gun in your car or has a response to you being a retired police officer, he only listens to what you are telling him happened during the accident.

The investigation showed that during a second contact between you and Officer V., Officer V. calmly and politely explains to you what a witness described to him and offers his work email because you stated you had a video of the accident and that he would like to help you but needs to see the video. The officer explains that he would have to cite both the other driver and your daughter based on witness accounts. The investigation showed you tell Officer V. that he is wrong and to do whatever he wants to do.

The Investigation continued to show that Officer V. remained calm and polite throughout his interaction with you. It showed argumentative behavior on your part and Officer V. attempting to explain each step of his investigation. The portion of your complaint where you allege Officer V. talked about you having a gun in your car or that "puts dirt on all of us that are cops" did not transpire as you wrote. The entire conversation between you and Officer V. is simply two people talking to each other and having a conversation. Officer V. never appears antagonized or angry at you or anyone during the contact in which you and Officer V. converse.

### III. CONCLUSION

Your complaint is being Administratively Closed due to no violations of Albuquerque Police Department Standard Operating Procedures. If you choose to, you may request an Inspection of Public Records request for the full lapel video of Officer V. regarding the contact and interaction to determine how our decision was made. Administratively closed complaints may be re-opened if additional information becomes available.

Sincerely,



Ed Harness  
Executive Director  
(505) 924-3774

CC: Albuquerque Police Department, Chief of Police

**CIVILIAN POLICE OVERSIGHT AGENCY**

**Police Oversight Board**

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*Chelsea Van Deventer*

Edward Harness, Executive Director

June 15, 2018

**Re: CPC # 106-18**

Dear Mr.

April 24, 2018 we received your complaint.

**I. THE COMPLAINT**

You submitted a complaint in which you wrote you wanted compensation of some sort and some help for an incident in December of 2016. You wrote an officer tripped on your legs while greeting another officer causing you to crack your skull. You stated a surgeon in the hospital room informed you and the officers that you needed emergency brain surgery; however the officers took it upon themselves to leave the hospital and take you to metropolitan detention center. You wrote that due to that incident you have not been able to hold a job, you are homeless and that you have goals and plans but cannot succeed due to this event.

**II. THE INVESTIGATION**

In an effort to assist you, a CPOA Investigator was assigned to your complaint. The Investigator attempted to contact you and as of the drafting of this letter, you have not contacted the Investigator. The Investigator conducted a preliminary investigation into your complaint. The Investigator found evidence that you were arrested for aggravated assault with a deadly weapon on December 21, 2016. At the time of your arrest, on two occasions, it is documented that you went to the floor on your own accord with seizure type symptoms. During that time rescue was called, two separate times, and released you to the custody of the police officers stating, your behavior and vital signs were not consistent with having any type of seizure. Once at the Metropolitan Detention Center, you once gain went to the floor on your own accord and MDC nurses reviewed your vital signs and behavior, once again, not consistent with any type of seizure or injury. At no time during your arrest were you ever taken to a hospital or told by a surgeon that you needed emergency brain surgery, as you stated in your complaint.

### III. CONCLUSION

Your complaint is being Administratively Closed due to no violations of Albuquerque Police Department Standard Operating Procedures. In your complaint, you sought an outcome of obtaining compensation. Any monetary claims are not handled by the CPOA. You may file a case with the Office of Risk Management for the City of Albuquerque if you feel seeking compensation is the appropriate action in regards to your complaint. Their address is:

1 Civic Plaza N.W.  
#9006  
Albuquerque, NM 87102

Administratively closed complaints may be re-opened if additional information becomes available.

Sincerely,



Ed Harness  
Executive Director  
(505) 924-3774

CC: Albuquerque Police Department, Chief of Police

## **CIVILIAN POLICE OVERSIGHT AGENCY**

### **Police Oversight Board**

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*Valerie St. John*

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*Joanne Fine*

*Chelsea Van Deventer*

*Chantal M. Galloway, Vice Chair*

*Dr. William J. Kass*

June 15, 2018

Via Certified Mail

**Re: CPC #107-18**

Dear Mrs.

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint against Officers of the Albuquerque Police Department (APD) on May 2, 2018, regarding an incident that occurred on or about December 16, 2017.

### **I. THE COMPLAINT**

submitted an online complaint concerning the investigation into her son's death on December 16, 2017. Mrs. wrote, "I have evidence that the Violent Homicide crime department failed to properly investigate the death of my son." Mrs. also wrote that she has not been allowed to view documentation she has requested. The outcome she sought was to review information regarding the investigation to include the OMI report.

### **II. INVESTIGATION**

The CPOA Investigator obtained the police report and the CAD for this situation. In reviewing these documents, the situation started as a domestic violence incident. alleged her husband shot her so she called police. Police arrived and after securing the scene determined had committed suicide prior to police arrival. The CPOA Investigator obtained the OMI report, which included the official manner of death being a gunshot wound of the chest and the manner officially determined to be suicide.

The CPOA Investigator left two voicemails and sent an email requesting Mrs. information and evidence. Mrs. did not respond. Since Mrs. is not cooperating it is unknown what evidence she is referring to or what allegations she has about an improper investigation. Most of the information she requested is available by making the appropriate requests.

### **III. CONCLUSION**

The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** the complaint, as there was not enough information to proceed with the complaint.

**Letter to Mrs.**  
**June 15, 2018**  
**Page 2**

Administratively closed complaints may be re-opened if additional information becomes available. Please contact the CPOA in regards to your Civilian Police Complaint if you can provide further details and wish to have the complaint re-opened.

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

cc: Albuquerque Police Department Chief of Police

# CITY OF ALBUQUERQUE



## CIVILIAN POLICE OVERSIGHT AGENCY

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*Valerie St. John, Chair*

*Joanne Fine*

*James A. Larson*

Edward Harness, Executive Director

June 15, 2018

Via Certified Mail

**Re: CPC #112-18**

Dear Ms. \_\_\_\_\_

PO Box 1293

Our office received the two complaints you filed on April 26, 2018 at 0212 hours and 0300 hours, against Albuquerque Police Department (APD) Officer R., regarding an incident which occurred on April 25, 2018. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint.

Albuquerque

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.

NM 87103

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

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**

Ms. \_\_\_\_\_ said Officer R. came to her door asking about the vehicle parked on the street in front of her house and she told him it was her son's vehicle. She complained Officer R. threatened to ticket and/or tow her son's vehicle if it wasn't moved off of the street, claiming it was an abandoned vehicle. She told Officer R. it wasn't abandoned and that just because it was covered with a car cover, that didn't mean that it was being stored on the roadway. She complained she should be able to park and cover her car and leave it in front of her house without being harassed about it being stored and/or abandoned, and said there is no law preventing her from doing so, either.

## II. THE INVESTIGATION

The CPOA Investigator reviewed your complaint and Officer R.'s lapel camera video recordings. The lapel video showed Officer R. contacted your son and spoke with him about his vehicle being parked on the roadway in front of your home. Your son told Officer R. that the vehicle was covered and parked on the street because it was not registered or insured. Officer R. told your son he would have to move the vehicle onto your driveway as it is against Albuquerque City Ordinance 8-5-2-3, which pertains to Abandoned and Inoperable Vehicles being parked on city streets. Officer R. provided your son a copy of the aforementioned ordinance and told him he had a day to get the vehicle moved onto the driveway. The videos showed Officer R. was polite and professional.

## III. CONCLUSION

Based on the aforementioned information, the CPOA has made the decision to **ADMINISTRATIVELY CLOSE** your complaint because Officer R. did not violate any APD SOP violations.

Administratively closed complaints may be re-opened if additional information becomes available. Please contact the CPOA in regards to your Civilian Police Complaint if you can provide further details and wish to have the complaint re-opened.

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

cc: Albuquerque Police Department Chief of Police



**CIVILIAN POLICE OVERSIGHT AGENCY**

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*Chelsea Van Deventer*

*Chantal M. Galloway, Vice Chair*

*Dr. William J. Kass*

Edward Harness, Executive Director

June 15, 2018

**Re: CPC # 120-18**

Dear Mr.

On May 1, 2018 we received your complaint concerning Officer S. of the Albuquerque Police Department (APD). The incident you complained of occurred on January 28, 2018.

**I. THE COMPLAINT**

You wrote in your complaint that you were battered by a neighbor during a property dispute. Officer S. took the report from you and stated that this would be an officer prosecuted case. You went to court and you were unhappy with the officer's performance there. The judge in the case asked a prosecutor to assist. You complained that you couldn't enter pictures into evidence because they had not been turned over to the defense attorney within ten days of the case being filed. You complained that you were confused as to why you had to consent to a pre-trial interview with the defense attorney. You stated that you were never told of an April 6, 2014 pre-trial interview (PTI) and that when you did not show up for the interview the officer dismissed the case. You stated that you wanted the case re-opened.

**II. THE INVESTIGATION**

In an effort to assist you, a CPOA Investigator was assigned to review your complaint. The CPOA Investigator assigned to your complaint reviewed the police report and the Court Docket associated with your case. The docket showed that on March 26, 2018, all parties were present in court and you did not agree to a proposed resolution of the matter. The docket showed that on that day, all parties were informed that a PTI would be held on April 6, 2018 at 2:00 PM and the matter would be scheduled for trial within 30 days. You did not attend the April 6, 2018 hearing. On April 19, 2018 the defense filed a motion of noncompliance with a discovery motion that was filed in the case and the defense asked for a dismissal or in the alternative for the State to continue the matter and waive the 100 day rule. The 100 day rule

governs when a case needs to go to trial. On April 30, 2018 your case was dismissed without prejudice, which means it can be refiled. The CPOA Investigator contacted you and discussed the matter with you over the phone on May 23, 2018. The Investigator told you that a PTI was part of the law and that you had to participate in such an event. You claimed you never received notice of the PTI even though the Court Docket indicates otherwise. In any case, the case can be refiled but the officer is the only one who can do that. The CPOA Investigator told you that the Officer had been assigned to a new area command and he provided you with the number of the area command and he also provided you with the officer's supervisor's name. It is within the officer's discretion to refile the case. The CPOA Investigator sent the officer and the officer's supervisor an e-mail asking them to contact you so there could be some type of resolution to your case.

### **III. CONCLUSION**

From the investigation, it appears that you were made aware of the PTI date and time on March 26, 2018. It is responsibility of the Court to notify you of the hearing. There is no violation of Standard Operating Procedure alleged in your complaint. Because of that, we are administratively closing your complaint and no further investigation will occur. Administratively closed investigations may be re-opened if more information becomes available.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ed Harness', with a stylized flourish at the end.

Ed Harness  
Executive Director  
(505) 924-3774

CC: Albuquerque Police Department, Chief of Police

**CIVILIAN POLICE OVERSIGHT AGENCY**

**Police Oversight Board**

*Eric H. Cruz*

*Valerie St. John*

*Leonard Waites, Chair*

*Joanne Fine*

*Chelsea Van Deventer*

*Chantal M. Galloway, Vice Chair*

*Dr. William J. Kass*

Edward Harness, Executive Director

May 23, 2018

**Re: CPC # 121-18**

Dear Mr. Ortiz:

On May 9, 2018 we received your complaint concerning Officer F. of the Albuquerque Police Department (APD). The incident you complained of occurred on May 5, 2018.

**I. THE COMPLAINT**

You wrote in your complaint that your son had been involved in a traffic accident on I-40 and University. You responded to the scene of the accident. While Officer F. was investigating the accident a wrecker arrived on scene. You told Officer F. that you did not want the truck towed and you would remove the truck yourself. Officer F. would not allow you to do that and Officer F. told you the truck was a safety hazard. You wrote that the truck was not in the roadway and was about two feet away from the traffic lane. You complained to the officer that you were not given the opportunity to call your own tow truck. You alleged the officer got upset because you questioned him. You told Officer F. that you were a retired police officer and you knew that you had the right to call your own tow truck. The officer allegedly ignored you and walked away. The tow truck backed up to your vehicle and you protested it being towed. Officer F. threatened to arrest you and walked into your personal space. The officer told you that you could not tow the vehicle as it was a safety issue. You then asked for a complaint form. The officer gave you his card and asked you if you wanted an English or a Spanish complaint form which you found to be offensive and racist as you had been speaking with the officer in English the entire time. You complained the officer started mocking you and the officer became real rude and cocky. You complained the officer argued with you. You claimed there were abandoned vehicles closer to the traffic lane than your truck was. You claimed your truck was not a safety hazard and was legally parked. You complained you were not allowed to take anything out of the vehicle before it was towed. You stated that you feel that Officer F. could have handled this incident in a professional manner and he should have allowed you to pick how you wanted to get your vehicle.

## II. THE INVESTIGATION

In an effort to assist you, a CPOA Investigator was assigned to review your complaint. The CPOA Investigator assigned to your complaint reviewed the police report and reviewed three lapel videos recorded by Officer F.. The CPOA Investigator also reviewed APD applicable Standard Operating Procedures (SOP) concerning towing and conduct. APD SOP 2-48-2 D 1 a. states:

*Officers may allow the owner or operator to call a wrecker of choice based on response time and current traffic conditions. Officers will have sole discretion when to allow an owner's request.*

The lapel video showed that the truck your son was driving had heavy front end damage. Parts of the front bumper were touching the ground and it was leaking fluid. The driver side rear tire was very close to the traffic lane. AFD Rescue had that lane of traffic blocked with one of their rigs. You told Officer F. That you were a retired police officer and that you would be right back but you didn't want you truck towed. The officer told you that leaving the truck there would not be safe. You argued that the truck was off the road and there was five other cars off the road. The officer told you that all five of those cars were fixing to get towed also. You told the officer that you were refusing to have the truck towed and you told him that you had the opportunity to go get something to bring it to the scene so you could tow the car yourself. You insisted you could call your own tow truck. The officer told you that if your tow truck beat the one that he had dispatched to the scene, you could have the truck towed away by your own truck. The officer told you he wasn't going to argue with you and he wanted to give you your paperwork and you refused to take it. The officer explained to you that he couldn't sit on the freeway waiting for your tow truck to arrive. The officer told you that he couldn't wait and that he was going to tow the truck. You asked for his name and card and said you were going to file a complaint. The officer told you that as a retired officer you should know that you have the right to file a complaint if you disagreed with his actions. The tow truck arrived and you continued to protest the towing and told the officer you were not authorizing the tow. You stood between the tow truck and the front of the truck in an effort to prevent the tow truck from backing up to the truck. The officer told you that if you stood there and tried to prevent the tow truck from picking up the truck that you would be arrested. You continued to argue with the officer. The officer approached you and said, "I'm asking you nicely. Please move so he can hook up the truck." You continued to protest although you did step back a bit. The officer then told you, "Move or you are going to jail." The officer explained to you that he was standing close to you because he had to get out of the way of the tow truck as well. You told the officer that he was wrong and to "put your camera on" The officer showed you he was recording. You then made a comment about "Albuquerque's finest." And you again stated that you were not giving the operator permission to tow the truck. The officer told you that the truck was a traffic hazard. You kept arguing as the truck was being hooked up to the tow truck. The officer explained again that he was not going to wait for your tow truck to get there when that tow truck was already there. You then argued that the truck was drivable because the wheels turn on it. The officer told you the truck was not drivable but you insisted it was. The officer told you the truck was leaking oil and it would be unsafe to drive and you insisted it wasn't oil but radiator fluid. This occurred as the tow truck pulled the truck on its bed dragging the broken pieces of the truck underneath it. When the officer asked you if you wanted the complaint form you said, "Yeah, go get it." He

asked you, "English or Spanish?" You answered, "English." He said, "You got it." You then told him, "Just go get it." You continued being argumentative after that. When the officer told you to call your own tow truck, he followed it up with that he would bet it would have taken longer than thirty minutes to get there. You asked, "How do you know?" You continued arguing and followed the officer. When he told you stay where you were, you laughed and said, "10-4!"

### III. CONCLUSION

The investigation showed that your truck was clearly heavily damaged and leaking fluids. It was parked two feet or less from a traffic lane that has a speed limit of 60 MPH and carries heavy traffic at almost all hours of the day. An inoperable vehicle parked at that location, leaking fluids is a traffic hazard. While you may have believed at the time that you had a "right" to call your own wrecker, in fact, it was within APD policy for the officer to deny you the opportunity to call your own wrecker when one was already there. The officer had the discretion to deny your request. No APD policy was violated with respect to the towing of the truck. It should also be noted that you never asked to take anything out of the truck as you alleged in your complaint. The video evidence showed you immediately identified yourself as a retired officer and asked the officer to let you go get something to bring it to the scene so you could tow the car yourself. The video evidence showed you attempted to physically obstruct the tow and were argumentative with Officer F. the entire time. Even though the officer responded to your obstreperous behavior, his conduct did not rise to the level of a violation of SOP. You alleged the officer displayed racist behavior because he asked you if you wanted a complaint form in English or in Spanish. Other than your allegation, there is no evidence in the record to minimally substantiate that allegation.

The officer did not violate Standard Operating Procedure with respect to the tow. Even if it could be proven that the officer's conduct violated SOP, the policy violation would be minor in nature. Because of that, we are administratively closing your complaint and no further investigation will occur. Administratively closed complaints may be re-opened if more information becomes available.

Sincerely,



Ed Harness  
Executive Director  
(505) 924-3774

CC: Albuquerque Police Department, Chief of Police

## **CIVILIAN POLICE OVERSIGHT AGENCY**

**Police Oversight Board**

*Eric H. Cruz*

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*Chelsea Van Deventer*

*Chantal M. Galloway, Vice Chair*

*Dr. William J. Kass*

June 15, 2018

Via Certified Mail

**Re: CPC #231-17**

Dear Mr.

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint against Officers of the Albuquerque Police Department (APD) on December 19, 2017, regarding an incident that occurred on or about May 21, 2017.

### **I. THE COMPLAINT**

\_\_\_\_\_ mailed a written complaint about his arrest for DWI because of a traffic accident. Mr. \_\_\_\_\_ wrote his car steering malfunctioned and caused the accident. Mr. \_\_\_\_\_ claimed Officer G accused him of being drunk and when the rescue personnel said he had not consumed alcohol then officers claimed he was on medications. Mr. \_\_\_\_\_ claimed he requested a blood test, but the officers denied him the opportunity. Mr. \_\_\_\_\_ claimed his property such as cards and keys were never returned to him. Mr. \_\_\_\_\_ claimed especially Officer G treated him rudely and disrespectfully.

### **II. INVESTIGATION**

The CPOA Investigator reviewed the CAD, the accident report, and the arrest DWI report. The accident report documented Mr. \_\_\_\_\_ claim that his vehicle malfunctioned. The accident report documented Mr. \_\_\_\_\_ consumed medication based on observation and admission by Mr. \_\_\_\_\_. The CAD provided an uninvolved witness statement that Mr. \_\_\_\_\_ vehicle was traveling at a high rate of speed before the accident. The DWI report provided another witness statement that Mr. \_\_\_\_\_ appeared passed out and the witness narrowly avoided a collision with Mr. \_\_\_\_\_ vehicle. Officer G documented her observations of impairment and Mr. \_\_\_\_\_ admitted to consuming certain medications. Mr. \_\_\_\_\_ was transported to the hospital. Officer G contacted a DRE certified officer who went to the hospital. Officer M also noticed several signs of intoxication via medication. Mr. \_\_\_\_\_ so admitted to him that he consumed specific medications. Mr. \_\_\_\_\_ had in his possession several other pills. The report documented Mr. \_\_\_\_\_ refused a blood test after being read the NM Implied Consent.

The CPOA Investigator reviewed the lapel videos related to these reports. Officer G contacted witnesses that said Mr. \_\_\_\_\_ was traveling the wrong direction in traffic and described their observations. The video showed Officer G approached Mr. \_\_\_\_\_ and asked him if he had anything to drink. Mr. \_\_\_\_\_ said he did not drink so she asked what else he had consumed. The

lapel video showed Officer G never accused Mr. [redacted] of being, "drunk off his ass" as he claimed was a direct quote. Mr. [redacted] informed Officer G about certain medications he consumed. The lapel video showed Officer G was respectful to Mr. [redacted]. The CPOA Investigator reviewed the videos from Officer M and it was clear Officer M offered Mr. [redacted] the opportunity to submit to a blood test and Mr. [redacted] refused. Mr. [redacted] exhibited several signs of impairment and admitted to specific medication consumption.

Mr. [redacted] in his written complaint wrote he wanted his cards, keys, and documents that the officer took and never returned. The CPOA Investigator pulled Mr. [redacted] prisoner property inventory form. His property contained various clothing items, various jewelry items, cell phones, headphones, wallets with listed cards visa, mc, amex and EBT and 8 keys.

The CPOA Investigator attempted to contact Mr. [redacted] at the phone numbers he provided. The one number was no longer in service and the person who answered the other reported it as an incorrect number for Mr. [redacted]. The CPOA Investigator sent Mr. [redacted] an email without response. Mr. [redacted] mother is employed with APD. She was sent a witness letter. Mr. [redacted] mother provided a different contact number for her son. In talking to Mr. [redacted] mother, she indicated her son's biggest frustration was that he had to get his cards reissued. Mr. [redacted] mother said if her son decided to go forward with the complaint then she would go in for a statement. Mr. [redacted] did not respond to voicemails left on the new number. After consultation with Director Harness, it was decided not to interview Mr. [redacted] mother as Mr. [redacted] allegations could not be minimally substantiated based on the available evidence contradicting his claims.

### **III. CONCLUSION**

The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** the complaint, as Mr. [redacted] did not cooperate with the investigative process there was not enough information to identify the alleged missing property and the rest of his allegations could not be minimally substantiated.

Administratively closed complaints may be re-opened if additional information becomes available. Please contact the CPOA in regards to your Civilian Police Complaint if you can provide further details and wish to have the complaint re-opened.

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 Mr.  
June 15, 2018  
Page 3

Sincerely,  
The Civilian Police Oversight Agency by

A handwritten signature in black ink, appearing to be 'E. Harness', written over a horizontal line.

Edward Harness, Esq.  
Executive Director

cc: Albuquerque Police Department Chief of Police



## **CIVILIAN POLICE OVERSIGHT AGENCY**

**Police Oversight Board**     *Leonard Waites, Chair*  
*Eric H. Cruz*                     *Joanne Fine*  
*Valerie St. John*                *Chelsea Van Deventer*  
Edward Harness, Executive Director

*Chantal M. Galloway, Vice Chair*  
*Dr. William J. Kass*

June 15, 2018  
Via Email

**Re: CPC #219-17**

Dear Ms. Taylor:

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint against Officers of the Albuquerque Police Department (APD) on December 11, 2017, regarding an incident that occurred on August 18, 2017. The CPOA thoroughly and impartially investigated the complaint.

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**

Ms.            brother, Mr.            was found deceased in his apartment on August 25, 2017 after a welfare check was called into police. Ms.            learned a welfare check had been called a week prior by the neighbors, but those officers did not enter her brother's apartment or adequately check on him. She learned the officers were more interested in a different call that night and therefore did not give her brother's call the attention it deserved.

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 Computer Aided Dispatches (CADs), the police report for the second call, interviews of Ms.            her daughter, two neighbors, Officer R, Officer T, Officer S, Sgt. S, and lapel videos of Officer R, Officer T, Officer S, and Officer V.

## II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING OFFICER R'S CONDUCT

A) The CPOA reviewed Standard Operating Administrative Order 3-13-3B3a regarding Officer R's conduct, which states:

*Take appropriate action and render assistance in any instance that comes to their attention, whether on duty or off duty.*

Ms. [REDACTED] was not present or aware a welfare check had been called on her brother both times officers were dispatched. All the information she received was after the fact from neighbors and the officer that discovered her brother deceased. The neighbors told Ms. [REDACTED] they originally called police out of concern for Mr. [REDACTED] because they had not seen or heard from him in a few days. The neighbors claimed they told police information about Mr. [REDACTED] living situation such as where he spent most of his time, that he rarely left, and was in a wheelchair. She was not sure what other details the neighbors told the officers. According to the neighbors, Officer R knocked on the door without response and looked in the second window, which provided a view of the mostly unused room of the apartment. Officer R could not have seen into the room Mr. [REDACTED] primarily inhabited. The neighbors said they told Officer R their concerns. Officer R did not ask for maintenance to bring a key. Ms. [REDACTED] and the neighbors believed Officer R walked away and did nothing. The neighbors assumed Mr. [REDACTED] was deceased when Officer R was originally there based on the second officer's statement that he had been there "a while."

APD SOP 2-71 states that an officer may enter premises without a warrant or reasonable suspicion when the officer has specific articulable safety concerns, which an individual might be in physical difficulty or need assistance. Officer R utilized resources to try to get more information about Mr. [REDACTED]. The information received from Dispatch indicated Mr. [REDACTED] likely was not a resident of that apartment as of July 2017 based on their research. The call came in from neighbors who had not seen him, but also said Mr. [REDACTED] was a recluse. The call took place around 11:00 p.m. The smell coming from the apartment was identified as urine and not body decomposition, which is a very specific odor. The lights were off and there were no sounds or responses to the officers' hails. Sgt. S agreed that he did not feel there was enough articulable reason to enter the home given the information presented to him at the time. Officer R did more than "nothing" as the complaint alleged. When Mr. [REDACTED] was discovered, the lapel video showed the lights and television were on. The door connecting the two rooms was partially open so if lights and the television had been on when Officer R was there she would have seen the glow or heard noise. This indicated the scene was different from the two times officers went out to the apartment, indicating Mr. [REDACTED] was not deceased on the 18th. According to the paperwork Ms. [REDACTED] had, the OMI estimation of death was August 23. OMI, when estimating time of death, take into account surrounding factors such as temperature when they make their declaration. Ms. [REDACTED] statement her brother might be alive today if the officers had entered is an assumption.

The CPOA finds Officer R's conduct to be **EXONERATED** where the investigation determined that the alleged conduct did occur, but did not violate APD policies, procedures, or training.

B) The CPOA reviewed Standard Operating General Order 1-1-4D15 regarding Officer R's conduct, which states:

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

The neighbors felt the officers did not want to be there even though they agreed the officers never said that. Their sense was that the officers seemed rushed. The one neighbor estimated Officer R remained only about fifteen minutes. The neighbors agreed the original officers said nothing about there being a SWAT call that they wanted to be at, but the officer that arrived a week later mentioned it. The neighbors described Officer R as seeming as if “she did not give a crap.” The neighbors provided the example that they gave information to Officer R about Mr. [redacted] but she just looked at them. The neighbors stated Officer R made them feel like they were a “bother” and “in the way.” The neighbors claimed Officer R said she could see the whole apartment from her vantage point at the window, which was not possible. The neighbors described Officer T as nicer.

Officer R denied they were in a rush for anything. There was no SWAT situation that they preferred to go to or training. She assumed the neighbors’ perception was affected by the fact she told the neighbors to go inside at one point because it was more secure for her and for them in case Mr. [redacted] had some violent response to the officers’ presence. She advised them she would talk to them afterwards. Officer R stated they were there longer than fifteen minutes, closer to just less than an hour. Officer R stated her attention was on that call, there had been no reluctance to go to the call, and in fact, she requested the call because it was in her beat. She described her conduct with the neighbors as professional and did not express rudeness or being bothered by the neighbors. She told the neighbors that they did not have the justification to enter the apartment. She explained the smell they noticed was urine. The neighbors accepted her information. She never told the neighbors she could see the entirety of the apartment.

Officer R ran her lapel camera during portions of the call, but not its entirety. The call was not a mandatory recording incident as defined by policy at the time. The portions that were recorded by lapel video did not violate policy. The lapel video captured some initial conversation with the neighbors and the conversation between the officers as they looked into the window. The officers remarked that the room they were looking into looked like a living room. The neighbors claimed Officer R said she could see the whole apartment, the officer denied that. The conversation with the neighbors after looking in the window was not captured on video.

The CPOA finds Officer R’s conduct to be **NOT SUSTAINED** where the investigation was unable to determine whether the alleged misconduct occurred.

C) The CPOA reviewed Standard Operating General Order 1-1-4D19 regarding Officer R’s conduct, which states:

*Personnel will not alter, misrepresent, or make any false statement in any report, verbal or written, or other written document that has been completed in the course of their employment.*

Officer R stated she wrote in the CAD she saw into a living room because that was how the room looked to her based on the furniture in the room. She was not saying she could see into the front room.

The written statement on the CAD was, "Visible to me was a well-kept living room..." Mr. [REDACTED] had flipped his living spaces so what would traditionally be the living room was in fact his bedroom and the room the officers looked in was arranged as a living room. The statement on the CAD was technically correct and the misunderstanding came from Mr. [REDACTED] unusual living space layout.

The CPOA finds Officer R's conduct to be UNFOUNDED where the investigation determined that the alleged misconduct did not occur.

### **III. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING OFFICER T'S CONDUCT**

A) The CPOA reviewed Standard Operating Administrative Order 3-13-3B3a regarding Officer T's conduct, which states:

*Take appropriate action and render assistance in any instance that comes to their attention, whether on duty or off duty.*

Ms. [REDACTED] was not present or aware a welfare check had been called on her brother both times officers were dispatched. All the information she received was after the fact from neighbors and the officer that discovered her brother deceased. The neighbors told Ms. [REDACTED] they originally called police out of concern for Mr. [REDACTED] because they had not seen or heard from him in a few days. The neighbors claimed they told police information about Mr. [REDACTED] living situation such as where he spent most of his time, that he rarely left, and was in a wheelchair. Ms. [REDACTED] was not sure what other details the neighbors told the officers. According to the neighbors, officers knocked on the door without response and looked in the second window, which provided a view of the mostly unused room of the apartment. Officer T could not have seen into the room Mr. [REDACTED] primarily inhabited. The neighbors said they told the officers their concerns. Officers did not ask for maintenance to bring a key. Ms. [REDACTED] and the neighbors believed Officer T walked away and did nothing. The neighbors assumed Mr. Hubert was deceased when Officer T was originally there based on the second officer's statement that he had been there "a while."

APD SOP 2-71 states that an officer may enter premises without a warrant or reasonable suspicion when the officer has specific articulable safety concerns, which an individual might be in physical difficulty or need assistance. Officer T utilized resources to try to get more information about Mr. [REDACTED]. The information received from Dispatch indicated Mr. [REDACTED] likely was not a resident of that apartment as of July 2017 based on their research. The call came in from neighbors who had not seen him, but also said Mr. [REDACTED] was a recluse. The call took place around 11:00 p.m. The smell coming from the apartment was identified as urine and not body decomposition, which is a very specific odor. The lights were off and there were no sounds or responses to the officers' hails. Sgt. S agreed that he did not feel there was enough articulable reason to enter the home given the information presented to him at the time. Officer T did more than "nothing" as the complaint alleged. When Mr. [REDACTED] was discovered, the lapel video showed the lights and television were on. The door connecting the two rooms was partially open so if lights and the television had been on when Officer T was there he would have seen the glow or heard noise. This indicated the scene was different from the two times officers went out to the apartment, indicating Mr. [REDACTED] was not deceased on the 18th. According to the paperwork Ms. [REDACTED] had, the OMI estimation of death was August 23. OMI, when estimating time of death, take into account

surrounding factors such as temperature when they make their declaration. Ms. \_\_\_\_\_ statement her brother might be alive today if the officers had entered is an assumption.

The CPOA finds Officer T's conduct to be **EXONERATED** where the investigation determined that the alleged conduct did occur, but did not violate APD policies, procedures, or training.

#### **IV. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING OFFICER S' CONDUCT**

A) The CPOA reviewed Standard Operating General Order 1-1-4E6d & f regarding Officer S' conduct, which states:

*Personnel will not disparage the Department, its policies, or other personnel in any manner, which: d. undermines the effectiveness of the department f. is made with reckless disregard for the truth.*

Ms. \_\_\_\_\_ understood from the neighbors that Officers R and T were preoccupied with a SWAT situation and that they did not want to be at the apartment checking on her brother. One of the neighbors stated Officers R and T said nothing about a SWAT call, but she learned that information from Officer S a week later. The neighbor assumed Mr. \_\_\_\_\_ was deceased when the first officers came out based on Officer S's statement that Mr. \_\_\_\_\_ had been there "a while." A second neighbor claimed Officer S told her neither officer wanted to take the call the previous time; the officers wanted to be with their supervisor, "playing SWAT" instead. The neighbor claimed Officer S told her the other officers complained about having to do the welfare check.

Officer S worked on August 18 and heard officers ask for maintenance to get the key over the radio. Then Sgt. S called out a situation involving a vehicle and his whole squad raced to his call. Officer S was irritated that Officers R and T did not do a proper investigation in his opinion. He believed Officers R and T "ran off" with their sergeant to chase down a truck, which turned out to be nothing. Officer S believed Mr. \_\_\_\_\_ had been there at least a week when he got the second welfare call on the 25th. He claimed the OMI confirmed that, but admitted he did not know what the final autopsy report said. He doubted Mr. \_\_\_\_\_ had only been deceased a couple of days. When asked why he discussed his personal opinion with the neighbors and family, Officer S admitted he was frustrated. He was angry that the officers did not take care of the call and did not do a proper investigation. He told Ms. \_\_\_\_\_ if she felt like filing a complaint because the officers did not do a proper job and left her brother for an additional week undiscovered that was her option, but he did not encourage her. In terms of a SWAT call, Officer S admitted there was no actual SWAT call, but Officer S explained that squad was notorious for "SWATTING" meaning that they would all go racing to a call that turned out to be nothing, which left the rest of the squads to deal with the calls. Officer S suggested listening to the radio traffic between the officers.

The lapel video showed when the neighbor told Officer S about the previous officers he told her the previous officers were rookies and claimed the previous officers blew the situation off. The lapel video showed Officer S told the neighbor those officers should have made more of an effort to check the situation. Officer S told the neighbors the previous officers did not look. The lapel videos showed he estimated Mr. \_\_\_\_\_ had been there about two weeks deceased. The radio traffic was reviewed and did

not contain any information about reluctance to go to the call. The sergeant did call out with a vehicle situation and other officers responded. Officers R and T then also went to the call with their sergeant after having said they did not think anyone was home to Dispatch.

Officer S has several years of experience over Officers R and T. However, Officer S did not know what steps the officers took that night such as checking the call history for the location, checking with RTCC, checking with CIT, and conferring with their sergeant. Officer S was not at the first call and did not see the circumstances present on the initial call. After listening to the radio traffic and reviewing the CAD, the officers were at the scene approximately thirty-five minutes. Officer S is not a qualified death scene investigator and it is reckless for him to make estimations of a time of death when the OMI is qualified and considers several factors when making a time of death estimation. Additionally, to inform citizens the officers preferred to be at a SWAT call was also a disregard for the truth when there was no SWAT call and no stated reluctance to be at the call.

The CPOA finds Officer S' conduct to be a **SUSTAINED VIOLATION NOT BASED ON ORIGINAL COMPLAINT** where the investigation determined that misconduct did occur that was not alleged in the original complaint, but that was discovered during the misconduct investigation.

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> .

**Letter to Ms.  
June 15, 2018  
Page 7**

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



Ed Harness  
Executive Director

cc: Albuquerque Police Department Chief of Police