



Timothy M. Keller  
Mayor

# City of Albuquerque

## Albuquerque Police Department



Eric J. Garcia  
Interim Superintendent of Police Reform

September 15, 2022

### Interoffice Memorandum

**To:** Deirdre Ewing, Executive Director, CPOA

**From:** Jimmy Collins, A/Deputy Superintendent of Police Reform

**Subject:** Non-Concurrence of Action re: CPC-087-2022

This memorandum serves to convey the articulation for APD’s points of non-concurrence in the above captioned administrative investigation conducted by the Civilian Police Oversight Agency.

Policy	CPOA Finding	APD Finding
2-8-5-B-8b	Sustained/Written Reprimand	Sustained/NDCA
2-60-4-A-5f	Sustained/Verbal Reprimand	Sustained/NDCA
1-1-4-D-17	Sustained/Written Reprimand	Sustained/NDCA

**Rationale for non-concurrence of action:**

The investigation revealed Officer H did not accurately document the number of bags that he searched leaving the reader to believe all of the bags were searched (2-60-4-A-5f) and Officer H failed to re-activate his OBRD during a third encounter with the a citizen. No OBRD could be located in evidence.com for that contact (2-8-5-B-8b). Finally, Officer H did not investigate further into the citizen’s claim that he was shot at (1-1-4-D-17).

Commander Waite has determined four mitigating factors which would allow the penalty to be reduced to the minimum level within the class range. They are as follows:

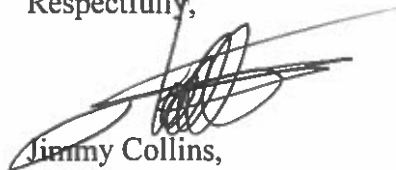
- 1) Officer H has no sustained discipline more significant than a class 6 on his retention card and no eligible aggravating offenses for that time period.
- 2) Officer H extremely professional interaction with the subject.
- 3) This conduct occurred more than three years ago and presents an articulable timeline issue.
- 4) Finally, although tragic, the resulting OIS did not involve Officer H and may not have been preventable even if Officer H identified the subject and attempted to search the subject given the questionable legality.

RECEIVED CPOA  
SEP 27 '22 AM 11:07

**Conclusion:**

Based on these considerations, I have decided it is appropriate to deviate from the presumptive level of discipline, two written reprimands and a verbal reprimand, and apply the minimum level of correction, an NDCA for each sustained violation, which is within the range for a violation of this class.

Respectfully,



Jimmy Collins,  
A/Deputy Superintendent of Reform  
Albuquerque Police Department

Cc: Eric Garcia, Interim Superintendent of Police Reform/DCAO