



Timothy M. Keller  
Mayor

# City of Albuquerque

## Albuquerque Police Department



Eric J. Garcia  
Interim Superintendent of Police Reform

### Interoffice Memorandum

January 11, 2022

**To:** Diane McDermott, Interim Executive Director, CPOA  
**From:** Eric J. Garcia, Interim Superintendent of Police Reform/DCAO  
**Subject:** Non-Concurrence of Findings and/or Discipline re: CPC 093-21

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.

#### Summary of non-concurrence of finding(s):

Policy	CPOA Finding	APD Finding
1-1-4(D)(14)	Sustained	Not Sustained

#### Rationale for non-concurrence of finding for 1-1-4(D)(14) against Sgt. J H :

I concur with the recommendation provided by Commander R : M as follows:

Based on the evidence presented, and the fact the complainant did not cooperate with this investigation, I do not concur with the CPOA's finding of SUSTAINED nor the recommended preliminary discipline calculation. I recommend this violation be NOT SUSTAINED.

Per the Civilian Police Oversight Agency finds ...."The Executive Director recommends a Class 6 sanction be added to this SOP violation. The subject of this investigation allowed his personal animosity toward the complainant to affect his judgment. He chose to take enforcement actions against the complainant, issue a summons, while others committing similar offenses were not summoned. "

"The action appears retaliatory. There was not enough evidence to prove a violation occurred of the department's retaliation policy because the complainant did not cooperate with the investigation. "

Overall review of the CD provided of the incidents in question along with Sgt. H [redacted] interview statement, Sgt. H [redacted] exercised great discretion and constraint by not engaging with complainant while on both scenes as complainant repeatedly harassed and distracted Sgt. H [redacted]. Sgt. H [redacted] continually advised and gave direction for complainant to move back and out of the scene whereupon he could continue to take video from a safer location. Each time Sgt. H [redacted] provided that direction, complainant disregarded Sgt. H [redacted] direction and made unnecessary and unwarranted comments. Sgt. H [redacted] did not have to give this same direction to others at the scene therefore, no one else at the scene was given a summons because Sgt. H [redacted] did not have to engage with the others as he continually did with the complainant.

The action "appears" retaliatory is not fact nor where facts presented which support that a violation occurred.

**Conclusion:**

Based on the aforementioned points of non-concurrence, The CPOA's recommended adverse finding will be replaced with the non-adverse finding of "Not Sustained." As a result, no discipline will be imposed in this case.

Respectfully,



Eric J. Garcia  
Interim Superintendent of Police Reform/DCAO  
Albuquerque Police Department, Police Reform Bureau

cc: Harold J. Medina, Chief of Police