

CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board

Johnny J. Armijo

Dr. William J. Kass

Edward Harness, Executive Director

Joanne Fine, Chair

Susanne Brown

Rev. Dr. David Z. Ring III

Valerie St. John, Vice Chair

Eric H. Cruz

Leonard Waites

POLICE OVERSIGHT BOARD AGENDA

Thursday, November 9, 2017 – 5:00 PM

Vincent E. Griego Chambers

- I. Welcome and call to order.**
- II. Pledge of Allegiance – *Valerie St. John***
- III. Mission Statement – *Joanne Fine***

*“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. IMR-6**
 - b. Open Meeting Act Statement**
 - c. 2018 meeting dates for POB**
- VIII. Consent Agenda Cases:**
 - a. Administratively Closed Cases**

094-17	144-17	150-17	166-17	173-17
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 - b. Cases investigated**

090-17	122-17	123-17
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 - c. CIRT Cases**
- IX. POB’s Review of Garrity Materials**
 - a. I-188-13**
 - b. I-48-14**
- X. Reports from Subcommittees**
 - a. Community Outreach Subcommittee – *Dr. Ring***
 - b. Policy and Procedure Review Subcommittee – *Dr. William Kass***
 - c. Case review Subcommittee – *Leonard Waites***
 - 1. Appeals**
 - d. Personnel Subcommittee – *Eric Cruz***
- XI. Reports from City Staff**

- a. **APD**
 - 1. **Serious Use of Force cases (CIRT) none available since May 2017**
 - 2. **93-17 policy recommendation update CYFD referrals**
 - 3. **No response from Chief on I-22-2017**
 - 4. **Update on Citizen's Police Academy**
 - i. **Session available by video?**
- b. **City Council**
 - 1. **February board openings**
 - 2. **OS-55**
- c. **Mayor's Office**
- d. **City Attorney**
 - 1. **Ride-along Form**
- 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

XIV. Adjournment- *Next Regularly scheduled POB meeting will be on December 14, 2017 at 5 p.m. in the Vincent E. Griego Chambers.*

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

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

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

November 13, 2017
Via Certified Mail

Re: CPC #090-17

Dear Mr.

Our office received the complaint you filed March 21, 2017 against Officer W. of the Albuquerque Police Department (APD) regarding an incident that occurred on February 18, 2017. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint.

PO Box 1293

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.

Albuquerque

NM 87103

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.

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I. THE COMPLAINT

On 02/18/2017 at about 1:30 PM at Eubank and I-40, Mr. _____ girlfriend, _____ was involved in a minor injury car accident. Ms. _____ had her daughter _____ in the car at the time and they had just come from picking up groceries at the store. Ms. _____ car was struck from behind causing minor vehicle damage. The driver of the other car did not want to get the police involved and he fled the scene in his car. Ms. _____ and her daughter separately took down the license plate of the car that fled the scene. Ms. _____ thought the car had one plate number on it, but her daughter recorded a different plate. An APD Officer W., responded to the scene of the crash and was provided the two license plate numbers that had been taken down. Ms. _____ and her daughter suffered minor, non-visible

injuries from being struck from behind and they requested and received medical attention. They were transported to the hospital.

Mr. and Ms. alleged that prior to being transported to the hospital that Ms. and her daughter both asked Officer W. if Mr. could come and pick up the car instead of having it towed from the scene. Mr. alleged that he spoke with Officer W. over the phone and Officer W. agreed that he would release Ms.'s car to him if he could get to the scene in a reasonable amount of time. Mr. went straight to the scene, allegedly arriving before the wrecker and he asked to pick up the car. Officer W. refused to release the car to him and was extremely rude. Mr. asked if he could at least take the groceries out of the car and Officer W. refused to allow him to take the groceries out of the car. The car was towed.

Several days later, Mr., a retired police officer, felt that Officer W. had not followed up on the hit and run, so Mr. conducted his own investigation and he found the driver and the other vehicle at a SE heights address. Ms. was with Mr. and she identified the driver and the vehicle at that address. They did not talk to anyone there as the driver and a group of people were standing by the wrecked vehicle smoking marijuana. Mr. called APD and asked for Officer W. but he was on his day off so Mr. left a message for Officer W. to call him when he came back to work. Officer W. did return the call and he told Mr. in an arrogant tone that he ran both license plates provided to him and neither came back to any vehicles registered in Albuquerque. Mr. told Officer W. that one plate did come back to an Albuquerque address and he had in fact gone by the address and located the hit and run vehicle. Officer W. told Mr. that he (Officer W.) may have run the wrong plates. Mr. got upset and Officer W. told Mr. that if he wanted to file a complaint against him he was welcome to do so.

Mr. tried to work this matter out before filing a complaint and when he went to get the police report almost a month after the incident Officer W. had yet to turn in the accident report. Mr. tried meeting with the Commander but was told by a Lieutenant that the Commander would not be able to meet with Mr. for at least one to two weeks. The Lieutenant met with Mr. and allegedly the Lieutenant made a lot of excuses as to why the follow up on the accident had not been done. The Lieutenant agreed that the police report that had been submitted was poorly done and that the Lieutenant would have Officer W. re-write the report.

A month had passed since the accident had occurred and Mr. went by the house where the hit and run vehicle had been located. The damage to the hit and run vehicle had been repaired by then. Mr. contacted the Lieutenant again and asked if Officer W. had followed up on the hit and run and all the Lieutenant told him was that he would look into it.

When Ms. was interviewed she told the CPOA Investigator that she felt that Officer W. discriminated against her because she only spoke Spanish. She alleged that Officer W. would have done a better job of investigating the accident had she been an English speaker.

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

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable Standard Operating Procedures (SOPS), the Complaint, the police reports, the Computer Assisted Dispatch (CAD) report, and associated paperwork. Interviews with Officer M., Mr. _____ and Ms. _____ a were also reviewed.

A) The CPOA reviewed Standard Operating Procedure 1-1-4 B 7 regarding APD Officer W.'s conduct, which states:

Personnel will conduct themselves both on and off duty in a manner that reflects most favorably on the department.

Mr. _____ alleged in his complaint that Officer W. was rude and arrogant. Mr. _____ alleged that during the first contact he had with Officer W. at the scene of the accident, Officer W. was extremely rude to him even though Mr. _____ had just spoken with Officer W. over the phone. Mr. _____ alleged that Officer W. did not let him take his girlfriend's car from the scene and that the officer did not allow him to take the groceries out of the car before it was towed. Mr. _____ further alleged that when he spoke with Officer W. over the phone weeks after the accident that Officer W. was again rude and arrogant.

This particular type of incident is not required to be recorded by department policy. The telephone call with Officer W. was also not recorded. There was no lapel video or any independent witness or evidence that could be reviewed to support Mr. _____ version of the two contacts with Officer W. The investigation showed that the initial contact between Mr. _____ and Officer W. was brief.

Mr. _____ alleged that Officer W. was rude and arrogant on both occasions. Officer W. denied that he as rude and arrogant when he dealt with and spoke with Mr. _____.

The CPOA finds Officer W.'s conduct to be **NOT SUSTAINED**, where the investigation is unable to determine by a preponderance of the evidence whether the alleged misconduct occurred.

B) The CPOA reviewed APD Procedural Order 2-48-2 B 1 regarding APD Officer W.'s conduct, which states:

Vehicles will be towed when the driver has been incapacitated, hospitalized, arrested, or when the vehicle cannot be released to a responsible party.

It was clear from the investigation conducted that Ms. _____ did not want her car towed from the scene. Mr. _____ spoke with Officer W. over the phone and Officer W. agreed that if Mr. _____ could make it to the scene in a reasonable amount of time that he would release the car to Mr. _____. Officer W. and Mr. _____ agreed that Mr. _____ made it to the scene before

the wrecker did. Furthermore, Officer W. acknowledged that when Mr. _____ arrived on scene, he recognized Mr. _____ voice from having just spoken with Mr. _____ over the phone. Officer W. maintained that he told Mr. _____ that he would only release the car to him if Ms. _____ was present at the scene so she could give the officer consent to release the car to Mr. _____. When Mr. _____ arrived, Ms. _____ had already been taken to the hospital.

The investigation revealed that Ms. _____ intent to not have her vehicle towed was clear. Officer W. knew that she did not want her car towed and she gave Officer W. her phone so he could speak with Mr. _____. Officer W. agreed to release the car to Mr. _____ and then when Mr. _____ showed up to pick up the car Officer W. wouldn't release it to him even though he knew that Mr. _____ was the same person he had just spoken with over the phone. The excuse that Ms. _____ was not on scene to give consent is not acceptable. She had already given consent. She doesn't need to be on scene to give it again, especially when she needed to be transported to the hospital for treatment. Officer W.'s decision not to release the car to Mr. Sierra was unreasonable and it did not comply with this policy.

The CPOA finds Officer W.'s conduct to be **SUSTAINED**, where the investigation determined by a preponderance of the evidence that the alleged misconduct did occur.

C) The CPOA reviewed APD Procedural Order 2-40-2 G 3 regarding APD Officer W.'s conduct, which states:

Officers assigned to investigate traffic accidents will conduct thorough investigations and submit complete reports.

Mr. _____ alleged that when he was finally able to obtain a copy of the initial report that it was lacking in information. The investigation revealed that two supervisors also felt that the report lacked detail. In fact, the report was marked as a property damage only accident when in reality it was an injury accident. The body of the report did indicate complaint of injuries. Had the original report been allowed to stand alone, the proper finding would have been sustained, however, Officer W. did write a detailed supplemental report documenting what license plates he ran, when he ran them, and what type of vehicles they came back to. He also documented that he went to the registered address of the hit and run vehicle and he attempted to make contact there but he was unable to do so. It was clear from the investigation that Officer W. either copied down the license plates he was provided incorrectly, or he just got the first letter of the plate wrong writing down an "M" instead of an "N". Officer W. said that he did not check or read the BOLO on the call that listed the correct hit and run license plate. In any case, the errors or lack of documentation in the original report was corrected by Officer W. with the supplemental report. Furthermore, the CPOA Investigator provided the APD Hit and Run Detective with all of the proper information and that Detective said that he would follow up on the hit and run and conduct further investigation into the matter.

Since the deficiencies complained of were corrected through the supplemental report and through follow up, The CPOA finds Officer W.'s conduct to be **EXONERATED**, where the investigation determined by a preponderance of the evidence that the alleged conduct did occur but did not violate APD policies, procedures, or training.

D) The CPOA reviewed APD Procedural Order 2-16-2 E 1 regarding APD Officer W.'s conduct, which states:

All initial reports must be submitted at or before the end of the shift, except at the direction of a supervisor.

Mr. complained that he tried to get a copy of the police report three weeks after the incident occurred and Officer W. had not completed it at that time. The investigation showed that the original report was turned in the day that the accident occurred. The delay in the report being available occurred because a supervisor was unavailable to approve the report after it was turned in. The report would not have been approved anyway as it lacked information. Refer to above.

The CPOA finds Officer W.'s conduct to be **UNFOUNDED**, where the investigation determined by clear and convincing evidence that the alleged misconduct did not occur.

E) The CPOA reviewed Standard Operating Procedure 1-4-3 A 3 regarding APD Officer W.'s conduct, which states:

Department personnel will provide the same level of police service to every citizen regardless of their race, color, national origin or ancestry, citizenship status, language spoken, religion, gender, gender identity, sexual orientation, age, disability, or economic status.

Lastly, Ms. alleged that she felt discriminated against because she only spoke Spanish. She said that it was as if once the officer found out that she only spoke Spanish that the officer lost interest in helping her. She said that she felt that the officer did not do as good of a job of investigating the accident as he could have because she was a non-English speaker.

Officer W. denied the allegation of discrimination. He said that he handled the investigation the same way he would any other investigation that involved minor injuries and a lack of information to follow up on. There is no way to prove by a preponderance of the evidence that Officer W. didn't do as good of a job as he could have because Ms. doesn't speak English.

The fact is that Officer W. wrote down the license plate of the hit and run vehicle wrong. The evidence in the case proved that Officer W. ran two license plates when he was at the scene of the accident and neither of those plates came back to vehicles registered in the City of Albuquerque. The only other information he was aware of was that the hit and run vehicle was a white car. That is not enough information to follow up on. Now had the officer written down the plate of the hit and run vehicle correctly, he would have had the proper information to follow up on but that simply didn't happen. There are not enough facts to prove by a preponderance of the evidence that the officer discriminated against Ms.

November 13, 2017

Page 6

The CPOA finds Officer W.'s conduct to be **NOT SUSTAINED**, as the investigation was unable to determine by a preponderance of the evidence that the alleged misconduct did occur.

Your complaint and these findings are made part of Officer W.'s Internal Affairs file. 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 Policies 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 the 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 submitted within 30 days 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.

Sincerely,
The Civilian Police Oversight Agency by



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

Enclosure

cc: Albuquerque Police Department Chief of Police

Civilian Police Oversight Agency
EXECUTIVE DIRECTOR'S
Recommendation Form

Employee Involved: Officer ██████████ W ██████████

SOP Violation(s): 1-1-4 b 7, 2-48-2 B 1, 2-40-2 G 3, 2-16-2 E 1, 1-4-3 A 3

Date and Time of Incident: 02/18/2017 at 1:00 p.m.

Investigating Officer: Assistant Lead Investigator Paul Skotchdopole

Date Investigation Completed: _____

Completed Case Reviewed by _____ Date: _____

Date to A/C: _____

Date Returned From Chief's Office: _____

Date to CPOA: _____

Date Returned From CPOA: _____

- 1. **Sustained** The investigation determined, by a preponderance of the evidence, the alleged misconduct occurred 2-48-2 B 1
- 2. **Not Sustained** The investigation was unable to determine, by a preponderance of the evidence, whether the alleged misconduct occurred. 1-1-4 B 7 1-4-3 A 3
- 3. **Sustained Violation not based on original complaint** The investigation determined, by a preponderance of the evidence, that misconduct occurred that was not alleged in the original complaint but discovered during the investigation ----->
- 4. **Unfounded** The investigation determined, by clear and convincing evidence, that the alleged misconduct did not occur or did not involve the subject officer -----> 2-16-2 E 1
- 5. **Exonerated** The investigation determined, by a preponderance of the evidence, that the alleged conduct did occur but did not violate APD policies, procedures, or training: -----> 2-40-2 G 3
- 6. **Administratively Closed** The policy violations are minor, the allegations are duplicative, or investigation cannot be conducted because of lack of information in the complaint, or resolved through mediation, ----->

7. **FIREARM DISCHARGE** Will be classified as:

JUSTIFIED

UNJUSTIFIED

ACCIDENTAL

RECOMMENDATIONS

NO DISCIPLINARY ACTION

VERBAL REPRIMAND

WRITTEN REPRIMAND

SUSPENSION _____ HOURS

TERMINATION

OTHER: _____

THE INVESTIGATION FAILED TO MEET THE TIMELINES SET FORTH IN THE CBA.

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

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

November 13, 2017
Via Certified Mail

Re: CPC #094-17

Dear Ms.

On March 21, 2017 we received your complaint that you emailed in to our office.

I. THE COMPLAINT

You wrote in your complaint that on March 19, 2017 you and some friend were downtown and had just left a club. A stranger assaulted one of your friends by punching him in the face and then the stranger's friend punched you in the face. You screamed for help and three officers responded. Someone told you that the offender had been apprehended but you were later told that the person the police had detained had no involvement in the incident so he was let go. You stated that while you were waiting for the ambulance to arrive, the officers just stood there with their hands in their pockets. You wrote in your complaint that you spoke with Sergeant R. and that Sergeant R. refused to take a report from you because he did not know who the suspect was. You stated that the police should help victims of crimes more and they should not make you feel as if you were to blame because you chose to go downtown with your friends.

II. THE INVESTIGATION

A CPOA Investigator conducted a preliminary investigation into your complaint. The investigator found that Sergeant R. did indeed take a report from you regarding the assault and battery. That report is numbered _____ and it is available from APD records. The report, written by Sergeant R., states that you were battered by a stranger. You friend who was also battered did not want to cooperate with the police. Sergeant R. documented that he spoke with you and you told him that there was a male subject who was involved in an altercation and suddenly that male started hitting everyone around him. You told the Sergeant that the man punched you in the face and ran away. You described the man who hit you as a Hispanic male, 5'06" with short blonde hair. You said that the man was wearing a white sweater with horizontal stripes. The sergeant wrote in his report that officers patrolling the

PO Box 1293

Albuquerque

NM 87103

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November 13, 2017

Page 2

area attempted to locate the man whom you described but they were unable to locate anyone matching the description. The officers were unable to identify the man who hit you and your friend.

III. CONCLUSION

Because the preliminary investigation showed that a report was taken and the incident was documented, we are Administratively Closing your complaint and no further investigation into the matter will take place. Administratively Closed complaints may be re-opened if additional information becomes available.

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

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

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Dr. William J. Kass *Rev. Dr. David Z. Ring III* *Leonard Waites*
Edward Harness, Executive Director

November 13, 2017
Via Certified Mail

Re: CPC #122-17

Dear Mrs.

Our office received the complaint you filed on May 12, 2017 against Sergeant (Sgt.) J. of the Albuquerque Police Department (APD) regarding an incident that occurred on May 12, 2017. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint.

PO Box 1293

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.

Albuquerque

NM 87103

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.

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I. THE COMPLAINT

Mrs. _____ said that on March 1, 2017, her son was involved in a vehicle accident and they did not receive the accident report until April. She said the accident report was incorrect and she and her husband, _____, who is a Bernalillo County Sheriff's Office (BCSO) Deputy made several calls to an APD Sgt. about the incorrect report and that offered to show accident photos, as well, but was told the photos weren't needed. Mrs. _____ complained that on May 12, 2017, _____ went to the APD Northwest Substation to follow-up on a supplemental accident report and another APD Sgt. not known to _____ asked him if he was the BCSO Deputy trying to get APD to change the report, and warned him to be very careful as it could appear he was trying to use his influence as a Deputy to change the

outcome of the report. Mrs. : complained that the Sgt. said this to three times and appeared to be irritated.

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

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 accident report; the interviews, and lapel video.

A) The CPOA reviewed APD SOP 1-1-4(D)(15), which states:

1-1-4 PERSONNEL CODE OF CONDUCT: RULES OF CONDUCT

D. On-Duty Conduct

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

Mrs. complained that Sgt. J. was irritated and warned her husband, three times not to use his influence as a BCSO Deputy to change the outcome of an accident report written as the result of her son's accident.

The complaint, the CADS report, and interviews with , Sgt. J. and Sgt. K., who was a witness, were reviewed. The evidence revealed that after learning of errors in his son's accident report, called the Northwest substation repeatedly and spoke to Sgt. K., as he was the supervisor of Officer N. who took the accident report. The evidence showed that Officer N. completed a supplemental report correcting the original report. (NOTE: Mrs. Torres and had no complaints about Officer N.)

The evidence showed that on the morning of May 12, 2017, showed up at the Northwest substation police parking lot, and as Sgt. J. was driving into the secured facility, piggy-backed onto Sgt. J.'s vehicle entrance as Sgt. J. enter into the secured parking lot because didn't have an APD access card/code to enter on his own. The evidence showed that after parking his vehicle in the lot, , who was wearing his badge and gun, continued to follow Sgt. J. on foot into the Northwest substation and again piggy-backed onto Sgt. J.'s entry into the secured employee door at the back of the Northwest substation. Once inside the first doors into the building Sgt. J. spoke to who told Sgt. J. he wanted to know the status of a supplemental report regarding his son's vehicle accident. Sgt. J. told ; he would pass the inquiry along to Sgt. K. at which time left.

After leaving out the back door, then went around the front of the building to again inquire about the supplemental report that Sgt. J. already told him he would tell Sgt. K. about. Sgt. J. saw standing in the lobby and approached him about why he was

there and then cautioned _____ to be careful because it could appear that _____ was trying to use his position as a BCSO Deputy to alter the outcome of the accident investigation.

There was no evidence revealing Sgt. J.'s conduct towards _____ was unprofessional; rather it was _____ conduct of piggy-backing onto an APD police vehicle to enter into a secure parking facility, and piggy-backing on Sgt. J.'s entry into a secure APD building and appearing to use his influence as a BCSO Deputy that was unprofessional.

The CPOA finds Sgt. J.'s conduct **EXONERATED** regarding the allegation of a violation of this SOP, which means the investigation determined, by a preponderance of the evidence, that the alleged conduct did occur but did not violate APD policies, procedures, or training.

Your complaint and these findings are made part of Sgt. J.'s Internal Affairs records.

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>.

Letter to Mrs. CPC 122-17
November 13, 2017
Page 4

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

Enclosure

cc: Albuquerque Police Department Chief of Police

Civilian Police Oversight Agency
EXECUTIVE DIRECTOR'S
Recommendation Form

Employee Involved: Sgt. [REDACTED] J [REDACTED]

SOP Violation(s): 1-1-4(D)(15)

Date and Time of Incident: 03/01/2017 at 7:45 a.m.

Investigating Officer: CPOA Investigator Erin O'Neil

Date Investigation Completed: _____

Completed Case Reviewed by _____ Date: _____

Date to A/C: _____

Date Returned From Chief's Office: _____

Date to CPOA: _____

Date Returned From CPOA: _____

1.	Sustained The investigation determined, by a preponderance of the evidence, the alleged misconduct occurred ----->	<input type="checkbox"/>
2.	Not Sustained The investigation was unable to determine, by a preponderance of the evidence, whether the alleged misconduct occurred. ----->	<input type="checkbox"/>
3.	Sustained Violation not based on original complaint The investigation determined, by a preponderance of the evidence, that misconduct occurred that was not alleged in the original complaint but discovered during the investigation ----->	<input type="checkbox"/>
4.	Unfounded The investigation determined, by clear and convincing evidence, that the alleged misconduct did not occur or did not involve the subject officer ----->	<input type="checkbox"/>
5.	Exonerated The investigation determined, by a preponderance of the evidence, that the alleged conduct did occur but did not violate APD policies, procedures, or training: <u>1-1-4(D)(15)</u>	<input checked="" type="checkbox"/>
6.	Administratively Closed The policy violations are minor, the allegations are duplicative, or investigation cannot be conducted because of lack of information in the complaint, or resolved through mediation, ----->	<input type="checkbox"/>
7.	<u>FIREARM DISCHARGE</u> Will be classified as: <input type="checkbox"/> JUSTIFIED <input type="checkbox"/> UNJUSTIFIED <input type="checkbox"/> ACCIDENTAL	
<u>RECOMMENDATIONS</u>		
<input checked="" type="checkbox"/>	NO DISCIPLINARY ACTION	<input type="checkbox"/> VERBAL REPRIMAND
<input type="checkbox"/>	WRITTEN REPRIMAND	<input type="checkbox"/> SUSPENSION _____ HOURS
<input type="checkbox"/>	TERMINATION	<input type="checkbox"/> OTHER: _____

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board *Joanne Fine, Chair* *Valerie St. John, Vice Chair*

Johnny J. Armijo *Susanne Brown* *Eric H. Cruz*

Dr. William J. Kass *Rev. Dr. David Z. Ring III* *Leonard Waites*

Edward Harness, Executive Director

November 13, 2017

Gorden Eden Jr., Chief of Police
C/O Internal Affairs Unit
Albuquerque Police Department
400 Roma NW
Albuquerque, NM 87102

Re: CPC-123-17

Dear Chief Eden:

We concurred on our findings in this case. This investigation will be presented to the Police Oversight Board for final review. These findings are now considered final. If any changes to these findings are ever contemplated, inform the POB and the CPOA immediately.

PO Box 1293

Please ensure the findings are placed in the officer's retention file.

Albuquerque

Please contact me if there are questions or concerns.

NM 87103

Sincerely,
The Civilian Police Oversight Agency by

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

www.cabq.gov

Enclosures

cc:

FINDINGS

1. Did Officer ██████ S█████ comply with Albuquerque Police Department General Orders, Personnel Code of Conduct, 1-1-4B2, which mandates:

1-1-4 Rules of Conduct

B. Compliance with Laws, Rules, and Regulations

2. Personnel will obey all federal, state, and local laws, rules and regulations, and, enforce those lawful directives while protecting the rights of individuals, as established in the Constitution of the United States and the Constitution of the State of New Mexico. This includes, but is not limited to, obeying all felony, misdemeanor, and traffic laws, and local ordinances, as well as all lawfully issued civil orders of any jurisdiction. Quarterly, the Department will compile and review violation reports to identify trends.

After reviewing all the evidence in this case to include lapel videos and interviews, there is overwhelming evidence to show Officer S█████ did not violate any Department policies, procedures, or laws. He remained professional during his contact with Ms. Otte and placed her under arrest with probable cause after conducting an investigation on scene. At no time did he touch her inappropriately, nor did he sexually assault or sexually batter Ms. Otte. Officer S█████ also completed a thorough investigation into the incident and obtained witness and victim statements to support his basis for the arrest.

This issue is “UNFOUNDED”, where the investigation determines, by clear and convincing evidence, that alleged misconduct did not occur or did not involve the subject officer.

FINDINGS (continued)

2. Did Officer ██████ S█████ comply with Albuquerque Police Department General Orders, Personnel Code of Conduct, 1-1-4B7a, which mandates:

1-1-4 Rules of Conduct

B. Compliance with Laws, rules, and Regulations

7. Personnel will conduct themselves both on duty and off duty in a manner that reflects favorably on the Department. Conduct unbecoming an officer or employee of APD includes:

- a. Conduct that could bring disrepute, shame, dishonor or embarrassment to the Department

After reviewing all the evidence in this case to include lapel videos and interviews, there is overwhelming evidence to show Officer S█████ did not violate any Department policies, procedures, or laws. He remained professional during his contact with Ms. Otte and placed her under arrest with probable cause after conducting an investigation on scene. At no time did he touch her inappropriately, nor did he sexually assault or sexually batter Ms. Otte. Officer S█████ also completed a thorough investigation into the incident and obtained witness and victim statements to support his basis for the arrest.

This issue is "UNFOUNDED", where the investigation determines, by clear and convincing evidence, that alleged misconduct did not occur or did not involve the subject officer.



Detective Jim Jury
Internal Affairs Section

CITY OF ALBUQUERQUE



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Dr. William J. Kass *Rev. Dr. David Z. Ring III* *Leonard Waites*
Edward Harness, Executive Director

November 13, 2017
Via Certified Mail

2

Re: CPC #144-17

Dear Ms.

On April 10, 2017 we received a complaint that you e-mailed to our office for an incident that occurred on January 3, 2017.

PO Box 1293

I. THE COMPLAINT

Albuquerque

NM 87103

www.cabq.gov

On January 3, 2017, you were to put your 10 year old son on a plane so he could go back to his Father who resides in Kansas. You did not put your son on the plane because you feared for his safety in Kansas. Your son's father contacted the APD and reported that you had violated the agreed terms of your custody sharing. You took your son to an urgent care facility to be examined for a burn on his wrist which you claimed your son's father had inflicted upon your son. The police were called to the urgent care and met with you and your son. You complained that one of the investigating officers lied in her report because she wrote in the report that you had been crying for over an hour and that statement reflected negatively upon you. You also complained that the officer insinuated in her report that your son had been coached as to what he should say to the police about his wrist injury. You requested that the notes that the officer took during her investigation be placed in the report and that the officers should be reprimanded in some way.

II. THE INVESTIGATION

The CPOA Investigator tried contacting you by phone but only received your voicemail box. The CPOA investigator left you a message to call our office as we needed more information to conduct a thorough investigation. You did not return the call. You did not include an e-mail address or a physical address where you could be contacted and in fact, your complaint which was filed months after the incident, did not even describe why the police had been called out. The above information was obtained through the police report that was written on the matter. Other than the above allegations, you did not state what, if anything, the male officer who

November 13, 2017

Page 2

responded to the call did wrong. Despite the lack of information and the lack of alleged Standard Operating Procedures by the APD officers, the CPOA Investigator conducted a preliminary investigation into your complaint. The police and Computer Assisted Dispatch (CAD) reports were reviewed.

III. CONCLUSION

Police reports often include observations and opinions of the officer. With regards to the allegation that you had not been crying for an hour, the police report stated, "Michelle proceeded to cry but even over an extended period of time (approximately one hour) came no closer to verbalize an action plan on her part for protecting her son." That statement does not say that you cried for over an hour. It says that you cried while you spoke to the officer and that during the time that the officer spent with you, you could not come up with a plan as to how you intended to protect your son. With regards to the allegation that the officer insinuated that your son had been "coached" into telling his story, the officer wrote that when she spoke with your ten year old son he used words like "harsh" and "distracted" which are terms that stood out to the officer as terms that ten year olds do not usually use. It was an observation that was made by the officer and appropriately documented. Notes that officers take during investigations are used so they can later write their reports and they are almost never included in police reports. Ultimately, APD called a Field Investigator to document your child's injuries. An independent CYFD investigator interviewed you and your son. The alleged abuse occurred in Kansas and APD lacks jurisdiction to investigate the alleged abuse any further that it did. Kansas authorities have to conduct the investigation.

Because the preliminary investigation showed that the alleged policy violations were minor and because no further investigation can be conducted due to a lack of information in the complaint, we are Administratively Closing your complaint and no further investigation into the matter will take place. Administratively Closed complaints may be re-opened if additional information becomes available.

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

CITY OF ALBUQUERQUE



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Dr. William J. Kass *Rev. Dr. David Z. Ring III* *Leonard Waites*
Edward Harness, Executive Director

November 13, 2017
Via Certified Mail

Re: CPC #150-17

Dear Mr.

Our office received the complaints you filed on May 19, 2017, May 23, 2017, May 24, 2017, May 30, 2017 and July 11, 2017 against Albuquerque Police Department (APD) Police Service Aide (PSA) C. regarding an incident which occurred on May 17, 2017. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint.

PO Box 1293

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.

Albuquerque

NM 87103

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.

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I. THE COMPLAINT

Mr. [redacted] filed multiple, extensive complaints against APD PSA C. regarding a vehicle accident in which Mr. [redacted] was involved on May 14, 2017 at 5:00 PM. Along with his complaints, Mr. [redacted] included written correspondence with his insurance company and the other driver's insurance company.

In his complaints, Mr. [redacted] essentially stated that he was injured in the May 14, 2017 vehicle accident, which involved a police officer who he claimed "must have been busy texting, or maybe even on drugs or alcohol" when he hit Mr. [redacted]. Mr. [redacted] complained that PSA C. did not obtain blood or alcohol tests or any other information from either driver because he

did not have the authority to issue tickets. He also complained that PSA C. covered for this police officer and both of them lied in the accident report, which in turn caused Mr. _____'s insurance company to find him 65% responsible for the accident and the officer only 35% responsible. The majority of Mr. _____'s complaint involved issues he has had with his insurance company and his efforts to have them cover his claim. (See original complaint for more details.)

II. THE INVESTIGATION

A CPOA Investigator reviewed your complaints and insurance correspondence, and read the police report, relevant APD SOPs, and the CADS report. The evidence showed that you were involved in an accident with a Pueblo of Laguna Police Department Officer and not an APD Police Officer. The accident report showed that an eye witness to the accident told PSA C. that you disregarded the traffic signal and turned in front of the other driver even though your light had turned red. The accident report showed both drivers declined medical attention at the scene. The evidence showed that PSA C. did not violate any APD SOPs. The evidence showed this is a civil matter.

III. CONCLUSION

Based on the aforementioned information, the CPOA has made the decision to **ADMINISTRATIVELY CLOSE** your complaint because no APD SOPs were violated as a result of the incident and that this is a civil matter and the CPOA has no jurisdiction in civil matters.

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

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

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Dr. William J. Kass *Rev. Dr. David Z. Ring III* *Leonard Waites*

Edward Harness, Executive Director

November 13, 2017

Via Certified Mail

Re: CPC #166-17

Dear Mr.

Our office received the complaint you filed on June 1, 2017 against an unknown Albuquerque Police Department (APD) Officer with the last name beginning with "L." regarding an incident which occurred on May 31, 2017. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint.

PO Box 1293

Albuquerque

NM 87103

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.

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

Mr. said he was at St. Martin's shelter when this unknown Officer L. and a second unknown APD officer arrived. He complained the officers were "physically aggressive and abusively speaking and preaching radical Islamic terrorist Isis and Al Quada (sic) related propaganda at a Catholic facility upon the clients and now at the movie crew of the homeless vet." He complained the officers called them "infidels" and said "they needed to be hung or bombed; that Christ was dead and that they were all worthless and that the White James Boyd was deserving of death." He complained the two officers ripped an elderly man's cross necklace off his neck and threw it in the trash.

II. THE INVESTIGATION

A CPOA Investigator reviewed your complaint, which is similar in nature to the complaint you filed on April 14, 2017, against these same unknown officers. As a result of this previous complaint, the investigator learned from the Manager of St. Martins that you are a frequent guest of the shelter and have a history of filing complaints on police officers who respond to calls to the shelter in an effort to get them in trouble.

III. CONCLUSION

Based on the aforementioned information, the CPOA has made the decision to **ADMINISTRATIVELY CLOSE** your complaint because it is duplicative.

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

CITY OF ALBUQUERQUE



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Dr. William J. Kass *Rev. Dr. David Z. Ring III* *Leonard Waites*

Edward Harness, Executive Director

November 13, 2017

Via Certified Mail

Re: CPC #173-17

Dear Mr.

On June 13, 2017 we received your complaint that you called in to our office. Your complaint was taken over the phone by a CPOA Investigator.

PO Box 1293

I. THE COMPLAINT

Albuquerque

NM 87103

www.cabq.gov

You reported that on June 13, 2017 you were at work at the Smith's Grocery Store at Coors and Central. Around 11:00 AM, you went behind the store and met with your friends and you smoked marijuana. Two police officers saw you smoking the marijuana with your friends and they took no enforcement action, but one of the officers did go inside the store and tell your manager that you had been out back smoking marijuana. Your manager sent you home for the rest of the day. You complained that you were tired of being harassed by the officers of the APD and you wanted to file a restraining order. Before the CPOA Investigator could get more information from you, you hung up on the investigator. The investigator tried calling you back but you did not answer your phone and your voicemail box was incapable of taking messages at the time.

II. THE INVESTIGATION

A different CPOA Investigator tried contacting you by phone but only received your voicemail box. The CPOA investigator left you a message to call our office as we needed more information from you to conduct a thorough investigation. You did not return the call. Telling your boss that you were smoking marijuana behind the store while you were working is not a violation of APD Standard Operating Procedures. Even if it were a violation to do so, it would be a minor policy violation at best. It appears that you do not want to pursue this matter any further.

III. CONCLUSION

Because the preliminary investigation showed that the alleged policy violation was minor and because no further investigation can be conducted due to a lack of information in the complaint, we are Administratively Closing your complaint and no further investigation into the matter will take place. Administratively Closed complaints may be re-opened if additional information becomes available.

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