

CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board *Joanne Fine, Chair* *Leonard Waites, Vice Chair*
Johnny J. Armijo *Susanne Brown* *Eric H. Cruz*
Carlotta Garcia *Dr. Lisa M. Orick-Martinez* *Rev. Dr. David Z. Ring III*
Edward Harness, Executive Director

POLICE OVERSIGHT BOARD AGENDA

Thursday, February 9, 2017 – 5:00 PM

Vincent E. Griego Chambers

- I. Welcome and call to order.**
- II. Pledge of Allegiance – *Eric Cruz***
- 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. City/POB Relations**
 - b. Status update from APD on CIRT cases**
 - c. Officer Data relating to EIS**
 - d. Presentation to City Council**
- VIII. Consent Agenda Cases:**
 - a. Administratively Closed Cases**

012-16	044-16	151-16	187-16
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 - b. Cases investigated**

098-16	142-16	174-16
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 - c. CIRT Cases - None**
- IX. OIS – Andy Snider I-001-15**
- X. POB’s Review of Garrity Materials**
- XI. Reports from Subcommittees**
 - a. Community Outreach Subcommittee – *Dr. Ring***
 - b. Policy and Procedure Review Subcommittee – *Susanne Brown***
 - 1. Recommended changes of ordinance language**
 - c. Case review Subcommittee – *Joanne Fine***
- XII. Reports from City Staff**
 - a. APD**
 - b. City Council**

- c. Mayor's Office
- d. City Attorney
- e. CPOA – *Edward Harness, Executive Director*

XIII. 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)

XIV. Other Business

- a. Board Elections
- b. Commendation for Lt. S. arising out of OIS I-37-15

XV. Adjournment- *Next Regularly scheduled POB meeting will be on March 9, 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



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February 10, 2017

Via certified mail

Re: Citizen Police Complaint 012-16

Dear Ms.

On January 11, 2016 you filed a complaint via e-mail with our agency. On January 16, 2016, your complaint was assigned to a Civilian Police Oversight Investigator for review.

I. THE COMPLAINT

PO Box 1293

Albuquerque

New Mexico 87103

On October 29, 2015 your boyfriend, _____, was involved in a single vehicle motorcycle accident. You saw the accident and you spoke with the police officers who investigated the accident. You alleged that one of the police officers did not accurately report what you told him. You wrote in your complaint that the officer wrote in his report that you stated that you and your boyfriend were at a party and that drinking had occurred. You stated that was inaccurate as there was in fact, no party, and the crash happened down the street from a friend's house where you had been. You wanted the police report changed to reflect the fact that there was no party and no drinking had taken place.

www.cabq.gov

II. THE INVESTIGATION

The CPOA Investigator conducted a preliminary investigation examining the facts of the case. The investigation revealed that Mr. _____, by his own admission, stated that prior to the accident, he had consumed a shot of vodka and two beers. He stated that after arguing with you, he got on his motorcycle and left the area. He crashed shortly after leaving the house where you had been. Mr. _____ had a handgun with him at the scene which was located on the side of the road near where the motorcycle went down. There was also a broken top of a Smirnoff bottle near the motorcycle. The officer smelled a strong odor of an alcoholic beverage coming from Mr. _____. At the hospital, Mr. _____ admitted to consuming alcohol prior to the crash. He consented to having his blood drawn so it could be tested. On December 15, 2015, the blood test results came back showing that Mr. _____ was impaired at the time that he crashed his motorcycle. The officer followed up by filing criminal charges of DWI, Negligent Use of a Deadly Weapon, and Careless Driving. Shortly after the summons was received by Mr. _____ you filed your complaint requesting that the police

report be changed. Court records showed that on August 9, 2016, Mr. Saunders, as a result of a plea agreement, entered a guilty plea to Careless Driving and the DWI and Negligent Use of a Deadly Weapon was dismissed.

III. CONCLUSION

Original Police Reports by law and by Standard Operating Procedure cannot be changed. The remedy in this case would have been for you to file a supplemental accident report stating what you believed was incorrectly reported. In any case, what you told the investigating officers was not used in the prosecution of Mr. . The police officers in this case had substantial probable cause, based on the evidence, to charge Mr. absent of what you may or may not have told them. The investigation conducted by the CPOA Investigator showed that the officers acted properly within the scope of their duties. The police reports in the case show that the incident was reported fairly and accurately. The alleged policy violation of improper reporting is minor in nature. Because of that and because of what the investigation revealed, we are administratively closing your complaint and no further investigation will occur. Administratively closed complaints may be re-opened if additional information becomes available.

If you have a computer available, we would greatly appreciate you completing our client survey form at <http://www.cabq.gov/cpoa/survey> .

Please contact me if you have any questions or concerns.

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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February 10, 2017

Via email

Re: Citizen Police Complaint 044-16

Dear Mr. Meeks:

On March 16, 2016 you filed a complaint via e-mail with our agency. That complaint was followed by a similar complaint filed by e-mail on March 27, 2016 at 9:27 AM. You then filed a third complaint via e-mail on that same day at 6:54 PM. Because of the similarities in the complaints and the frequency in which you filed them, the complaints were all assigned case number 044-16. Your complaints were assigned to a Civilian Police Oversight Investigator for review.

PO Box 1293

I. THE COMPLAINTS

Albuquerque

New Mexico 87103

In your March 16, 2016 complaint, you stated that on March 15, 2016 at about 3:40 PM, you were on the sidewalk at the off ramp of I-40 and Wyoming and that you were exercising your right to free speech by displaying a sign that warned the public about the dangerous and harmful effects that growing up in a Jehovah's Witness Cult can have. You claim that you were forced to leave the area by an officer driving police car M102. You provided no details of the interaction, nor did you state how the officer forced you to leave the area.

www.cabq.gov

In your March 27, 2016 early morning complaint referenced above, you wrote that you were at the I-25 and Montgomery intersection and that while you were there, you witnessed a woman throw a syringe from a car. Believing that to be a crime and a hazardous situation, you flagged down a police officer driving car T100. You complained that the officer did not handle the discarded syringe but instead threatened to give you a citation and he made you leave the area. You alleged that the officer was rude and unprofessional. You reported that the Albuquerque Fire Department later responded to the area and picked up the discarded syringe.

In your March 27, 2016 evening complaint referenced above, you wrote that at about 11:35 AM on that day, so prior to the syringe incident, you were the off ramp at I-40 and Eubank and you were once again providing a public service by displaying your sign that warned people about the Jehovah Witness Cult. You wrote that an officer driving car R-17, confiscated the sign you were holding and he forced you to leave the area. You stated that what you were doing was no different than what merchants do when they stand out on a sidewalk and solicit business. You believed that your rights had been violated. You stated that the ACLU and a private attorney were handling your complaints against APD.

In all three of your complaints you alleged that APD is conspiring and assisting the Jehovah's Witnesses to unlawfully keep you from exercising your rights.

II. THE INVESTIGATION

The CPOA Investigator contacted you via e-mail and you and the CPOA had an extensive exchange of e-mails. The CPOA Investigator asked you to come in for an interview but you refused to do that and you did not provide further information in your e-mails that would have assisted the investigator in his investigation into your complaints.

With regards to your March 16, 2016 complaint, there are no APD records showing that the officer who drives car number M102, was at that intersection on the date and time you described in your complaint. That officer is a Sergeant in the Valley Area Command. That Area Command does not encompass the I-40 and Wyoming intersection. The records showed that the Sergeant was on duty on that day. The CPOA Investigator interviewed the Sergeant. The Sergeant had no recollection of contacting you or driving through that intersection. There was no lapel video recording from the Sergeant on that date and during that time frame. Without more information from you, the investigation cannot proceed any further.

With regards to your March 27, 2016 morning complaint about the discarded syringe and the officer refusing to collect the syringe, there is no violation of Standard Operating Procedure. Police Officers are not issued the proper equipment to collect and dispose of such items. Because used syringes are a health hazard, the Albuquerque Fire Department (AFD) is normally tasked with picking up and properly disposing of such items. You indicated in your complaint that the AFD did eventually respond and pick up the syringe. You failed to include details in your complaint that would have helped the CPOA Investigator determine how the officer threatened you or why the officer made you leave the area. The CPOA Investigator asked for further details from you regarding this allegation but you refused to provide any further details. Any further investigation into this allegation cannot be conducted because of the lack of specific information about what the officer did and your lack of cooperation.

With regards to your March 27, 2016 evening complaint wherein the officer driving car R-17 confiscating your sign and telling you to leave the area, the investigation showed that you were panhandling and your sign was taken as evidence. You refused to provide any further details to the CPOA Investigator but the Investigator did interview the officer assigned to that vehicle. The officer stated that he was specifically assigned to monitor and take enforcement action if necessary against anyone who was panhandling at the freeway intersections. The officer observed you at the stated intersection and you were panhandling. The investigation showed that while your sign did contain a warning about the Jehovah's Witnesses, it also contained a line that read: "Need a little help."

Panhandling is prohibited by law in Albuquerque. It is defined by City Ordinance. It reads:

Any solicitation, soliciting of alms, begging and any other form of asking for donations made in person upon any public place or on private property in the city, in which a person requests an immediate donation of money or other gratuity from another person.

The solicitation on the sign made what you were doing illegal. The officer in this case took the least amount of enforcement action necessary to prevent the illegal activity from occurring further. The sign was taken as evidence and placed in evidence in the event that the officer witnessed you panhandling after the warning was given. The officer wrote a report documenting his actions. In step with the city ordinance, the officer gave you a warning and a second offense would have resulted in a citation. Because the officer never charged you with a crime, you can pick up your sign from APD Evidence located at 5408 2nd Street NW, Albuquerque, NM. Further details from you are necessary to move forward with any further investigation into this matter.


III. CONCLUSION

All of you alleged policy violations by the officers on each call are minor in nature. Your failure to cooperate further in the investigation by not participating in the investigative process hampered the investigation into your allegations. The CPOA Investigator was unable to determine based on the evidence if the first incident even occurred. There was no policy violation in the second incident, and the investigation showed that the officer in the third incident followed proper procedure. At this time we are administratively closing your complaints and no further investigation will occur. Administratively closed complaints may be re-opened if additional information becomes available.

If you have a computer available, we would greatly appreciate you completing our client survey form at <http://www.cabq.gov/cpoa/survey>.

Please contact me if you have any questions or concerns.

Sincerely,
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department Chief of Police

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February 10, 2017

Via Certified Mail

Re: CPC #098-16

Dear Ms. _____

Our office received the complaint you filed on June 10, 2016 against Officers of the Albuquerque Police Department (APD), regarding an incident that occurred on April 13, 2016. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint on July 7, 2016. The CPOA thoroughly and impartially investigated the complaint.

PO Box 1293

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.

New Mexico 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.

www.cabq.gov

I. THE COMPLAINT AND INVESTIGATION

Ms. _____ drove to a gas station after she claimed someone she knew battered her. Ms. _____

asked that police be called and believed she had encounters with undercover officers before uniformed officers arrived. Ms. _____ stated she explained in detail what happened to her, but the officers did not arrest the offender. One of the officers in particular was very aggressive and did not listen to her. The report she later received had inaccuracies.

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 police report, the Computer Aided Dispatches (CAD), Ms. _____'s interview, Officer W's interview, Officer M's interview, and lapel videos from Officer W and Officer M.

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

A) The CPOA reviewed Standard Operating Procedural Order 2-24-3A5a, b, e, and f regarding Officer W's conduct, which states:

Steps to be followed in conducting preliminary investigations that may include but are not limited to: a. observe all conditions, events, and remarks b. locate, identify, and interview witnesses, victims, and suspect(s) e. effect the arrest of the suspect. f. report the incident fully and accurately.

Ms. stated she told some undercover officers what happened to her and they seemed to know who the offender was when she mentioned his first name. She said when the officers arrived they spoke to another person that she suspected was an undercover officer. Ms. claimed she explained in detail what happened and had injuries as evidence. Ms. was upset that the person she accused was not arrested for the attack and injuries against her. Ms. stated she consistently told what her injuries were and how they were caused. Ms. admitted her only misstatement or lie was originally omitting the sex act she performed in exchange for the drugs; she was afraid the admission would put her in jail. Ms. was upset when she saw the police report, particularly the statement that no crime had been committed. She disagreed with the report that claimed she did not know where the offender hit her. Ms. stated the statement that there were multiple people present was inaccurate as she told the officers there were no others aside from her and the offender. The statement that there was no hair in her car was false; she knew there was a clump of hair in her console. Ms. stated the report did not include other facts she told the officers such as, the offender pulled her shirt off and was going to send her outside that way, she feared her breast would be injured, and that the offender pulled her up from the ground by her hair.

There were no undercover officers involved in this situation and the officers only spoke to an employee at the gas station when they arrived before they contacted Ms. . Arrests or summons must be based on a standard of probable cause. Probable cause is a level of reasonable belief, based on facts that can be articulated. Before a person can be arrested and prosecuted, the police and prosecutor must possess enough facts that would lead a reasonable person to believe that the claim or charge is true. The lapel videos showed Ms. was consistent on her overall allegation, but the details about the incident varied. The lapel videos showed she often changed the nature of her relationship with the offender as she recounted her story, from boyfriend to just drug dealer. The lapel videos showed Ms. focused more on the drug activity at times and glossed over the battery. Her explanations of how and where the injuries occurred did not match some of the available evidence. Some examples were that she claimed she was struck squarely in the face and eye, but was crawling around on her stomach at the time, she said she was burned on back, but her shirt covered her with no burn marks, and she said her clothing was torn, but there were no rips. The possibility the injuries were old or some she admitted were self-inflicted caused the officers to doubt some of her version. Then her statements did not provide enough evidence

to contradict the alleged offender's explanations and the condition of his home, which also factored into the decision. She was unfocused as she was under the influence of crack while talking to the officers. The final deciding factor in not issuing a summons or arrest was that Ms. told Officer M on the phone she lied at least about parts of what she said. The lapel videos showed Ms. was difficult to follow at times and one of the items she criticized as an inaccuracy, that multiple people were present, she had implied during one of her answers to the questions. The lapel videos showed she did not mention in any detail the facts she claimed were left out of the report. The officers conducted a preliminary investigation by observing the facts, talking to the relevant parties, and made a determination, which was supported by the supervisor.

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

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

A) The CPOA reviewed Standard Operating General Order 1-04-1F regarding Officer M's conduct, which states:

Personnel shall conduct themselves both on and off-duty in such a manner as to reflect most favorably on the department.

Ms. complained Officer M showed no concern and put words in her mouth about what happened. He was "in her face" and demanded that she repeat everything "like a story." Officer M confused her with his gestures and made her "jumpy." She was so alarmed by him she asked his name specifically. When the FI took the photos at the hospital, she partially exposed her backside, which caused Officer M to be rude and indicate he did not need to see that. Officer M asked her if she wished to press charges. She was indecisive due to her fear of retaliation from the alleged offender. The officers said they would ask her again at the hospital, but the officers never returned to ask if she wanted to press charges. She called Officer M later on the phone and asked him about the outcome. Officer M told her he did not want to go to the offender's house to get evidence or go to court for a misdemeanor because it would be a waste of time.

The lapel videos showed Officer M did not get in Ms. 's face or make any confusing gestures. She did not express complaint about Officer M or demand his name. Only at the hospital did she indicate she preferred talking to Officer W. Ms. admitted she found Officer M's questioning irritating. The lapel videos showed Officer M asked Ms. a couple of times to relate what happened, "like a story" because she jumped around in her narrative and was difficult to follow. The lapel videos showed the officers were concerned for Ms. and specifically took steps to avoid towing her car so she would not incur an extra expense. The lapel videos showed when the FI took pictures of her the officers stepped out of the room so no rude remarks were made. Both officers asked her more than once at the scene and the hospital if she wanted to press charges, before the officers spoke to the other party. The lapel videos showed Ms. s behavior vacillated from emotionally

excited to calm. Both officers tried to keep her calm and expressed understanding for her several times. The phone call to Officer M was recorded, but her side was difficult to hear since the call was not on speakerphone. Ms. _____ said something about lying and Officer M asked how he was to know what the truth was. Ms. _____ said something about collecting her DNA from the crack pipe in the offender's home, but Officer M explained he had no warrant to enter his house. He pointed out that he would not be able to get a warrant for a misdemeanor situation. He also pointed out there was not much that could be done due to her inconsistencies and wavering intention to file charges. Ms. _____ hung up on Officer M. The lapel videos showed Officer M never told her he did not want to go to the offender's house to get evidence or go to court for a misdemeanor because it would be a waste of time.

The CPOA finds Officer M'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 Procedural Order 2-24-3A5a, b, and e regarding Officer M's conduct, which states:

Steps to be followed in conducting preliminary investigations that may include but are not limited to: a. observe all conditions, events, and remarks b. locate, identify, and interview witnesses, victims, and suspect(s) e. effect the arrest of the suspect.

Ms. _____ stated she told some undercover officers what happened to her and they seemed to know who the offender was. She said when the officers arrived they spoke to another person that she suspected was an undercover officer. Ms. _____ claimed she explained in detail what happened and had injuries as evidence. Ms. _____ was upset that the person she accused was not arrested for the attack and injuries against her. Ms. _____ stated she consistently told what her injuries were and how they were caused. Ms. Farrell admitted her only misstatement or lie was originally omitting the sex act she performed in exchange for the drugs; she was afraid the admission would put her in jail.

There were no undercover officers involved in this situation and the officers only spoke to an employee at the gas station when they arrived before they contacted Ms. _____. Arrests or summons must be based on a standard of probable cause. Probable cause is a level of reasonable belief, based on facts that can be articulated. Before a person can be arrested and prosecuted, the police and prosecutor must possess enough facts that would lead a reasonable person to believe that the claim or charge is true. The lapel videos showed Ms. _____ was consistent on her overall allegation, but the details about the incident varied. The lapel videos showed she often changed the nature of her relationship with the offender as she recounted her story, from boyfriend to just drug dealer. The lapel videos showed Ms. _____ focused more on the drug activity at times and glossed over the battery. Her explanations of how and where the injuries occurred did not match some of the available evidence. Some examples were that she claimed she was struck squarely in the face and eye, but was crawling around on her stomach at the time, she said she was burned on back, but her shirt covered her with no burn marks, and she said her clothing was torn, but there were no rips.

The possibility the injuries were old or some she admitted were self-inflicted caused the officers to doubt some of her version. Then her statements did not provide enough evidence to contradict the alleged offender's explanations and the condition of his home, which also factored into the decision. She was unfocused as she was under the influence of crack while talking to the officers. The final deciding factor in not issuing a summons or arrest was that Ms. told Officer M on the phone she lied at least about parts of what she said. The officers conducted a preliminary investigation by observing the facts, talking to the relevant parties, and made a determination, which was supported by the supervisor.

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

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 Ms CPC 098-16
February 10, 2017
Page 6

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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Leonard Waites, Vice Chair

Eric H. Cruz

Rev. Dr. David Z. Ring III

February 10, 2017

Via Certified Mail

Re: CPC #142-16

Dear Ms.

Our office received the complaint you filed against Albuquerque Police Department (APD) Detective S. on May 23, 2016, regarding incidents that occurred in May, 2009, January, 2012 and April, 2016. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint on August 11, 2016. The CPOA made findings of whether the Albuquerque Police Department (APD) Officer involved violated Standard Operating Procedures (SOPs) based on a preponderance of the evidence. A preponderance of the evidence means that one side has a greater weight of evidence that is more credible and convincing than the other side. Another way of saying it is more than 50% of the credible evidence. If the credible evidence is 50-50, the proper finding is Not Sustained.

PO Box 1293

Albuquerque

New Mexico 87103

Please be aware, the contract between the Albuquerque Police Officer's 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.

www.cabq.gov

I. THE COMPLAINT

Ms. [redacted] complained that on May 7, 2009 Detective S. contacted her father on his cell phone and Detective S. yelled at her father and demanded to speak with Ms. [redacted]. She alleged that Detective S. was rude with her father. On that same date, [redacted] spoke with Detective S.. Detective S. was allegedly rude with Ms. [redacted]; and he allegedly used profanity when speaking with her over the phone. On May 15, 2009, Detective S. arrested Ms. [redacted] at her place of employment. Ms. [redacted] alleged that Detective S. was rude and condescending during the booking process. She alleged while she was being booked, Detective S. called the alleged victim of the incident and told the victim, "Yeah, I got her. Let's go celebrate and have drinks at Stoneface bar." Ms. [redacted] wrote that she was charged with 1,469 counts of telephone harassment and that the charges were eventually dismissed.

On January 5, 2012, Detective S. allegedly called Ms. [redacted]'s father again and acted in a similarly rude manner. On that same date, Ms. [redacted] contacted Detective S. over the phone.

Allegedly, Detective S. yelled at her and told her to leave a different female alone or “else I’m going to find you and sock it to you again.”

Ms. further alleged that in April of 2016, Detective S. contacted an Attorney from a law firm who was handling a Civil Restraining Order against Ms. Ms. wrote in her complaint that Detective S. had no business in that case. Allegedly, Detective S. told that Attorney that he had previously worked on a case against Ms. ; and he anticipated filing charges on her in the future.

Ms. alleged that the above listed incidents prove that Detective S. has gone out of his way to harass her and cause her emotional distress. She requested that Detective S. leave her alone.

II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING DETECTIVE S.’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, police reports, and recorded interviews with Ms. and Detective S.. Mr. , Ms. ’s father was not interviewed. When given the opportunity to be interviewed, he declined stating that he would come in with his daughter when she came in for her interview. Mr. did not accompany his daughter to her interview.

A) The CPOA reviewed Standard Operating Procedure 1-1-4 B (7) regarding APD Detective S.’s conduct, which states:

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

Ms. : complained that on May 7, 2009 Detective S. acted unprofessionally when he spoke with her father and Ms. over the phone. On May 15, 2009, Detective S. arrested Ms. : at her place of employment. Ms. alleged that on that date that Detective S. was rude and condescending during the booking process.

Ms. complained that on January 5, 2012, Detective S. allegedly called her father again and acted in a similarly rude manner. On that same date, Ms. contacted Detective S. over the phone. Allegedly, Detective S. acted unprofessionally during that phone call as well.

Ms. further complained that in April of 2016, Detective S. went out of his way to contact an Attorney from a law firm who was handling a Civil Restraining Order against Ms. Ms. wrote in her complaint that Detective S. had no business in that case. Allegedly, Detective S. told that Attorney that he had previously worked on a case against Ms. ; and he anticipated filing charges on her in the future.

Ms. _____ alleged that the above listed incidents prove that Detective S. has gone out of his way to harass her and cause her emotional distress.

There is no available evidence to prove that Detective S. acted unprofessionally in 2009 and 2012. With regards to phone calls made to Ms. _____ and her father in 2009, none of those calls were recorded by either party. Any video, if it ever existed, from the Prisoner Transport Center (PTC) that may have captured Detective S.'s conduct while booking Ms. _____ has long been destroyed as the PTC only keeps video for 60 days and then it is deleted from the system. Any evidence that could have proved the bad conduct is gone and there is no way to make a determination as to whether or not Detective S. acted unprofessionally in 2009.

With regards to the telephone contact with Ms. _____ and her father in 2012, again, there is no independent evidence available to prove that Detective S. acted unprofessionally over the phone.

With regards to the 2016 case, the evidence proved that Detective S. was working an active case against Ms. _____ wherein she stalked her ex-boyfriend, burglarized his truck, and then vandalized it. Ms. _____ pleaded guilty after being confronted with the video evidence. Detective S. is the only Detective in the Stalking Unit. He was assigned to investigate the criminal case against Ms. _____ by his supervisor. Detective S. had to contact the Attorney who was handling the civil restraining order against Ms. _____ to get copies of all the video evidence that the victims had collected and turned over to the Attorney. The evidence showed that Detective S. had worked a case previously on Ms. _____ where she harassed another woman over the telephone in 2009. Detective S., when he contacted the Attorney's office in the civil case to get the evidence, certainly was contemplating filing charges against Ms. _____. The video evidence in that case showed Ms. _____ burglarizing her ex's vehicle, damaging the tires, and another video showed Ms. _____ throwing a rock through her ex's sister's window. The evidence showed that Ms. _____ has been stalking or harassing or intimidating her ex and her ex's family for many years. Detective S. just happens to be the Detective that gets assigned to investigate the cases where Ms. _____ is suspected of committing crimes against that family. In the 2009 case, though eventually dismissed, a Judge found probable cause to believe that Ms. _____ had violated the law. Detective S. denied ever contacting Ms. _____ or her father in 2012. If he did contact them, he certainly didn't remember doing so and he believed that Ms. _____ is lying about those phone calls being made. Ms. _____ pleaded guilty to criminal charges in the 2016 case. The 2009 case and the 2016 case, seven years apart were legitimate law enforcement contacts and two criminal cases filed over a 7 year period do not constitute harassment. The investigation revealed that Detective S. was doing his job. The evidence in the case lends more credibility to Detective S. as the evidence showed that Ms. _____ had engaged in criminal activity in 2009 and 2016. Ms. _____ had motivation to file this complaint when she did in an effort to thwart criminal charges being filed against her. Furthermore, her lack of cooperation, for example her many cancelled scheduled interviews, hindered the investigation in this case. She only came in to be interviewed in the case after she was arrested for violating her probation. She expressed her desire to file another complaint against Detective S. at that time even though she only had scant evidence that he had anything to do with her probation officer ordering her arrest.

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

Your complaint and these findings are made part of Detective S.'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

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board

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Joanne Fine, Chair

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Dr. Lisa M. Orick-Martinez

Leonard Waites, Vice Chair

Eric H. Cruz

Rev. Dr. David Z. Ring III

February 10, 2017

Via certified mail

Re: Citizen Police Complaint 151-16

Dear Mr.

On September 14, 2016 you complained to an APD Communications Supervisor over the phone about an incident wherein your car had been taken by a female companion. You were contacted by someone from APD and told to pick up the car but you had no way to do that. The Communications Supervisor filed a complaint on your behalf. Your complaint was assigned to a Civilian Police Oversight Investigator for review.

PO Box 1293

I. THE COMPLAINT

Albuquerque

You complained that your car had been taken without your permission and you reported it to the police. An officer located your vehicle and told you to come pick it up. You are disabled and have no way of picking up the vehicle yourself. You also complained the vehicle was out of gas. You complained that the officer who located your car should have told the female who took the car to bring it back. You complained that you felt that the officer did not do what he was supposed to do.

New Mexico 87103

www.cabq.gov

II. THE INVESTIGATION

The CPOA Investigator contacted you over the phone. You yelled at the Investigator and you provided very little helpful information. You stated that the officer who contacted you was really rude. When the CPOA Investigator asked you how the officer was rude or what the officer said in particular that was rude, you could not provide a specific example and said all the officers that you deal with are rude.

The CPOA Investigator conducted a preliminary investigation into the matter and was able to determine that on September 13, 2016, you called the APD to report that a woman took your car without your permission and was refusing to return it to your house. You told the APD where your car was and you told them that you were unable to drive. You also said that you are African American, that you do not trust the police, and that black lives matter. When you

Letter to Mr. [REDACTED]
February 10, 2017
Page 2

called the APD the dispatcher offered numerous times to send out officer to your home to take a report but you refused to file a report or to talk to the officers.

The records obtained by the CPOA Investigator showed that even though you did not want to report the car stolen an APD Officer did go to where your car was located and he spoke with the female who took the car. The female said that she was your ex-girlfriend and that she had been in contact with you. She told you where the car was and that it had no gas in it. The officer called you on your cell phone but you did not answer it. The officer left you a voicemail that you needed to make arrangements with your ex-girlfriend to get the car back to your house. The officer called you multiple times but you did not answer his calls.

The investigation revealed that your ex-girlfriend took the key to your car when you were asleep and then took the car without your permission. You declined to report the car as stolen. This is a civil matter which APD lacks jurisdiction to do anything about. The investigation revealed that you never spoke directly with the officer so there is no way that the officer could have been rude with you.

III. CONCLUSION

The alleged policy violation by the officer who handled the initial call for service was minor in nature. The investigation revealed that the alleged conduct by the officer never occurred. At this time we are administratively closing your complaint and no further investigation will occur.

If you have a computer available, we would greatly appreciate you completing our client survey form at <http://www.cabq.gov/cpoa/survey>.

Please contact me if you have any questions or concerns.

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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Eric H. Cruz

Rev. Dr. David Z. Ring III

February 10, 2017

Via Certified Mail

7

Re: CPC #174-16

Dear Mr

Our office received the complaint you filed on September 20, 2016 against Officers of the Albuquerque Police Department (APD), regarding an incident that occurred on August 27, 2016. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint on November 1, 2016. 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

New Mexico 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.

www.cabq.gov

I. THE COMPLAINT AND INVESTIGATION

Mr. [redacted] drove passengers in his role as an Uber driver. Officer M pulled Mr. [redacted] over for a speeding infraction. As part of the interaction, Officer M had questions about Mr. [redacted] sobriety. Mr. [redacted] was upset he was subjected to what he deemed were unnecessary sobriety tests. Mr. [redacted] complained he was pat searched and Officer M searched his vehicle without permission.

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 police report, the Computer Aided Dispatch (CAD), Officer M's interview, and Officer M's lapel video. Mr. Gallegos did not participate in the investigative process to be interviewed.

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

A) The CPOA reviewed Standard Operating Administrative Order 3-13-3B3b regarding Officer M's conduct, which states:

Officers shall abide by the following principles: b. make only those arrests, searches, and seizures which they know or should know are lawful and do so in accordance with related departmental procedures.

Mr. _____ did not participate in the investigative process so the investigation could only be based on his written complaint. Mr. _____ wrote he was detained for a DWI investigation for no reason. Mr. _____ wrote he asked for a breath test to be performed to demonstrate he had not consumed alcohol, but Officer M refused until after Officer M wasted his time in having him perform other assessments. Officer M pat searched him and searched his car without permission. Mr. _____, complained he had to pay fines because he missed court when he should not have had to go to court in the first place.

The lapel video showed Officer M advised Mr. _____ he stopped Mr. _____ for speeding. Mr. _____ did not have all his current documentation, but Officer M did not issue citations for those issues. The lapel video showed Officer M attempted to assess Mr. _____' eyes for possible intoxication since Officer M smelled the odor of alcohol emanating from the vehicle, but Mr. _____ did not follow the instructions. Officer M asked Mr. _____ to exit the vehicle. The lapel video showed Mr. _____ exited with his hands in his pockets and Officer M checked if Mr. _____ had weapons as APD SOP 2-71-2C allows to conduct a brief interview without the threat of violence. Officer M was alone with Mr. _____ and other passengers; the lapel video showed Officer M's check for weapons was very cursory. The lapel video showed Officer M again tried to assess Mr. _____ by looking at his eyes, but Mr. _____ did not follow the instructions. The lapel video showed Officer M asked Mr. _____ if he had medical conditions that would interfere with his ability to perform balancing tests. The lapel video showed Mr. _____ initially said no, but when Officer M explained the tests, Mr. _____ said he would have difficulty performing those tests due to his knees. The lapel video showed Officer M had Mr. _____ perform some alternate tests, but Mr. _____ did not perform some of the tasks as instructed. The lapel video showed Officer M informed Mr. _____ he thought Mr. _____ was under the influence, which Mr. _____ denied. APD SOP 2-24-2B1a states that officers should, in every case, have probable cause to believe the driver is driving while intoxicated, before utilizing the PBT. Contrary to Mr. _____' desire to blow to save time, Officer M could not have had Mr. _____ blow into a breath-testing device before other assessments. The lapel video showed Officer M informed Mr. _____ he needed his keys, to which Mr. _____ responded, "Fine." Officer M retrieved the keys from the ignition and asked the passengers if Mr. _____ was an Uber driver as Mr. _____ claimed. The lapel video showed Officer M did not conduct a search of Mr. _____'s vehicle. The lapel video showed Officer M told Mr. _____ he was not going to argue with him when Mr. _____ accused him of entering his vehicle without permission. The lapel video showed Mr. _____ complained thirty minutes of his time had been wasted, but at that time, the stop had only been thirteen minutes. The total stop length was about nineteen and a half minutes. The lapel video showed Officer

M explained the citation process with court to Mr. _____. Mr. _____ would have had to go to court for the speeding citation, which resulted in the disposition being deferred. The extra fees Mr. _____ complained about were a result of Mr. _____' initial failure to appear in court.

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

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>.

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cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



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Rev. Dr. David Z. Ring III

Edward Harness, Executive Director

February 10, 2017

Via Certified Mail

Re: CPC #187-16

Dear Ms.

Our office received the complaint you filed on May 25, 2016 against the Albuquerque Police Department regarding an incident that occurred on May 18, 2016. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint on December 7, 2016.

PO Box 1293

I. THE COMPLAINT

Ms. _____ called police because she suspected her daughter was the victim of sexual abuse perpetrated by her daughter's father. Ms. _____ wrote in her complaint the responding officer, Officer S, was "working for" her daughter's father. Ms. _____ then said Detective R interrogated her for hours before they were taken to the hospital. She alleged he entrapped her to violate her 4th Amendment rights by turning his recorder on and off. Ms. _____ claimed Detective R and the CYFD caseworker questioned her for several hours at the hospital. Ms. _____ wrote Detective R threatened her with incarceration if she did not comply with his warrantless search and seizure of her and her daughter. She wrote that she wanted documents that she signed in violation of her 4th Amendment rights to be ripped up. She believed she was signing her daughter over to her daughter's father for the night, not realizing she was actually giving custody of her daughter to the State. She complained CYFD did not contact other family members instead for placement. She alleged her daughter's items were missing from the home.

Albuquerque

New Mexico 87103

www.cabq.gov

II. INVESTIGATION

Ms. _____ withdrew the complaint on December 12, 2016. Prior to administratively closing the complaint at her desire, the lapel videos were reviewed to confirm there were no violations of policy.

The CADs, the police report, and lapel videos were reviewed. After reviewing the lapel videos, it was clear Detective R did not interrogate her for hours. Detective R was at her

home for about an hour and a half talking to Ms. _____ trying to get some understanding as to why police were called. Ms. _____ alleged her daughter was the victim of sexual abuse, but only because her daughter expressed pain in her vaginal area. Ms. _____ was convinced her daughter did not have an infection based on her internet research and that her daughter has her same conditions. Ms. _____'s assessment of the situation varied as she discussed things with the detective. Detective R spoke to Ms. _____ for so long because Ms. _____ brought up several different things, Detective R was trying to keep her from going off on tangents, and Detective R was trying to identify why police were called that day. Detective R did not threaten Ms. _____ with incarceration if she did not go with him to the hospital. Detective R stated the needs of the child came first and her daughter needed a medical assessment. Neither Detective R nor Officer S took anything from Ms. _____'s home. Ms. _____ herself took several property items with her to the hospital. The lapel videos showed Detective R did not question her for hours at the hospital, but asked some questions as part of his investigation. They were there for a while for medical assessments. The police report stated the child's father took custody of his daughter, not the State.

III. CONCLUSION

The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** the complaint as the complainant wished to withdraw the complaint and the lapel videos did not identify any SOP violations after a preliminary investigation.

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.

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