

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board *Beth Mohr, Chair*

Leonard Waites, Vice Chair *Dr. Jeannette Baca*

Eric H. Cruz *Joanne Fine* *Dr. Moira Amado-McCoy*

Jeffrey Scott Wilson

Edward Harness, Executive Director

Susanne Brown
Rev. Dr. David Martinez III

POLICE OVERSIGHT BOARD AGENDA

Thursday, March 10, 2016 – 5:00 PM

Vincent E. Griego Chambers

- I. Welcome and call to order.
- II. Pledge of Allegiance- Scott Wilson
- III. Approval of the Agenda
- IV. Public Comments
- V. Monitoring Team Remarks
- VI. Review and Approval of Minutes
- VII. Officer-Involved Shooting Case: I-48-15
- VIII. Consent Agenda Cases:

PO Box 1293	119-13	129-13	132-13	035-14	058-14
	060-14	061-14	063-14	069-14	103-14
	129-14	043-15	044-15	045-15	046-15
Albuquerque	047-15	051-15	053-15	056-15	058-15
	060-15	063-15	065-15	067-15	068-15
	071-15	072-15	073-15	074-15	076-15
	079-15	080-15	081-15	085-15	090-15
New Mexico 87103	092-15	095-15	097-15	098-15	100-15
	105-15	112-15	113-15	114-15	116-15
	117-15	118-15	124-15	125-15	129-15
	138-15	140-15	141-15	185-15	186-15
www.cabq.gov	191-15	196-15	201-15	203-15	205-15
	222-15				
- IX. Case to be heard by the POB: 217-15
- X. Publication of Redacted findings letters on the CPOA Website
- XI. Reports from Sub-Committees
 - a. Outreach Sub-committee – *Dr. Jeannette Baca*
 - i. POB Mission statement
 - b. Policy and Procedure Review Sub-Committee – *Susanne Brown*
 - c. Case review Sub-committee – *J. Scott Wilson*

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: Closed session to discuss matters subject to the attorney-client privilege pertaining to threatened or pending litigation in which the CPOA is or may become a participant- Board Attorney Mark Baker.

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).

XIV. Discussion of CPOA & IA work-flow chart

XV. Other Business

XVI. Adjournment- *Next Regularly scheduled POB meeting will be on April 14, 2016 at 5 p.m. in the Vincent E. Griego Chambers.*

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

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Jeffrey Scott Wilson
Edward Harness, Esq., Executive Director

March 11, 2016
Via Certified Mail

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Re: CPC #119-13, Complaint filed by Ms. [REDACTED]

Dear Ms. [REDACTED]

Our office received the complaint filed by [REDACTED] on June 11, 2013 against Officer E. of the Albuquerque Police Department (APD) regarding an incident that occurred on June 11, 2013. 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

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

Ms. [REDACTED] complained that Officer E. filed a false police report and that there was no evidence to support the assertion that she was making harassing phone calls. Officer E.'s police report indicated that he was dispatched on the day of the complaint, June 11, 2013, regarding a disturbance between Ms. [REDACTED] and [REDACTED]

Officer E. was familiar with the ongoing disturbance between the two people because Officer E. had dealt with a similar incident on May 4, 2013 in which Ms. [REDACTED] admitted to repeatedly calling Ms. [REDACTED] concerning bail for a man, [REDACTED], who was Ms.

Letter to Ms. ██████████

March 11, 2016

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██████████'s ex-boyfriend and Ms. ██████████'s current boyfriend. The issue pertained to bail that Ms. ██████████ had posted for her ex-boyfriend. On May 4, 2013, Ms. ██████████ indicated to Officer E. that she would rather have a telephone harassment charge against her than lose the bail money she had posted.

When Officer E. met with Ms. ██████████, she showed him messages from 505-██████████. Officer E. verified that this was Ms. ██████████'s number through dispatch logs from the previous call and through a police database listing Ms. ██████████'s contact information. The messages from Ms. ██████████ included profanity, taunting, and caused Ms. ██████████ to feel harassed.

Officer E.'s police report listed some, but not all of the harassing messages Ms. ██████████ made to Ms. ██████████. The messages included statements such as, "Hey, dirty skank...;" "Hey stalker how ur day going?" and "And bitch please I'm not obsessed with that fool I only had to find him cuz I had bonded him out on that bond, but everything is cool now he's in custody! bahaha." Ms. ██████████ tried to block contact from Ms. ██████████, but Ms. ██████████ would use internet applications to circumvent the block, using the skills and knowledge Ms. ██████████ had learned working for a cellular company.

Ms. ██████████ denied sending the text messages and showed her empty text history as proof. Officer E. was aware of the fact that text messages could be erased. Officer E. looked at her internet history on the phone, which showed internet messages but did not show who the messages were sent to or the content of the messages.

Officer E. determined that Ms. ██████████'s phone records were insufficient to show that she did not contact Ms. ██████████. In his police report, Officer E. noted that Ms. ██████████ also referred to Ms. ██████████ as a "popo ho" a term that was used in the messages to Ms. ██████████.

Based on the totality of the circumstances, Officer E. determined that there was a reasonable likelihood that Ms. ██████████ had made the threatening and intimidating texts to Ms. ██████████. Officer E. issued a criminal summons based on his finding of probable cause and told Ms. ██████████ that the ultimate determination would be up to the courts.

II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING EMPLOYEE E.'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, and interview an interview with Officer E.

A) The CPOA reviewed Standard Operating Procedure Procedural Order 2-24-3(F)(1), (4) & (5) regarding Officer E.'s conduct, which states:

Letter to Ms. [REDACTED]

March 11, 2016

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Steps to be followed in conducting preliminary investigations: 1. Observe all conditions, events and remarks. 4. Effect the arrest (in this case issue the summons) of the suspect. 5. Report the incident fully and accurately.

Ms. [REDACTED]'s prior behavior in repeatedly contacting Ms. [REDACTED], Ms. [REDACTED]'s admitting to that behavior, Ms. [REDACTED]'s indication that she would continue to contact Ms. [REDACTED], the continued texts in the same vein of profane content, and the subject of the mutual boyfriend led to the summons being issued to her supported Officer E.'s conclusion that Ms. [REDACTED] was harassing Ms. [REDACTED]. Officer E. said he did not have evidence to support Ms. [REDACTED]'s denials in the face of her prior contact with Ms. [REDACTED] and the text messages shown to him by Ms. [REDACTED]. A preponderance of the evidence gathered supported Officer E.'s conclusions in charging Ms. [REDACTED].

The CPOA finds with regard to the allegation made by Ms. [REDACTED] about Officer E.'s conduct that the allegation was **UNFOUNDED**, which means that the investigation determined, by clearing and convincing evidence that the alleged misconduct did not occur.

The complaint and these findings will be placed in Officer E.'s Internal Affairs personnel 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 notice. Include your CPC number.
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 Albuquerque'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/iro/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,
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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Jeffrey Scott Wilson
Edward Harness, Esq., Executive Director

March 11, 2016
Via Certified Mail

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Re: CPC #129-13

Dear Mr. [REDACTED]

Our office received the complaint you filed on June 26, 2013 against Officer T. of the Albuquerque Police Department (APD) regarding an incident that occurred on June 25, 2013. 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

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

[REDACTED] wrote in his complaint that on June 25, 2013 he was parked in his car on private property. Mr. [REDACTED] wrote that Officer T. pulled him over. Mr. [REDACTED] alleged that Officer T. told him to leave the property and was verbally abusive to Mr. [REDACTED]

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

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator and the contract investigator, which included a review of the applicable Standard

Letter to Mr. [REDACTED]
March 11, 2016
Page 2

Operating Procedures (SOPS), the Computer Aided Dispatch (CAD) Report, the Citizen Police Complaint, an interview with Mr. [REDACTED], and an interview with Officer T.

The CPOA reviewed Standard Operating Procedure 1-04-7(F) regarding Officer T.'s conduct, which states:

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

Mr. [REDACTED] alleged that Officer T. told him to leave the property and was verbally abusive to Mr. [REDACTED]. Officer T. denied that he was verbally abusive to Mr. [REDACTED]. There was no lapel camera video available of the incident.

The CPOA finds Officer T.'s conduct to be **NOT SUSTAINED**, as there was insufficient evidence to determine whether the conduct occurred as alleged.

Your complaint and these findings are made part of Officer T.'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 notice. Include your CPC number.
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 Albuquerque'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/iro/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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Jeffrey Scott Wilson

Edward Harness, Esq., Executive Director

March 11, 2016

Via Certified Mail

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Re: CPC # 132-13

Dear Mr. [REDACTED]

Our office received the complaint you filed on June 27, 2013 against Officers of the Albuquerque Police Department (APD) regarding an incident that occurred on June 27, 2013. 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

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

Mr. [REDACTED] wrote on June 27, 2013, that he was across the street from the Clinic for the Homeless when he was approached by Officer R. Mr. [REDACTED] stated that Officer R. asked if he was taking pictures of the clinic and what he was doing there. He stated that Officer R. told him he could not be on the street or looking in the direction of the clinic. Mr. [REDACTED] stated that he feared Officer R. and did not understand why he could not be on a public street. He stated that Officer R. threatened to give him a criminal trespass and arrest him. He felt that Officer R. abused his authority. Mr. [REDACTED] asked when and where does APD harassment end and stated that the officers need better training.

Mr. [REDACTED] was interviewed in the office of the investigator on August 4, 2013. He reiterated what was in his written complaint. He also stated he went to Healthcare for the Homeless on June 27, 2013. Mr. [REDACTED] stated he asked an administrator who had paid for his last appointment. He stated he was sent to another office to speak with another person. He stated that Healthcare for the Homeless was violating his civil rights by asking for his personal information to be treated at the clinic. He also stated he is also required to sign in at the Healthcare for the Homeless even if he wanted a cup of coffee. Mr. [REDACTED] stated an attorney told him it was a violation of his rights as well and that is when Officer R. became involved. Mr. [REDACTED] stated he called the police to file a charge of harassment against Healthcare for the Homeless. He stated that Officer R. informed him that he could not look at the building from the street because it would be considered intimidation and he could be arrested. Mr. [REDACTED] stated he was issued criminal trespass notifications by Healthcare for the Homeless and Officer R.

Mr. [REDACTED] asked if the Investigator could file charges against [REDACTED], [REDACTED] for Healthcare for the Homeless. The Investigator explained to Mr. [REDACTED] that our office could only investigate SOP violations against Officers of the Albuquerque Police Department. Mr. [REDACTED] understood and stated to the Investigator to leave [REDACTED] out of the complaint due to Mr. [REDACTED] having an attorney who was going to look into the alleged violations Healthcare for the Homeless conducted against him.

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

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included review of the Complaint, SOPs, Computer-Aided Dispatch Report (CADS), the police report, and interviews of Mr. [REDACTED] and Officer R.

(A) The Executive Director reviewed Standard Operating Procedure Order 1-04-1(F) regarding Officer R.'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.

Mr. [REDACTED] wrote on June 27, 2013, he was across the street from the Clinic for the Homeless when he was approached by Officer R. He stated that Officer R. asked if he was taking pictures of the clinic and what he was doing there. He stated that Officer R. told him he could not be on the street or looking in the direction of the clinic. Mr. [REDACTED] stated he feared Officer R. and did not understand why he could not be on a public street. Mr. [REDACTED] stated Officer R. threatened to give him a criminal trespass and arrest him. Mr. [REDACTED] stated that he felt Officer R. abused his authority. Mr. [REDACTED] asked when and where does APD harassment end, and stated the officers need better training.

Officer R. indicated that he did not recall the incident. Officer R. was a bike officer and would handle numerous calls on a daily basis at Healthcare for the Homeless. Officer R.

stated calls come in daily asking officers to have either people removed from the premises or police presence at Healthcare for the Homeless. Because this case was a very long time ago, and due to the numerous times a day he was called to the location, he could not recall this incident.

Due to the timeframe of the investigation, lapel video could not be retrieved, as it was outside the 120-day retention guideline.

The CPOA finds the allegation of a violation of this SOP against Officer R. was **NOT SUSTAINED**, which means there is insufficient evidence to prove or disprove the allegation.

(B) The Executive Director reviewed Standard Operating Procedure Order 3-3-2(A)(B) regarding Officer R.'s conduct, which states:

A. If the owner, lessee, proprietor or any other person in lawful possession of real property lawfully denies consent for a subject to return on or about that property, an officer shall complete an offense/incident report utilizing the New Mexico Uniform Incident report.

B. The Criminal Trespass Notification-Order Not to Return form shall be completed by the officer. After obtaining the appropriate signatures (if subject refuses, write REFUSED) the officer shall disseminate the copies...

Mr. [REDACTED] stated that he felt harassed by Officer R. and that Officer R. threatened to give him a criminal trespass. Officer R. did issue Mr. [REDACTED] a criminal trespass due to the director of Healthcare for the Homeless asking Officer R. to issue that trespass notification. APD report [REDACTED] describes the entire call and the reason for the criminal trespass notification. Mr. [REDACTED] also signed the criminal trespass notification. Officer R. followed Standard Operating Procedure by responding to a private business at the request of the Director, filing the appropriate police report, and issuing the criminal trespass notification.

The CPOA finds Officer R.'s conduct to be **EXONERATED** regarding the allegation of a violation of this SOP, which means the incident that occurred was lawful or proper.

Your complaint and these findings will be placed in Officer R.'s Internal Affairs personnel 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 notice. Include your CPC number.
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 Albuquerque's Chief Administrative

Letter to Mr. [REDACTED]

March 11, 2016

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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/iro/survey> .

Thank you for participating in the process of civilian oversight of the police, ensuring officers are held accountable, and improving the process.

Sincerely,
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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Jeffery Scott Wilson
Edward Harness, Esq., Executive Director

March 11, 2016
Via Certified Mail

[REDACTED]
[REDACTED]
[REDACTED]

Re: CPC #35-14

Dear Mr. [REDACTED]

Our office received the complaint you filed on February 20, 2014 against Civilian Employee C. of the Albuquerque Police Department (APD) regarding an incident that occurred on either December 19th or 20th, 2013. 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

New Mexico 87103

Please be aware, the contract between the Albuquerque Police Officers' Association (APOA) and the City of Albuquerque requires that employees cooperate in the investigation; therefore, the employee'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

[REDACTED] complained that on December 19 or 20, 2013, at about 3:00 p.m., he was using the phone in the public records area of the police department when the records manager, Employee C., walked by, picked up a seating bench, and dropped it loudly back onto the floor. Mr. [REDACTED] felt this action was intended to harass or intimidate him.

Mr. [REDACTED] reported in his interview that he was at the police department on the day in question in order to obtain a permit to protest in the streets. He was directed to call another department in the city by security at the police department, so he entered the records division

in order to use the phone. When he entered the area, Mr. [REDACTED] indicated that he saw another records division employee, Employee G., assisting a citizen. Mr. [REDACTED] stated that at that time he saw Employee C. pacing behind the glass that separates employees from citizens.

Mr. [REDACTED] reported that his attention was on the phone call he was making, but at some point noticed that he was the only person in the lobby. He heard a bench two to three feet away from him move and saw the side of that bench closest to him turn. The next thing he heard was a loud bang. When he looked at the other end of the six foot long bench, Mr. [REDACTED] saw Employee C. walking back into the employee area while looking over his shoulder at Mr. [REDACTED]. Mr. [REDACTED] believed that the bench was dropped to make him feel uncomfortable in the records division at APD. Mr. [REDACTED] also stated that he did not see Employee C. drop the bench.

Employee G. was interviewed by CPOA staff. Employee C. was Employee G.'s manager at the time of the incident. Employee G. stated that she did not recall the interaction in question. She believed she would have remembered hearing and or seeing a bench being dropped loudly. Employee G. does not recall any interaction between Mr. [REDACTED] and Employee C. on the day in question or on any other occasion. She does recall interacting with Mr. [REDACTED] on numerous occasions. Mr. [REDACTED] indicated in his interview that he believed Employee G. has tried to help on multiple occasions and that she has been professional in her dealings with him.

Employee C. was interviewed by CPOA staff. Employee C. stated that he did not recall the interaction in question. Employee C. does not recall any interaction between Mr. [REDACTED] and himself on the day in question or on any other occasion. Employee C. denied ever dropping a seating bench in the citizen area of the records division.

II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING EMPLOYEE E.'S CONDUCT

The CPOA Executive Director reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable SOPs, the Complaint, and interviews with Mr. [REDACTED], Employee G., and Employee C.

(A) The CPOA reviewed Standard Operating Procedure Order 1-04-1(F) regarding Employee C.' conduct, which states:

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

Mr. [REDACTED] complained that Employee C. conducted himself unprofessionally by dropping the bench in order to make him feel uncomfortable in the records department. Employee C. denied ever dropping a bench and denies ever interacting with Mr. [REDACTED]. Employee C. indicated that he had employees to interact with the public and very rarely dealt directly with

Letter to Mr. [REDACTED]
March 11, 2016
Page 3

the public in his time as head of the records department at APD. The only other employee mentioned by Mr. [REDACTED] in his complaint is Employee G., who stated she did not see or hear a bench being dropped. Mr. [REDACTED] did not see Employee C. drop the bench. There is no independent evidence such as video or an independent witness which could prove or disprove Mr. [REDACTED]'s allegation.

I find the allegation of a violation of this SOP against Employee C. was **NOT SUSTAINED**, which means there is insufficient evidence to prove or disprove the allegation.

Your complaint and these findings will be placed in Employee C.'s Internal Affairs personnel 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 notice. Include your CPC number.
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 Albuquerque's Chief Administrative Officer. Your request must be in writing and within 30 days of receipt of this letter. Include your CPC number.

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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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Jeffery Scott Wilson
Edward Harness, Esq., Executive Director

March 11, 2016
Via Certified Mail

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

Re: CPC #058-14

Dear Mr. [REDACTED]

Our office received the complaint you filed on March 14, 2014 against Officer S. of the Albuquerque Police Department (APD) regarding an incident that occurred on January 14, 2014. 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.

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www.cabq.gov

I. THE COMPLAINT

Mr. [REDACTED] wrote that on January 14, 2015 he had walked into a [REDACTED] store. Mr. [REDACTED] wrote that he was issued a criminal trespass notification by Officer S. Mr. [REDACTED] stated he attempted to explain to Officer S. that he had requested police presence. Mr. [REDACTED] wrote he obtained a copy of the police report and Officer S. indicated in that report that the clerk from the [REDACTED] called the police. Mr. [REDACTED] wrote that he explained to Officer S. that he was held inside the [REDACTED] by the clerk, against his will. Mr. [REDACTED] wrote that Officer S. informed Mr. [REDACTED] that it was their right as the store to not let Mr. [REDACTED] leave and that Officer S. was not going to take legal action against the store. Mr. [REDACTED] stated the clerk at the

store admitted to Officer S. that he did lock the door and keep Mr. [REDACTED] inside. Mr. [REDACTED] felt the Officer should have taken legal action against [REDACTED] for holding him against his will.

II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING OFFICER L.'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 Citizen Police Complaint, the Criminal Trespass notification and Albuquerque Police Report and interviews with Mr. [REDACTED] and Officer S.

- A) The CPOA reviewed Standard Operating Procedure 1-02-2 (B) (1) regarding Officer S.'s conduct, which states:

Officers shall familiarize themselves with and have working knowledge of all laws of the State of New Mexico and the Ordinances of the City of Albuquerque which they are required to enforce. Officer shall:

1. Take appropriate action and render assistance in any instance coming to their attention whether on or off duty.

Mr. [REDACTED] complained that he was locked inside the [REDACTED] store by the clerk. Mr. [REDACTED] complained that he wanted to have Officer S. file charges against the clerk for false imprisonment. When Mr. [REDACTED] arrived on January 14, 2014, he was once again told he should not be in the store. When Mr. [REDACTED] began to argue with the clerk and refused to leave, the clerk contacted the Albuquerque Police to issue a criminal trespass and locked the door on Mr. [REDACTED] to await police arrival. The investigation revealed that Mr. [REDACTED] was locked in the store due to previously being told by management not to return to that location.

Mr. [REDACTED] did exit the store prior to police arrival on scene and waited on the property. Officer S. arrived and made contact with the clerk and Mr. [REDACTED]. Mr. [REDACTED] was issued a criminal trespass notification, which he signed. Mr. [REDACTED] informed Officer S. that he wanted criminal charges brought against the clerk for locking him in the store against his will.

Officer S.'s interview showed it had only been a few minutes that Mr. [REDACTED] was locked in and then exited. The CAD Report supports this fact due to the initial call to dispatch being received at 7:28pm and Officer S. arriving on scene at 7:35pm. Mr. [REDACTED] admitted he was outside waiting for police to arrive and only 7 minutes elapsed between the call and Officer S.'s arrival. Officer S. determined he did not feel the store clerk was conducting any criminal behavior and was only attempting to detain Mr. [REDACTED] until police could arrive. As a sworn Albuquerque Police Officer, Officer S. was faced with a situation where discretion can be exercised. Officer S. evaluated the circumstances, considered the available resources and relied on his training in making an appropriate decision.

Letter to Mr. [REDACTED]
March 11, 2016
Page 3

The CPOA find Officer S.'s conduct to be **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 Officer S.'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 notice. Include your CPC number.
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 Albuquerque'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/iro/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 *Beth Mohr, Chair* *Leonard Waites, Vice Chair*
Dr. Moira Amado-McCoy *Dr. Jeannette Baca* *Dr. Susanne Brown*
Eric H. Cruz *Joanne Fine* *Rev. Dr. David Z. Ring III*
Jeffery Scott Wilson
Edward Harness, Esq., Executive Director

March 11, 2016
Via Certified Mail

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

Re: CPC #060-14

Dear Ms. [REDACTED]

Our office received the complaint you filed on March 20, 2014 against Detective S., Detective L., and Detective P. of the Albuquerque Police Department (APD) regarding an incident that occurred on March 13, 2014. 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

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

[REDACTED] and [REDACTED] filed separate complaints over the same incident. Ms. [REDACTED] complained that on March 13, 2015 at about 10:30 AM, members of the Albuquerque Police Department served a search warrant at her home. Ms. [REDACTED] owns [REDACTED]. Their [REDACTED] shop is located on the same premises as their home and their home is attached to the shop and the home is used to conduct business and maintain business records. Ms. [REDACTED] responded to the knocking at the door and when she opened the door she was pulled out very roughly by her arm and was handcuffed by Detective L. Ms. [REDACTED] alleged that Detective P. yelled at Ms. [REDACTED] in a rude manner, "Your house is disgusting." Ms. [REDACTED] stated that she repeatedly asked to see the Search Warrant but none of the officers would show it to her.

Ms. [REDACTED] wrote in her complaint that the Detective who was handling the case, Detective S., questioned her about a recent contract with a man named [REDACTED].

Ms. [REDACTED] told Detective S. that Mr. [REDACTED] had recently breached a contract with them for some work that he was having done [REDACTED]. Ms. [REDACTED] believed that anything that occurred between her company and Mr. [REDACTED] was a civil matter. Ms. [REDACTED] later learned that she was accused of forging a [REDACTED] permit. Ms. [REDACTED] alleged that Detective S. obtained a Search Warrant for [REDACTED], but [REDACTED] does not own the property or their house. She wrote that she and her husband own the house. Ms. [REDACTED] said that Detective S. only had arrest warrants for her and Mr. [REDACTED] and that Detective S. did not have a search warrant for their house. She complained that the search of their home was not proper or authorized. Cash was seized from Ms. [REDACTED] and that impacted her by her gas being turned off, and she wasn't able to buy food for herself, or her dogs. Ms. [REDACTED] went on to allege that Detective S. contacted the media and since then they have been unable to work within the City of Albuquerque because they cannot get permits to do the work. Ms. [REDACTED] believed that Detective S. and Mr. [REDACTED] had some kind of relationship and that was why Detective S. did what he did. She said that APD has no jurisdiction to investigate a forged [REDACTED] permit and she demanded that any charges against her be dropped.

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 Citizen Police Complaint, the Albuquerque Police Department Reports in the case, The Computer Assisted Dispatch (CADS) Reports, lapel camera video, an interview with Ms. [REDACTED], and interviews with Detective S., Detective L., and Detective P.. The Affidavit for a Search Warrant, the Search Warrant, the Return and Inventory, the alleged forged permit, and the Affidavits for Arrest and Arrest warrants were reviewed.

A) The CPOA reviewed Standard Operating Procedure 1-02-2 B 2 regarding Detective S.'s conduct, which states:

Officers shall familiarize themselves with and have working knowledge of all laws of the State of New Mexico and the City of Albuquerque which they are required to enforce. Officers shall make only those arrests, searches, and seizures which they know or should know are legal and in accordance with departmental procedures.

Ms. [REDACTED] alleged that Detective S. obtained a Search Warrant for [REDACTED] and [REDACTED] does not own the property or their house. She wrote that she and her husband own the house. Ms. [REDACTED] said that Detective S. only had arrest warrants for her and Mr. [REDACTED] and that Detective S. did not have a search warrant for their house. She complained that the search of their home was not proper or authorized. Cash was seized from Ms. [REDACTED] and that impacted her by her gas being turned off, and she was unable to buy food for herself, or her dogs.

The investigation showed that Detective S. had a valid Search Warrant for the premises in which [REDACTED] is located. The investigation showed that Mr. and Mrs. [REDACTED] run their business out of their home located on the same property. Furthermore, the home is attached to the workshop where the [REDACTED] are made. A Judge found that probable cause existed and the Judge authorized the search of the premises. The search of the home was proper and authorized. The investigation showed that the cash that was seized was returned only days later and that one of the detectives who was at the scene bought a large bag of dog food and left that behind so that the dogs would have food to eat.

The CPOA finds Detective S.'s conduct to be **EXONERATED**, as the investigation determined by a preponderance of the evidence that the alleged conduct did occur but did not violate any APD policies, procedures, or training.

B) The CPOA reviewed Standard Operating Procedure 1-04-1 F regarding Detective S.'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. [REDACTED] went on to allege that Detective S. contacted the media and since then they have been unable to work within the City of Albuquerque because they cannot get permits to do the work.

There was no proof that Detective S. ever contacted the Media about this incident. The evidence suggested that the Media picked up on this incident from reviewing the affidavits and the warrants that are public record and filed in court. The media routinely examines documents filed by officers in court. No evidence was found during the investigation that could prove that Detective S. or any other Detective for that matter contacted the media. On the news reports that were reviewed no APD sources were interviewed or commented on the story.

Ms. [REDACTED] also alleged that she repeatedly asked to see the Search Warrant and the officers denied showing it to her. All of the lapel camera footage was reviewed and of the Detectives interviewed, all said that Ms. [REDACTED] never asked to see a copy of the Warrant. One detective said that Ms. [REDACTED] asked repeatedly what was going on and he told her but there is no evidence to support that Ms. [REDACTED] asked to see the Search Warrant repeatedly as she alleged.

The CPOA finds Detective S.'s conduct to be **UNFOUNDED**, as the investigation determined by clear and convincing evidence that the alleged misconduct did not occur or did not involve the subject officer.

C) The CPOA reviewed Standard Operating Procedure 1-04-4 N regarding Detective S.'s conduct, which states:

Personnel will not act officiously or permit personal feelings, animosities, or friendship to influence their decisions.

Ms. [REDACTED] believed that Detective S. and Mr. [REDACTED] had some kind of relationship and that was why Detective S. did what he did.

The investigation revealed that Detective S. had no personal relationship with the original complainant, [REDACTED], as Ms. [REDACTED] alleged. Mr. [REDACTED] also denied any personal relationship with Detective S. There was no proof that was offered by Ms. [REDACTED] to support her claim. The investigation revealed that Mr. [REDACTED] contacted Detective S. because he believed that Mr. and Mrs. [REDACTED] had forged a City of Albuquerque work permit and that Mr. [REDACTED] had been a victim of fraud by the [REDACTED]. Detective S. was assigned to the White Collar Crimes Unit when contacted by Mr. [REDACTED] and Detective S. conducted the investigation because he was authorized to do so both by law and by his assignment to investigate the very crimes that Mr. and Mrs. [REDACTED] were accused of committing.

The CPOA finds Detective S.'s conduct to be **UNFOUNDED**, as the investigation determined by clear and convincing evidence that the alleged misconduct did not occur or did not involve the subject officer.

III. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING DETECTIVE L.'S CONDUCT

- A) The CPOA reviewed Standard Operating Procedure 2-52-3 A regarding Detective L.'s conduct, which states:

Officers may use force when objectively reasonable based on a totality of the circumstances. The objectives for which force may be appropriate include: To effect the lawful arrest or detention of a person.

Ms. [REDACTED] alleged that when she opened the door she was pulled out very roughly by her arm and was handcuffed by Detective L.

The lapel camera footage of the initial contact and entry to the premises was reviewed. The lapel camera footage showed that Ms. [REDACTED] was not pulled out roughly but that she was merely escorted from where she was standing by Detective L. There was no use of force in effecting the arrest of Ms. [REDACTED].

The CPOA finds Detective L.'s conduct to be **UNFOUNDED**, as the investigation determined by clear and convincing evidence that the alleged misconduct did not occur or did not involve the subject officer.

IV. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING DETECTIVE P.'S CONDUCT

A) The CPOA reviewed Standard Operating Procedure 1-04-1 F regarding Detective P.'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. [REDACTED] alleged that Detective P. came out of the [REDACTED] home and rudely yelled at Ms. [REDACTED] that her house was disgusting

The investigation and the lapel videos taken upon entering the house showed that the house was filthy and that there was dog feces and urine throughout the [REDACTED] home. There were piles of clothes, a soiled mattress, exposed wires and the house reeked of urine. The investigation showed that Detective P. stepped in a pile of dog feces when she exited the home and that when she went outside and was cleaning her shoes, she said loudly that the house was disgusting. She did not direct that comment at Ms. [REDACTED] but Ms. [REDACTED] was close enough to Detective P. that she heard the comment. The evidence showed that the house was filthy. The Detective's proclamation that it was does not violate policy of procedure.

The CPOA finds Detective P.'s conduct to be **EXONERATED**, as the investigation determined by a preponderance of the evidence that the alleged conduct did occur but did not violate any APD policies, procedures, or training.

Your complaint and these findings are made part of Detective S.'s, Detective L.'s, and Detective P.'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 notice. Include your CPC number.
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 Albuquerque'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/iro/survey> .

Letter to Ms. [REDACTED]
March 11, 2016
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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Eric H. Cruz *Joanne Fine* *Rev. Dr. David Z. Ring III*
Jeffery Scott Wilson
Edward Harness, Esq., Executive Director

March 11, 2016
Via Certified Mail

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Re: CPC #061-14

Dear Mr. [REDACTED]

Our office received the complaint you filed on March 20, 2014 against Officer S. of the Albuquerque Police Department (APD) regarding an incident that occurred on March 13, 2014. 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

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

Ms. [REDACTED] and Mr. [REDACTED] filed separate complaints over the same incident. Mr. [REDACTED] complained that on March 13, 2015 at about 10:30 AM, members of the Albuquerque Police Department served a search warrant at his home. Mr. [REDACTED] owns [REDACTED]. Their sign shop is located on the same premises as their home and their home is attached to the shop and the home is used to conduct business and maintain business records. Mr. [REDACTED] complained that on March 13, 2015 at about 10:30 AM, members of the Albuquerque Police Department came in to his house and shop looking for forgery equipment. Mr. [REDACTED] complained that he and his wife were treated like criminals. Mr. [REDACTED] believed that because of what took place their good name was ruined and they lost business. Mr. [REDACTED] believed this to be a civil matter and not a criminal matter.

Mr. [REDACTED] alleged that the person who started all of this was a [REDACTED] named [REDACTED]. Mr. [REDACTED]'s son owns a [REDACTED] company and Mr. [REDACTED] alleged that Mr. [REDACTED] solicits business from the City Zoning department. Mr. [REDACTED] alleged that the actions of the APD were personal because Mr. [REDACTED] tried to have a Restraining Order placed against Mr. [REDACTED] the same day that the Search Warrant was signed for his home. Mr. [REDACTED] also alleged that the original complainant, [REDACTED], is tied in with [REDACTED], a competitor of [REDACTED]. Mr. [REDACTED] demanded Detective S. [REDACTED] resign from the police force.

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 Citizen Police Complaint, the Albuquerque Police Department Reports in the case, The Computer Assisted Dispatch (CADS) Reports, lapel camera video, an interview with Ms. [REDACTED], and interviews with Detective S., Detective L., and Detective P.. The Affidavit for a Search Warrant, the Search Warrant, the Return and Inventory, the alleged forged permit, and the Affidavits for Arrest and Arrest warrants were reviewed.

- A) The CPOA reviewed Standard Operating Procedure 1-02-2(B)(2) regarding Detective S.'s conduct, which states:

Officers shall familiarize themselves with and have working knowledge of all laws of the State of New Mexico and the City of Albuquerque which they are required to enforce. Officers shall make only those arrests, searches, and seizures which they know or should know are legal and in accordance with departmental procedures.

Mr. [REDACTED] complained that he believed that the incident that resulted in a search of his home and his arrest and the arrest of his wife was a civil matter and not a criminal matter

The investigation showed that Detective S. had a valid Search Warrant for the premises in which [REDACTED] is located. The investigation showed that Mr. and Mrs. [REDACTED] run their business out of their home located on the same property. Furthermore, the home is attached to the workshop where [REDACTED] are made. A Judge found that probable cause existed and the Judge authorized the search of the premises. A Judge also found that probable cause existed for the arrest of Mr. [REDACTED] and Mrs. [REDACTED] and the Judge was the one who issued their arrest warrants. The search of the home was proper and authorized. The arrests were proper and authorized

The CPOA finds Detective S.'s conduct to be **EXONERATED**, as the investigation determined by a preponderance of the evidence that the alleged conduct did occur but did not violate any APD policies, procedures, or training.

- B) The CPOA reviewed Standard Operating Procedure 1-04-1(F) regarding Detective S.'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.

Mr. [REDACTED] alleged that all of Detective S.'s actions were personal and that there was a conspiracy between Detective S., Mr. [REDACTED], and Mr. [REDACTED] to discredit Mr. [REDACTED] and ruin his good name. The investigation showed that Detective S. didn't know who Mr. [REDACTED] was, as Detective S. never had any contact with Mr. [REDACTED]. Detective S. had no knowledge of Mr. [REDACTED] being involved with [REDACTED]. There was no proof that Detective S. was involved in any conspiracy to ruin Mr. [REDACTED]'s good name.

The CPOA finds Detective S.'s conduct to be **UNFOUNDED**, as the investigation determined by clear and convincing evidence that the alleged misconduct did not occur or did not involve the subject officer.

- C) The CPOA reviewed Standard Operating Procedure 1-04-4(N) regarding Detective S.'s conduct, which states:

Personnel will not act officiously or permit personal feelings, animosities, or friendship to influence their decisions.

Mr. [REDACTED] believed that Detective S. [REDACTED] and Mr. [REDACTED] had some kind of relationship and that was why Detective S. [REDACTED] did what he did.

The investigation revealed that Detective S. had no personal relationship with the original complainant, [REDACTED] as Ms. [REDACTED] alleged. Mr. [REDACTED] also denied any personal relationship with Detective S. There was no proof that was offered by Mr. [REDACTED] to support his claim. The investigation revealed that Mr. [REDACTED] contacted Detective S. because he believed that Mr. and Mrs. [REDACTED] had forged a City of Albuquerque work permit and that Mr. [REDACTED] had been a victim of fraud by the [REDACTED]. Detective S. was assigned to the White Collar Crimes Unit when contacted by Mr. [REDACTED] and Detective S. conducted the investigation because he was authorized to do so both by law and by his assignment to investigate the very crimes that Mr. and Mrs. [REDACTED] were accused of committing.

The CPOA finds Detective S.'s conduct to be **UNFOUNDED**, as the investigation determined by clear and convincing evidence that the alleged misconduct did not occur or did not involve the subject officer.

Your complaint and these findings are made part of Detective S.'s Internal Affairs records.

Letter to Mr. ██████████

March 11, 2016

Page 4

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 notice. Include your CPC number.
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 Albuquerque'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/iro/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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Eric H. Cruz *Joanne Fine* *Rev. Dr. David Z. Ring III*
Jeffery Scott Wilson
Edward Harness, Esq., Executive Director

March 11, 2016
Via Certified Mail

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Re: CPC #063-14

Dear Mr. [REDACTED]

Our office received the complaint you filed on March 21, 2014 against Officer D. of the Albuquerque Police Department (APD) regarding an incident that occurred on March 10, 2014. 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

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

[REDACTED], a loss prevention manager at a [REDACTED] store, complained that Officer D. failed to file a criminal summons on [REDACTED], a shoplifter in his [REDACTED]. The contract investigator contacted various [REDACTED] security personnel, used public data bases, and sent an email to the email address listed in the complaint, in order to attempt to locate Mr. [REDACTED] but was unable to locate Mr. [REDACTED] for any follow up information.

II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING OFFICER B.'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

Letter to Mr. [REDACTED]

March 11, 2016

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(SOPS), the Citizen Police Complaint, the Albuquerque Police Department Report in the case, an interview with Officer D. and APD Records Employee F.

A) The CPOA reviewed Standard Operating Procedure 1-02-2-B 1 regarding Officer B.'s conduct, which states:

Officers shall take appropriate action in any instance coming to their attention.

Mr. [REDACTED] alleged that Officer D. failed to file a criminal summons for a shoplifter at his store. The investigator reviewed police report [REDACTED] written by Officer D. In his report he indicated he issued a criminal summons.

The investigator contacted APD Records supervisor, Employee F. Employee F. said APD does not have a tracking system for the summons, and that infrequently the public safety aides drop off summons to the wrong department within APD and they are misplaced. Employee F. explained that the summons are not entered into a data base at APD, so there is no tracking system to prove or disprove whether Officer D. entered the summons paperwork.

The investigator contacted Officer D. Officer D. recalled the shoplifting incident in March of 2014. He recalled issuing a criminal summons to [REDACTED], the shoplifter. Officer D. said his protocol is to turn in all criminal summons paperwork in to the substation and he doesn't know the process for the paperwork arriving in APD Records Metropolitan Court liaison unit. He recalled that in the past, criminal summons he has issued have been lost and he refiled them. He noted that had he been called he would have refiled the charges.

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

Your complaint and these findings are made part of Officer D.'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 notice. Include your CPC number.
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 Albuquerque'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/iro/survey> .

Thank you for participating in the process of civilian oversight of the police, ensuring officers and personnel of the APD are held accountable, and improving the process.

Letter to Mr. [REDACTED]
March 11, 2016
Page 3

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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Eric H. Cruz *Joanne Fine* *Rev. Dr. David Z. Ring III*
Jeffery Scott Wilson
Edward Harness, Esq., Executive Director

March 11, 2016
Via Certified Mail

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Re: CPC #069-14

Dear Mr. [REDACTED]

Our office received the complaint you filed on March 30, 2014 against Officers of the Albuquerque Police Department (APD) regarding an incident that occurred on March 30, 2014. 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

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

[REDACTED] wrote in his complaint that his sister was in her dorm room when APD used tear gas to deal with protesters nearby. His sister suffered burning of the eyes, throat, and skin, and she had nothing to do with the protest. Mr. [REDACTED] felt APD was overly aggressive in their response and did not consider the health and safety of the public.

II. INVESTIGATION

The contract investigator reviewed detailed news footage and blogs of the incident. The investigation indicated that tear gas was only deployed after over 8 hours of protests, which involving protestors blocking city streets, blocking the interstate freeway, acts of vandalism

and graffiti. The tear gas was used to clear a major street, near your sister's dorm. Unfortunately, there were windy conditions that caused the tear gas to "float" into the nearby housing units.

III. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING DETECTIVE O.'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 Citizen Police Complaint and news media accounts and videos of the incident.

- A) The CPOA reviewed Standard Operating Procedure 2-52-2(C), Use of Non-Deadly Force:

"A level of force that is required to compel compliance, which is not intended to, and is not known to create a substantial likelihood of death or serious bodily injury.

The CPOA finds the conduct of the APD officers to use tear gas to be EXONERATED regarding the allegation of over aggressive action and lack of concern for the public. A preponderance of evidence showed that the conduct did occur but did not violate APD policies, procedures or training.

Your complaint and these findings are made part of 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 notice. Include your CPC number.
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 Albuquerque'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/iro/survey>.

Thank you for participating in the process of civilian oversight of the police, ensuring officers and personnel of the APD are held accountable, and improving the process.

Letter to Mr. [REDACTED]
March 11, 2016
Page 3

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 *Beth Mohr, Chair* *Leonard Waites, Vice Chair*
Dr. Moira Amado-McCoy *Dr. Jeannette Baca* *Dr. Susanne Brown*
Eric H. Cruz *Joanne Fine* *Rev. Dr. David Z. Ring III*
Jeffrey Scott Wilson
Edward Harness, Esq., Executive Director

March 11, 2016
Via Certified Mail

[REDACTED]

[REDACTED]

Re: CPC #103-14

Dear Ms. [REDACTED]

Our office received the complaint you filed on May 27, 2014 against Detective O. of the Albuquerque Police Department (APD) regarding an incident that occurred on May 23, 2014. 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

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

[REDACTED] wrote in her complaint that she filed an online attitude complaint on an unknown APD officer. Ms. [REDACTED] was at [REDACTED] emergency room and had engaged in conversation with two APD Officers who were there following up on a suicide call. IRO Investigator [REDACTED] researched CADS and identified Officer M., a field training officer and Officer H., a recruit officer.

Ms. [REDACTED] alleged that on May 23, 2015 she entered into a conversation with two APD Officers who were at [REDACTED] emergency room conducting an investigation. The

investigation determined that Officer M. and Officer H. were the two officers Ms. [REDACTED] was speaking about. Ms. [REDACTED] alleged that Officer M. told her that his Kevlar armored vest cost \$1500.00. Ms. [REDACTED] said she replied that she was surprised by the cost. Officer M. then told her with all of his training he is a "million dollar killing machine." Ms. [REDACTED] said that she felt that he was serious with this remark and not joking. Ms. [REDACTED] said she did not respond to the remark. Ms. [REDACTED] said she then asked Officer M. if a domestic violence call was the most dangerous call for police officers and he replied that was true and traffic stops were dangerous because officers did not know if the person being stopped had a weapon. Ms. [REDACTED] felt the Officer was inappropriate with his remark.

Ms. [REDACTED] noted that the other officer was quiet and not engaged in the conversation. The other officer was later identified thru CADS as being Officer H., who was a recruit at the time. Ms. [REDACTED] also indicated in her interview with the CPOA Investigator that she did not want to be notified through the Findings Letter in this case, but merely wanted Officer H.'s supervisor to speak with him about his remark regarding the "million dollar killing machine."

II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING DETECTIVE O.'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 Citizen Police Complaint, the Albuquerque Police Department Report in the case, interviews with Ms. [REDACTED], Officer M. and Officer H.

- A) The CPOA reviewed Standard Operating Procedure 1-04-1 (F) regarding Detective O.'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. [REDACTED] alleged that during a conversation at [REDACTED] Hospital, Officer M. told her with all of his training he is a "million dollar killing machine." Ms. [REDACTED] said that she felt that he was serious with this remark and not joking. Ms. [REDACTED] believed that Officer M.'s statement was inappropriate.

The contract independent investigator interviewed the two officers involved. Officer M. recalled the conversation with a staff member at [REDACTED] Hospital, but denied making the statement about being a killing machine. Officer H. did not recall any of the conversation between Officer M. and the hospital staff.

The CPOA find Officer M.'s conduct to be NOT SUSTAINED regarding the allegation of a violation of this SOP, which means that there was insufficient evidence to determine whether or not the incident occurred as alleged.

Your complaint and these findings are made part of Officer M.'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 notice. Include your CPC number.
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 Albuquerque'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/iro/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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Eric H. Cruz *Joanne Fine* *Rev. Dr. David Z. Ring III*
Jeffrey Scott Wilson
Edward Harness, Esq., Executive Director

March 11, 2016
Via Certified Mail

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Re: CPC #129-14

Dear Mr. [REDACTED]

Our office received the complaint you filed on June 27, 2014 against Detective J. of the Albuquerque Police Department (APD) regarding an incident that occurred in June 2014. 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

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

[REDACTED] wrote in his complaint that he was involved with divorce proceedings with his ex-wife and there was a dispute about property and personal belongings. Mr. [REDACTED] stated that he was assaulted by friends of his ex-wife and has filed two separate civil lawsuits against these people. Mr. [REDACTED] alleged that some of his personal property was taken to his ex-wife's attorney's office and he alleged that property was moved and abandoned and he called APD to take a report. Mr. [REDACTED] stated he had problems with missed and unreturned phone calls with Detective J. Mr. [REDACTED] alleged that Detective J. was hateful, vengeful, and had great animosity towards him. Mr. [REDACTED] alleged that Detective J. advised him that he would need to pursue any further action in a civil court and Mr. [REDACTED]

had requested addresses to pursue a service of summons on his ex-wife and her attorney. Detective J. was concerned for their safety and refused to disclose any information. Mr. ██████████ attempted to talk to Detective J.'s lieutenant but he never returned his phone call. Mr. ██████████ alleges that Detective J. facilitated the alleged larceny and embezzlement of his property by personally authorizing the ex-wife and her attorney to keep and dispose of his property. It should be noted that in his complaint Mr. ██████████ identifies the Detective by a different name, but the correct Detective was identified through records.

II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING DETECTIVE O.'S CONDUCT

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA and the contract independent investigator, which included a review of the applicable Standard Operating Procedures (SOPS), the Citizen Police Complaint, the Albuquerque Police Department Report in the case, and a review of two recorded statements, one by the complainant and one by Detective J.

A) The CPOA reviewed Standard Operating Procedure 1-04-1 (F) regarding Detective J.'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.

Mr. ██████████ alleged that Detective J. violated his "oath of office" by refusing to pursue this matter as a criminal matter. Mr. ██████████ also alleged that Detective J. violated New Mexico State Statutes when he did not pursue this incident as a criminal act. After interviewing Detective J., it is clear that this is a property dispute between husband and wife who are in the midst of a divorce. A police officer has no jurisdiction in this matter and no criminal act has occurred within Detective J.'s jurisdiction.

The investigation revealed that Mr. ██████████ called Detective J. and attempted to ascertain the current address of his ex-wife. Detective J. would not provide that information for good reason. Mr. ██████████ stated in his complaint that Detective J. was "hateful, vengeful and had great animosity towards him." Mr. ██████████ provided no evidence in his statement or in his complaint to substantiate this claim. Detective J. stated that he was polite, professional and courteous toward Mr. ██████████.

The CPOA find Detective J.'s conduct to be **UNFOUNDED** regarding the allegation of a violation of this SOP, which means that 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 J.'s Internal Affairs records.

Letter to Mr. [REDACTED]
March 11, 2016
Page 3

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 notice. Include your CPC number.
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 Albuquerque'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/iro/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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Eric H. Cruz *Joanne Fine* *Rev. Dr. David Z. Ring III*
Jeffery Scott Wilson
Edward Harness, Esq., Executive Director

March 11, 2016
Via Certified Mail

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

Re: CPC #043-15

Dear Mr. [REDACTED]

Our office received the complaint you filed on April 2, 2014 against Detective T. of the Albuquerque Police Department (APD) regarding an incident that occurred on an unspecified date. 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

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

[REDACTED] wrote in his complaint that he is a homeless person who lives out of his car. At the time of his complaint, Mr. [REDACTED]'s car was without registration and insurance. According to Mr. [REDACTED], his father did not believe that Mr. [REDACTED] should have current registration and insurance. Mr. [REDACTED] also stated that his father believed that it was legal for Mr. [REDACTED] to violate state law. Mr. [REDACTED] wrote that he had complained to APD Detective T., a Detective assigned to the Crisis Intervention Team (CIT), about his father. Mr. [REDACTED] stated that he had asked Detective T. to enforce the law but Detective T. refused to do so. Mr. [REDACTED] wanted Detective T. to enforce the law against his father because his father was allegedly interfering with his attempts to comply with the law. Mr. [REDACTED] verbally complained in his interview that Detective T. and his father have been trying to get

him to commit Social Security Fraud, because they have encouraged him to apply for disability and he is fully capable of working.

I. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING DETECTIVE T.'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 Citizen Police Complaint, an interview with Mr. [REDACTED], and an interview with Detective T.

A) The CPOA reviewed Standard Operating Procedure Order 1-02-2 B (1) regarding Detective T.'s conduct, which states:

Officers shall familiarize themselves with and have working knowledge of all laws of the State of New Mexico and the Ordinances of the City of Albuquerque which they are required to enforce. Officers shall:

1. Take appropriate action and render assistance in any instance coming to their attention whether on or off duty.

Mr. [REDACTED] wrote in his complaint that he is a homeless person who lives out of his car. At the time of his complaint, Mr. [REDACTED]'s car was without registration and insurance. According to Mr. [REDACTED], his father did not believe that he should have current registration and insurance. Mr. [REDACTED] also stated that his father believed that it was legal for Mr. [REDACTED] to violate state law. Mr. [REDACTED] wrote that he had complained to APD Detective T. about his father and has asked Detective T. to enforce the law, but Detective T. has refused to do so. Mr. [REDACTED] also stated that his father believed that it was legal for him to violate state law. Mr. [REDACTED] wrote that he had complained to APD Detective T., a Detective assigned to the Crisis Intervention Team (CIT), about his father. Mr. [REDACTED] stated that he had asked Detective T. to enforce the law but Detective T. refused to do so. Mr. [REDACTED] wanted Detective T. to enforce the law against his father because his father was allegedly interfering with his attempts to comply with the law. Mr. [REDACTED] verbally complained in his interview that Detective T. and his father have been trying to get him to commit Social Security Fraud, because they have encouraged him to apply for disability and he is fully capable of working.

Detective T., as a Detective assigned to the APD CIT Unit, worked closely with the Crisis Outreach and Support Team (COAST). Detective T. became familiar with Mr. [REDACTED] in January of 2013. There had been a referral made to COAST about the excessive number of police reports that Mr. [REDACTED] had made and someone made a referral to have Mr. [REDACTED] checked upon because they were worried for Mr. [REDACTED]'s well-being. Because APD had received information that Mr. [REDACTED] had a gun, Detective T. responded to the call with a COAST civilian to speak with Mr. [REDACTED]. Detective T. offered Mr. [REDACTED] many services that could possibly help Mr. [REDACTED] with his situation.

At another time in 2013, Mr. ██████████ was transported to UNM for a Mental Health evaluation. In December of 2014, Mr. ██████████'s mother contacted/and or was referred to COAST because his mother became concerned for his well-being. It was reported that Mr. ██████████ had been threatening suicide and his mother was concerned about that. Detective T. interviewed the mother and he again went out with not only another COAST Member but also with an APD Psychologist to speak with Mr. ██████████. They were able to determine that Mr. ██████████ did not intend to kill himself but was using the threat of suicide to get money from his mother.

Detective T. spoke with Mr. ██████████ on numerous occasions and at some point while dealing with Mr. ██████████, Detective T. also contacted his father. Mr. ██████████'s father had been concerned about his well-being and had been sending cash to Mr. ██████████ to help him out. Mr. ██████████'s father learned that all the money he had been sending was being sent in turn to a woman whom Mr. ██████████ had met online. The money was being sent to the woman in an effort to get her more money so she could come to the States and be with Mr. ██████████. Furthermore, Mr. ██████████ had befriended another individual named ██████████ on the internet who claimed to have a magical box that contained \$50,000 dollars. ██████████ allegedly told Mr. ██████████ that if he sent him \$2,000 dollars that ██████████ would send him the \$50,000 magic box. Mr. ██████████'s father felt that these were examples of Mr. ██████████ being scammed and he decided to stop sending cash, but would instead send gift cards. Detective T. said that when Mr. ██████████'s father stopped sending cash to Mr. ██████████, that was when he accused his father of breaking the law.

Detective T. provided Mr. ██████████ with access to many services. The Albuquerque Police Department has offered psychological services to Mr. ██████████, which he has refused. The Albuquerque Police Department offered him assistance through food banks and homeless shelters, and help with job placement, including resume writing services. Detective T. has also assisted Mr. ██████████ by telling him where he could go to apply for possible assistance. Mr. ██████████ has e-mailed Detective T. approximately 175 times to date and Detective T. is in contact with Mr. ██████████ on a regular basis.

Detective T. has never run Mr. ██████████'s vehicle information and does not know the status of the vehicle registration and insurance. Mr. ██████████'s car is on private property and Detective T. has no jurisdiction on private property when it comes to such offenses. When Mr. ██████████'s father stopped sending cash to him, Mr. ██████████ mentioned to Detective T. that he would not be able to pay for insurance and registration.

Detective T. denied that he had encouraged Mr. ██████████ to commit Social Security Fraud. Mr. ██████████ was encouraged to apply for disability benefits through the Social Security Administration, not because he is incapable of working, but because he may have some issues that may be preventing him from holding onto a long term steady job. Detective T. and APD offered psychological evaluation help to Mr. ██████████ but he has refused those efforts. Detective T. suggested SSI because it may be one more way that they can get Mr. ██████████ some assistance.

Letter to Mr. [REDACTED]
March 11, 2016
Page 4

Mr. [REDACTED] complained that his father was breaking the law because his father has been interfering in his attempts to comply with the law. Ultimately, insurance and registration are requirements put upon the owner of a motor vehicle. Mr. [REDACTED] Sr.'s alleged belief that Mr. [REDACTED] should not have insurance or registration on his car is not a violation of the law.

The investigation showed that the Albuquerque Police Department and Detective T. have worked tirelessly on trying to help Mr. [REDACTED] with his situation. Encouraging Mr. [REDACTED] to apply for disability benefits when the evidence has shown that he may be entitled to those benefits is not encouraging Mr. [REDACTED] to commit fraud.

The CPOA finds with regards to the allegation made by Mr. [REDACTED] about Detective T.'s conduct that the allegation was **EXONERATED**, which means that the investigation showed by a preponderance of the evidence that the alleged conduct did occur but it did not violate APD policies, procedures, or training.

Your complaint and these findings are made part of Detective T.'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 notice. Include your CPC number.
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 Albuquerque'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/iro/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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Eric H. Cruz *Joanne Fine* *Rev. Dr. David Z. Ring III*
Jeffery Scott Wilson
Edward Harness, Esq., Executive Director

March 11, 2016
Via Certified Mail

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

Re: CPC #044-15

Dear Mr. [REDACTED]

Our office received the complaint you filed on March 28, 2015 against Detective P. of the Albuquerque Police Department (APD) regarding an incident that occurred on March 27, 2015. 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

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

Mr. [REDACTED] said that on March 27, 2015, Detective P. investigated an alleged child abuse incident involving his child whom he shares with Ms. [REDACTED]. Mr. [REDACTED] complained the child received multiple bruises while in the care of Ms. [REDACTED]. Mr. [REDACTED] said Detective P. saw the child's injuries and recommended that Mr. [REDACTED] take the child to University of New Mexico Hospital (UNMH) for evaluation and Mr. [REDACTED] complied. Mr. [REDACTED] complained that despite UNMH Pediatric Emergency Room doctor's suspicions that the child's injuries were uncommon and concerning, Detective P. allowed the child to be released back to the care of Ms. [REDACTED]. Mr. [REDACTED] complained that Detective P. treated him poorly. Mr. [REDACTED] complained Detective P. did not follow protocol when he

did not inform Mr. [REDACTED] that the child was being released from the hospital. He also alleged that Detective P.'s report was inaccurate because Detective P.'s report said there were no signs of abuse, which was in conflict with the UNMH doctor's findings.

II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING DETECTIVE P.'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 Citizen Police Complaint, lapel video and interviews with Mr. [REDACTED], Children Youth and Families Department (CYFD) Investigator [REDACTED], UNMH Child Abuse Response Team (CART) physician Dr. [REDACTED], and Detective P.

A) The CPOA reviewed Standard Operating Procedure 1-4-1 (F) regarding Detective P.'s conduct, which states:

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

Mr. [REDACTED] complained that Detective P. treated him poorly. Mr. [REDACTED] complained that Detective P. brought up a pending Driving While Intoxicated (DWI) charge against Mr. [REDACTED] and used this against Mr. [REDACTED] when deciding who would have custody of the [REDACTED] child. Mr. [REDACTED] complained he was bullied into a safety plan for the child when Detective P. forced Mr. [REDACTED] to agree the child would be cared for by Mr. [REDACTED]'s mother and sister, or otherwise placed in foster care.

The interviews with CYFD Investigator [REDACTED] and Detective P. revealed Detective P. raised his voice and was firm with Mr. [REDACTED] when he had to repeatedly tell Mr. [REDACTED] the child could not go home with him due to a court order. The interviews revealed that Detective P. was respectful to Mr. [REDACTED] and told Mr. [REDACTED] he was a good father, despite Mr. [REDACTED] yelling and cursing at Detective P. The interviews with Ms. [REDACTED] and Detective P. showed Detective P. did not treat Mr. [REDACTED] poorly, as alleged.

The interviews with Ms. [REDACTED] and Detective P. revealed that Detective P. asked Mr. [REDACTED] about his pending DWI charge and his DWI history. This information was, in part, used in Ms. [REDACTED]'s and Detective P.'s decision to place the child with Ms. [REDACTED], or Mr. [REDACTED]'s mother and sister. Ms. [REDACTED] said due to Mr. [REDACTED]'s DWI history, he was not considered a safety monitor for the child. Ms. [REDACTED] said safety monitors have to pass CYFD background check and Mr. [REDACTED] would not pass a CYFD background due to his DWI history. Ms. [REDACTED] said the court-ordered custody agreement was put in place because of Mr. [REDACTED]'s pending DWI charge and his DWI history. Ms. [REDACTED] said this issue was discussed with Mr. [REDACTED]. The interviews with Ms. [REDACTED] and Detective P. revealed that, in addition to Mr. [REDACTED]'s DWI history, a court-ordered custody agreement regarding the [REDACTED] child would not allow Mr. [REDACTED] custody of the child the night of the incident because his scheduled time with the child was between 9:00 AM – 5:00 PM that day.

There is lapel video of Detective P.'s initial contact with Mr. [REDACTED] at the hospital but no lapel video of their second interaction to substantiate or refute Mr. [REDACTED]'s allegations that Detective P. treated Mr. [REDACTED] poorly or bullied Mr. [REDACTED] into a safety plan for the [REDACTED] child.

The CPOA finds Detective P.'s conduct to be **NOT SUSTAINED** regarding the allegation of a violation of this SOP, because the investigation was unable to determine, by a preponderance of the evidence, whether the alleged misconduct occurred.

B) The CPOA reviewed Standard Operating Procedure 2-24-3 (A) (5) (f) regarding Detective P.'s conduct, which states:

A. Preliminary Investigations

5. Steps to be followed in conducting preliminary investigations that may include but are not limited to:

f. Report the incident fully and accurately.

Mr. [REDACTED] complained Detective P.'s report was inaccurate because Detective P.'s report stated there were no signs of abuse, which was in conflict with the University of New Mexico Hospital (UNMH) doctor's findings.

Interviews with Detective P., Ms. [REDACTED] and Dr. [REDACTED], revealed these individuals agreed the child had several bruises, which caused concern; however Dr. [REDACTED] was unable to definitively determine whether the bruises were the result of child abuse or a sign the child was not properly supervised. Dr. [REDACTED]'s findings, in addition to the child's inability to self-report what happened, and a lack of witnesses to the actions which caused the injuries, did not allow Detective P. to meet the three criteria necessary to classify the incident(s) which caused the injuries as child abuse. The interviews revealed Detective P.'s report had yet to be completed at the time of this investigation so Mr. [REDACTED] would not have been able to review Detective P.'s report. Regardless, the investigation revealed Detective P. did not deny the child had injuries and he based his decisions regarding the custody of the child on Dr. [REDACTED]'s findings, which were unable to definitely determine intentional abuse. Therefore, Mr. [REDACTED]'s allegation of an inaccurate report cannot be substantiated.

The CPOA finds Detective P.'s conduct to be **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 Albuquerque Police Department policies, procedures or training.

C) The CPOA reviewed Standard Operating Procedure 2-33-2 (D)(1)(c) regarding Detective P.'s conduct, which states:

D. Taking Protective Custody of a Child

1. When responding to any form of child abuse, the officer must determine if the child should be removed from the environment for the child's safety. Pursuant to New Mexico Statute 32A-3B-3, an officer may take a child into protective custody when the officer had reasonable grounds to believe the child:

c. Is in danger from surroundings and removal from those surroundings is necessary.

Mr. [REDACTED] complained Detective P. put the [REDACTED] child in harm's way by allowing the child to return to Ms. [REDACTED] who had custody of the child when the injuries occurred.

Interviews with Detective P., Ms. [REDACTED] and Dr. [REDACTED] revealed these individuals agreed the child had several bruises, which caused concern; however Dr. [REDACTED] was unable to definitively determine whether the bruises were the result of child abuse or a sign the child was not properly supervised. Dr. [REDACTED]'s findings, in addition to the child's inability to self-report what happened, and a lack of witnesses to the actions which caused the injuries, did not allow Detective P. to meet the three criteria necessary to classify the incident(s) which caused the injuries as child abuse. Interviews with Detective P. and Ms. [REDACTED] revealed the child was most likely not being properly supervised by the babysitter hired by Ms. [REDACTED], who was Ms. [REDACTED]'s sister's boyfriend.

Interviews with Detective P. and Ms. [REDACTED] revealed once they learned of the legal custody order in place regarding the [REDACTED] child, in addition to learning Mr. [REDACTED] had a DWI case pending against him and multiple DWI charges in his driving history, Mr. [REDACTED] was no longer considered a safety monitor for the child. Ms. [REDACTED] said safety monitors have to pass CYFD background checks and Mr. [REDACTED] would not pass a CYFD background. Ms. [REDACTED] said the custody order was put in place because of Mr. [REDACTED]'s multiple DWI convictions and pending DWI case. With this information, Ms. [REDACTED] and Det. [REDACTED] and Mr. [REDACTED] discussed a safety plan for the child, which included the child staying with Ms. [REDACTED] on the days Ms. [REDACTED] was able to watch the child and not leave the child with a babysitter, and the child staying with Mr. [REDACTED] on the days stated in the court order. The days Ms. [REDACTED] was not able to watch the child, the child would stay with someone mutually agreed upon by Mr. [REDACTED] and Ms. [REDACTED], who was also approved by CYFD. The two people eventually approved were Mr. [REDACTED]'s mother and sister. Ms. [REDACTED] and Detective P. felt comfortable sending the child home with Ms. [REDACTED] because Ms. [REDACTED] was not the concern; the babysitter was. The investigation revealed Detective P. did not place the [REDACTED] child in harm's way by sending the child home with Ms. [REDACTED], as alleged in Mr. [REDACTED]'s complaint.

The CPOA finds Detective P.'s conduct to be **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 Albuquerque Police Department policies, procedures or training.

D) The CPOA reviewed Standard Operating Procedure 1-39-1 (A), and Department Special Order 12-26 regarding Detective P.'s conduct, which state, respectively:

1-39-1 USE OF TAPE/DIGITAL RECORDERS

[6] A. Personnel will use issued tape/digital recorders to document the incidents listed below.

It will be the responsibility of the primary officer to ensure that the incident will be recorded in its entirety. If at any time the primary and secondary officer(s) should become separated, it will be the responsibility of the secondary officer(s) to record all their contact and/or actions during that incident. In such incidents where the primary officer tags a recording and secondary officer(s) also have a recording: all recordings will be tagged into evidence. If the primary officer tags a complete recording or there is an outside source recording tagged into evidence and no secondary recording exist; this shall serve as meeting the requirements for this section.

DEPARTMENT SPECIAL ORDER 12-26

Effective immediately, all sworn department personnel will record each and every contact with a citizen during their shift that is the result of a dispatched call for service, arrest warrant, search warrant or traffic stop. The recordings will be saved for no less than 120 days. Personnel will refer to the instructional video on PowerDMS for storing instructions. Failure to record a contact under the listed specifications may result in discipline.

Detective P. recorded his initial contact with Mr. ██████████ in the hospital but did not record any subsequent contacts with Mr. ██████████. Detective P. is required to record his contacts in entirety.

The CPOA finds Detective P.'s conduct to be a **SUSTAINED violation not based on the original complaint** regarding a violation of this SOP, which means the investigation determined, by a preponderance of the evidence, that misconduct did occur that was not alleged in the original complaint but that was discovered during the misconduct investigation.

Your complaint and these findings are made part of Detective P.'s Internal Affairs records.

Letter to Mr. [REDACTED]
March 11, 2016
Page 6

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 notice. Include your CPC number.
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 Albuquerque'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/iro/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 *Beth Mohr, Chair* *Leonard Waites, Vice Chair*
Dr. Moira Amado-McCoy *Dr. Jeannette Baca* *Dr. Susanne Brown*
Eric H. Cruz *Joanne Fine* *Rev. Dr. David Z. Ring III*
Jeffery Scott Wilson
Edward Harness, Esq., Executive Director

March 11, 2016
Via Certified Mail

[REDACTED]

[REDACTED]

[REDACTED]

Re: CPC # 045-15

Dear Ms. [REDACTED]

Our office received the complaint you filed on March 30, 2015 against Officers of the Albuquerque Police Department (APD) regarding an incident that occurred on March 27, 2015. 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

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

[REDACTED], a [REDACTED]-year old woman, has had an ongoing dispute with her next-door neighbor, who is the same age. Ms. [REDACTED]'s neighbor only speaks Spanish and yells things at her that she does not understand. Ms. [REDACTED] stated her neighbor has stomped around in front of her apartment and kicked her apartment door. Officers received calls about the dispute on March 27, 2015 from both Ms. [REDACTED] and her neighbor.

Ms. [REDACTED] wrote that she called police that day because her neighbor stomped around her apartment door and kicked her door. Ms. [REDACTED] wrote her neighbor ranted something in Spanish. Ms. [REDACTED] wrote she pushed her neighbor away in self-defense after her neighbor

got in her face. Ms. [REDACTED] wrote she held a steam cleaner in between them as a shield. Ms. [REDACTED] told all of this to the responding officers. Ms. [REDACTED] stated that after officers spoke to her neighbor, Officer D. accused her of threatening her neighbor with the steam cleaner, which she denied. Ms. [REDACTED] wrote that Officer D. twisted her words and said she was the one stomping around. Ms. [REDACTED] wrote that she told Officer D. she was scared, but Officer D. accused her of being angry instead. Ms. [REDACTED] complained that Officer D. yelled at her the whole time and would not let her get a word in edgewise. Ms. [REDACTED] wrote Officer M. said nothing and did not stop Officer D. Ms. [REDACTED] did not think her neighbor acted scared despite Officer D.'s accusations. Ms. [REDACTED] wrote that Officer D. was disrespectful and intimidating. Ms. [REDACTED] wrote a supplemental statement to say she had medical proof showing she could not be the one stomping around.

The CPOA Investigator interviewed Ms. [REDACTED]. Ms. [REDACTED] stated in her interview that the officers were listening to her when they first spoke to her, but Officer D.'s attitude changed after the officers spoke to her neighbor. Ms. [REDACTED] stated Officer D. yelled at her the whole time and she found that to be intimidating and disrespectful. Ms. [REDACTED] stated Officer D. put words in her mouth several times. Ms. [REDACTED] admitted she pushed her neighbor when he got in her face. Ms. [REDACTED] stated when she went in her apartment for something she retrieved her stun gun as well. Ms. [REDACTED] admitted she showed it to the neighbor to show him she was not afraid to use it if needed. Ms. [REDACTED] stated Officer D. was being a bully and yelled at her over and over. Ms. [REDACTED] stated she became frustrated and left because the situation was going nowhere.

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

The Executive Director reviewed the investigation conducted by the CPOA Investigator, which included review of the Complaint, SOPs, Computer-Aided Dispatch Report, Albuquerque Police Report, Officer D.'s lapel video, Officer M.'s lapel video, and the CPOA Investigator's interviews of [REDACTED], Officer D. and Officer M.

(A) The CPOA reviewed Standard Operating Procedure Order 1-04-1(F) regarding Officer D.'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.

Officer M. was the primary officer, and Officer D. was the secondary. Ms. [REDACTED] complained about Officer D.'s conduct. Ms. [REDACTED] felt that Officer D. had made up his mind about the type of person she was after talking to her neighbor. Ms. [REDACTED] claimed Officer D. yelled at her and she found that behavior to be intimidating and disrespectful. Ms. [REDACTED] stated Officer D. interjected when she tried to tell her side of the story. She stated that Officer D. put words in her mouth and told her what her feelings were. Ms. [REDACTED] claimed Officer D. was a bully.

Officer D. understood from the neighbor that Ms. [REDACTED] kicked the neighbor, threatened to hit him with a vacuum cleaner and then walked back into her apartment and made threatening gestures with a stun gun. Officer D. also understood from the apartment manager that Ms. [REDACTED] wrote a threatening note saying someone would get hurt. Officer D. felt Ms. [REDACTED] was argumentative with Officer M., so he stepped in the conversation between Ms. [REDACTED] and Officer M. Officer D. told Ms. [REDACTED] she was lucky she was not going to jail and was the primary aggressor. Officer D. agreed he told Ms. [REDACTED] that she was not in fear because her actions demonstrated otherwise. Officer D. stated Ms. [REDACTED] was not listening, so his tone was stern. Officer D. stated that Ms. [REDACTED] was interrupting him because things were not going her way and she was not happy with what the officers had to say.

The lapel video showed Ms. [REDACTED] admitted to kicking her neighbor, holding the vacuum and stun gun and writing the note, but claimed her actions were justified. The lapel video showed Officer M. started to explain how Ms. [REDACTED]'s actions were perceived when Officer D. interjected. Officer D. was stern and scolding with Ms. [REDACTED]. The video showed Officer D.'s statements were factually valid, but the manner he delivered the information was the issue. The video showed Ms. [REDACTED] did not listen to the information because she was still coming from the position that she was in the right and not enough explanation had occurred. Officer D. perceived Ms. [REDACTED] as more argumentative than the lapel video showed. Officer M., as the primary officer, would have preferred to handle the situation her way.

The CPOA finds Officer D.'s conduct to be **SUSTAINED** regarding the allegation of a violation of this SOP, which means the alleged misconduct did occur.

Your complaint and these findings will be placed in Officer D.'s Internal Affairs personnel 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 notice. Include your CPC number.
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 Albuquerque'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/iro/survey>.

Letter to Ms. [REDACTED]
March 11, 2016
Page 4

Thank you for participating in the process of civilian oversight of the police, ensuring officers are held accountable, and improving the process.

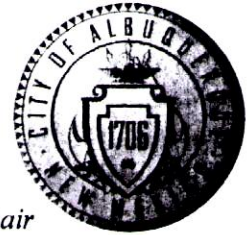
Sincerely,
The Civilian Police Oversight Agency by



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 *Beth Mohr, Chair* *Leonard Waites, Vice Chair*
Dr. Moira Amado-McCoy *Dr. Jeannette Baca* *Dr. Susanne Brown*
Eric H. Cruz *Joanne Fine* *Rev. Dr. David Z. Ring III*
Jeffery Scott Wilson
Edward Harness, Esq., Executive Director

March 11, 2016
Via Certified Mail

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Re: CPC #046-15

Dear Mrs. [REDACTED]

Our office received the complaint you filed on March 31, 2015 against Officer A. of the Albuquerque Police Department (APD) regarding an incident that occurred on March 13, 2015. 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

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

[REDACTED] wrote in her complaint that on March 13, 2015 at about 1:15 pm, she called the Albuquerque Police Department as she and her husband had been trying to resolve a problem involving a neighbor and a dog. Officer A. responded to the call. Mrs. [REDACTED] wrote that she also wanted to ask the responding officer what the procedure was to contact her adult son. Mrs. [REDACTED] wrote that Officer A. was unprofessional and disrespectful. Mrs. [REDACTED] wrote that Officer A. eventually refused to speak with her and instead, took her husband outside where he spoke to him in a loud voice; so loud that her neighbors heard what he was saying. Mrs. [REDACTED] stated that she wanted Officer A. reprimanded for his unprofessional behavior.

I. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING OFFICER A.'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 Citizen Police Complaint, an interview with Mr. and Mrs. [REDACTED], and an interview with Officer A. The CPOA Investigator also reviewed the Computer Assisted Dispatch (CAD) report and Officer A.'s lapel video recording of the contact.

A) The CPOA reviewed Standard Operating Procedure Order 1-04-1(F) regarding Officer A.'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.

Mrs. [REDACTED] wrote in her complaint that on March 13, 2015 at about 1:15 pm, she called the Albuquerque Police Department as she and her husband had been trying to resolve a problem involving a neighbor and a dog. Officer A. responded to the call. Mrs. [REDACTED] wrote that she also wanted to ask the responding officer what the procedure was to contact her adult son. Mrs. [REDACTED] wrote that Officer A. was unprofessional and disrespectful. Officer A. eventually refused to speak with her and instead, took her husband outside where he spoke to him in a loud voice; so loud that her neighbors heard what he was saying. Mrs. [REDACTED] wanted Officer A. reprimanded for his unprofessional behavior.

The CPOA Investigator interviewed Mr. and Mrs. [REDACTED] over the phone, as they now live in [REDACTED], NM. Mrs. [REDACTED] repeated what was in her written complaint. Mr. [REDACTED] said that when he went outside to speak with Officer A. that Officer A. was rude with him also.

The Computer Assisted Dispatch (CAD) report for the incident on March 13, 2015 showed that Mr. [REDACTED] did not call the police to complain about a problem with a dog and neighbor, as Mrs. [REDACTED] wrote in her complaint. The report showed that Mr. [REDACTED] called the police. Mr. [REDACTED] told the police that he was calling on behalf of his wife, [REDACTED]. Mr. [REDACTED] said that his wife wanted to press charges on her son in reference to an event that took place on September 25, 2014. Mr. [REDACTED] reported that his wife's 34 year-old son, lived in [REDACTED]. Mr. [REDACTED] requested that a police officer contact him. Officer A. responded to the call at 1:12 PM. He arrived at 1:39 PM and he cleared the call at 2:07 PM. There is no indication on the call that Mr. and Mrs. [REDACTED] wanted to resolve a problem involving a neighbor and a dog.

Officer A. recorded the contact with Mr. and Mrs. [REDACTED] in its entirety on lapel camera video. The video showed Officer A. arrived and made contact with Mr. [REDACTED], who showed Officer A. into the home. Mrs. [REDACTED] was seated on a couch and the officer stayed standing near the front door as Mr. [REDACTED] took a seat on the couch as well. The [REDACTED]'s told Officer A. that on September 25, 2014 they had contacted Officer W. and they filed a report that Mrs. [REDACTED]'s son had gained entry to their storage shed and her son had stolen some property. Mrs.

[REDACTED]'s son had evidently called Mrs. [REDACTED] and told her that he had the property. The [REDACTED]'s explained that at the time that they made the report with Officer W., they did not want to pursue charges against Mrs. [REDACTED]'s son. Mrs. [REDACTED] told Officer A. that the reason that they contacted APD was because she had changed her mind and now she did want to press charges on her son. Mrs. [REDACTED] said that she wanted her son picked up. Officer A. seemed a bit confused at first and requested more information. When Mrs. [REDACTED] told Officer A. that she wanted to file a report, he told her that a report had already been filed on the incident. Officer A. did speak loudly and at one point Mrs. [REDACTED] told Officer A., "Please don't yell." Officer A. said, "I'm not. I'm just talking." Officer A. asked for more facts surrounding the theft of the property and he told Mrs. [REDACTED] that they could not go to [REDACTED] and arrest her son because that was out of APD's jurisdiction. When Officer A. learned more about the alleged theft, he told Mrs. [REDACTED] that if she wanted to pursue the matter that she should get an Attorney and file against her son in Civil Court. Mrs. [REDACTED] appeared to get frustrated at that and asked, "So a patrolman can't do nothing?" Officer A. said that a patrolman had already filed a report on the theft. Mrs. [REDACTED] then changed her story and told Officer A. that when Officer W. came out to take a report, it had nothing to do with the theft of her property but it had to do with a problem with the neighbor and his dog.

Mrs. [REDACTED] then asked if Officer A. could call another officer out to come and talk to them. Officer A. said, "Ma'am, I'm trying to explain to you. You handed me this paper telling me that this officer took a report reference your stolen..." Mrs. [REDACTED] said, "Please don't yell at me." Officer A. said, "I'm not yelling at you ma'am. Okay?" Mrs. [REDACTED] then said, "It's okay. Forget it. May I have your badge number? May I have your badge number and your name?" Officer A. gave Mrs. [REDACTED] the information. Mrs. Burch said, "That's fine. That's all we need."

Mr. [REDACTED] then engaged Officer A. in further conversation. The [REDACTED]'s told Officer A. about a female officer who had come out to their house some time ago and that the female officer was so kind that they made a good report on her. The lapel video showed that Officer A. then called dispatch to determine who had been out to the address in the past. The dispatcher responded that the police had been to the Burch's home on the March, 5, 2015, March 7, 2015, March 8, 2015, and March 9, 2015 for various calls.

Mr. [REDACTED] proceeded to tell Officer A. about their experience with the female officer. Mr. [REDACTED] said that the female officer had determined that there was no use in tracking Mrs. [REDACTED]'s son down because he did not want to be found and didn't want anything to do with the [REDACTED]'s. Mr. [REDACTED] said that Mrs. [REDACTED] was very sick and could die at any time and that Mrs. [REDACTED]'s son needs to know that. Officer A. pointed out that her son had expressed no desire to be in contact with Mrs. [REDACTED] and as an adult, her son has that right.

Mrs. [REDACTED] said again, "It's okay. I appreciate you coming by." Officer A. said in response, "Okay. Thank you, ma'am." Officer A. then told Mr. [REDACTED] that he would finish talking to him.

Letter to Mrs. [REDACTED]

March 11, 2016

Page 4

Mr. [REDACTED] asked, "There's nothing else we can do or what? Do I have to go travel to [REDACTED] and slam him or what?" Officer A. explained that [REDACTED] was out of APD's jurisdiction. Mrs. [REDACTED] then said, "That's fine. We're done." Officer A. said, "Okay, I understand. I'm done talking to you, I'm talking to him now." In frustration at being interrupted while speaking with Mr. [REDACTED], Officer A. asked Mr. [REDACTED] to step outside where he could speak to Mr. [REDACTED] without being interrupted by Mrs. [REDACTED]. Mr. [REDACTED] agreed to go outside. Officer A. said, "Since she keeps reiterating that we're done, that's fine. We can be done with her. I'll talk to you outside. That's fine."

Mr. [REDACTED] said, "I'm just trying to help and I'm getting slammed." Officer A. asked Mr. [REDACTED] for clarification as to exactly what was reported to Officer W. Mr. [REDACTED] told Officer A. that Officer W. took a report on the theft of Mrs. [REDACTED]'s items that were taken by her son.

Officer A. told Mr. [REDACTED] that since a report had already been made on that theft, that the police department would not write another report on the same incident. Officer A. told Mr. [REDACTED] that if Mrs. [REDACTED] felt that her son stole the items, then she should take him to court. Officer A. then explained the civil court process to Mr. [REDACTED]. Mr. [REDACTED] again asked Officer A. if he should go to [REDACTED] and slam Mrs. [REDACTED]'s son. Officer A. asked, "Will slamming him get your stuff back?" Mr. [REDACTED] responded, "No." Officer A. asked, "Well then what's the point in that?" Officer A. told Mr. [REDACTED] that they needed to go to court on the matter. The conversation closed with Mr. [REDACTED] shaking Officer A.'s hand saying, "You're alright brother. Have a good day."

The CPOA Investigator also interviewed Officer A. Officer A. denied the allegations that Mrs. [REDACTED] made against him.

The lapel video showed that Officer A. was, at times, loud and abrupt. Officer A. though, does, in general, speak loudly. Officer A. doesn't yell but the volume of his voice is above that of most people during a conversation. The lapel video showed that even though Officer A. was loud and abrupt, his actions with Mr. and Mrs. [REDACTED] did not rise to a level of a violation of this SOP.

The CPOA finds with regard to the allegation made by Mrs. [REDACTED] about Officer A.'s conduct that the allegation was **EXONERATED**, because 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 Officer A.'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 notice. Include your CPC number.

Letter to Mrs. [REDACTED]
March 11, 2016
Page 5

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 Albuquerque'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/iro/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 *Beth Mohr, Chair* *Leonard Waites, Vice Chair*
Dr. Moira Amado-McCoy *Dr. Jeannette Baca* *Dr. Susanne Brown*
Eric H. Cruz *Joanne Fine* *Rev. Dr. David Z. Ring III*
Jeffery Scott Wilson
Edward Harness, Esq., Executive Director

March 11, 2016
Via Certified Mail

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

Re: CPC #047-15

Dear Ms. [REDACTED]

PO Box 1293

Our office received the complaint you filed on April 1, 2015 against Detective M. of the Albuquerque Police Department (APD) regarding an incident that occurred on February 26, 2015. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint.

Albuquerque

Upon completion of the investigation the CPOA determined, based on a preponderance of the evidence, whether or not the APD Officer(s) involved violated Standard Operating Procedures (SOPs). A preponderance of the evidence means that one side has demonstrated a greater weight of evidence (more than 50%) that is more credible and convincing than the other side. If the credible evidence is 50-50, the proper finding is Not Sustained.

New Mexico 87103

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

[REDACTED] said that on February 26, 2015, her son, [REDACTED], was shot and killed. APD Detective M. was assigned to investigate the case. Ms. [REDACTED] complained that Detective M. lied to her because when he initially contacted her to report her son, [REDACTED], was shot and killed, Detective M. told her [REDACTED] was holding a screw driver when the homeowner confronted him and shot and killed [REDACTED]. Ms. [REDACTED] said in her face-to-face interview with Detective M. on March 2, 2015, he retracted his statement about [REDACTED] holding a screw driver and instead said [REDACTED] was holding a knife and lunged at the home owner before the home owner shot and killed him. Ms. [REDACTED] complained Detective M.

told her and her family he would contact them, individually, for their statements but Detective M. never called her or her family members. Ms. ██████████ told Detective M. that ██████████, ██████████'s drug dealer, knew the homeowner who shot ██████████, and that they collaborated in ██████████'s death. Ms. ██████████ complained that Detective M. and APD did nothing with the information because ██████████'s brother is a retired APD officer. Ms. ██████████ also alleged that Detective M. failed to respond to the two emails she sent and said she did not receive any of ██████████'s personal property.

II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING DETECTIVE M.'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 Citizen Police Complaint, telephone recordings and interviews with Ms. ██████████ and Detective M.

A) The CPOA reviewed Standard Operating Procedure 1-4-1 (F) regarding Detective M.'s conduct, which states:

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

Ms. ██████████ complained that Detective M. lied to her because when he initially contacted her to report that her son, ██████████, was shot and killed he told her ██████████ was holding a screw driver when the homeowner confronted him and shot and killed him. Ms. ██████████ said in her face-to-face interview with Detective M. on March 2, 2015, Detective M. retracted his statement about ██████████ holding a screw driver and instead said ██████████ was holding a knife and lunged at the home owner before the home owner shot and killed him.

Interviews with Ms. ██████████ and Detective M. revealed that Detective M. contacted Ms. ██████████ via telephone the evening of February 26, 2015. Ms. ██████████ was upset when Detective M. gave her the basics of the investigation, which Detective M. said included initial reports that the homeowner who shot ██████████ thought ██████████ was holding a knife. Detective M. said after crime scene processing was completed, it was revealed that ██████████ was holding a large screw driver and not a knife. Detective M. said when Ms. ██████████ learned this she seemed to be in shock and denial about it and was not happy about the fact her son was shot because he was holding a screw driver. The interviews also revealed that due to the fluidity of homicide investigations, it is not uncommon for information given during initial briefings to change once crime scene processing has been completed and all evidence has been identified.

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

B) The CPOA reviewed Standard Operating Procedure 2-24-3 (B)(5)(d) regarding Detective M.'s conduct, which states:

B. Follow-Up Investigations

5. Steps to be considered when conducting follow up investigations:

d. Seek additional information from officers, informants, etc.

Ms. [REDACTED] complained that Detective M. told her and her family they would be contacted, individually, for their statements but Detective M. never called her or her family members. Recorded interviews and phone conversations between Detective M. and Ms. [REDACTED], and Ms. [REDACTED]'s daughter, [REDACTED], revealed that Detective M. spoke to Ms. [REDACTED] and her family members during the investigation.

The interviews and recorded conversation also revealed that on March 25, 2015 Detective M. told Ms. [REDACTED] the investigation was done and there was nothing more to investigate so the investigation was forwarded to the District Attorney's Office. Despite forwarding the investigation to the District Attorney's Office, Detective M. still conducted follow-ups on leads related to the original investigation, such as the lead regarding [REDACTED] and his connection to the homeowner who shot [REDACTED]. Detective M. investigated the allegation and did not find a connection between [REDACTED] and the homeowner. The interviews and recordings revealed Detective M. sought additional information from Ms. [REDACTED] and her family and conducted a thorough investigation into [REDACTED]'s death.

The CPOA finds Detective M.'s conduct to be **UNFOUNDED** regarding the allegation of a violation of this SOP, which means the investigation determined, by clear and convincing evidence, that the alleged misconduct did not occur or did not involve the subject officer.

Ms. [REDACTED] also alleged Detective M. failed to respond to the two emails she sent. Detective M. did not respond to Ms. [REDACTED]'s emails; however, this is not a violation of any APD Standard Operating Procedures. Ms. [REDACTED] alleged she did not receive any of [REDACTED]'s personal property. Detective M. could not recall Ms. [REDACTED] asking for [REDACTED]'s personal items. Regardless, in a homicide investigation personal items would not be returned because they are considered evidence.

Your complaint and these findings are made part of Detective M.'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 notice. Include your CPC number.
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 Albuquerque's Chief

Letter to Ms. [REDACTED]
March 11, 2016
Page 4

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/iro/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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Eric H. Cruz *Joanne Fine* *Rev. Dr. David Z. Ring III*
Jeffery Scott Wilson
Edward Harness, Esq., Executive Director

March 11, 2016
Via Certified Mail

[REDACTED]

[REDACTED]

Re: CPC #051-15

Dear Mr. [REDACTED]

Our office received the complaint you filed on April 11, 2015 against Officer L. of the Albuquerque Police Department (APD) regarding an incident that occurred on April 11, 2015. 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

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

[REDACTED] complained that on April 11, 2015 at about 10:30 pm, he was driving in the area of San Bernadino/Academy and Tramway and on I-40 Westbound when he witnessed APD Officer L. speeding at 70 mph or more without his emergency lights or siren engaged. Mr. [REDACTED] alleged that Officer L. was weaving in and out of traffic without using turn signals. Mr. [REDACTED] said he sped up in an effort to catch up to Officer L. when Officer L. pulled him over near I-40 and Carnuel and cited Mr. [REDACTED] for speeding. Mr. [REDACTED] complained that Carnuel is out of APD's jurisdiction.

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II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING OFFICER L.'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 Citizen Police Complaint, lapel video and interviews with Mr. [REDACTED] and Officer L.

- A) The CPOA reviewed Standard Operating Procedure 1-19-2 (J)(3) regarding Officer L.'s conduct, which states:

J. Assigned Take-Home Vehicle Program

3. All employees assigned an APD vehicle will exercise good judgment in utilizing it, and will not drive or use the vehicle so as to cause unfavorable comment, or reflect discredit on the Department. When practical all employees will not use their radio or MDT while operating an APD vehicle. Officers will pull over before using an MDT except in emergency situations.

Mr. [REDACTED] complained he was driving in the area of San Bernadino/Academy and Tramway and on I-40 Westbound when he witnessed Officer L. speeding at 70 mph or more without using emergency lights and siren and that Officer L. drove erratically and did not use turn signals. Mr. [REDACTED] said he sped up in an effort to catch up to Officer L. when Officer L. pulled him over at Carnuel and cited Mr. [REDACTED] for speeding. [REDACTED] complained that Carnuel is out of APD's jurisdiction.

The interviews and lapel video revealed that Officer L. followed Mr. [REDACTED], who was travelling 78 mph in a 65 mph zone, for the purpose of pacing Mr. [REDACTED]'s speed after Mr. [REDACTED] passed Officer L.'s vehicle on the freeway. Officer L. was on his way home at the end of his shift. Officer L. felt he had to pull Mr. [REDACTED] over, because his traffic violation was so blatant. Carnuel is within APD's jurisdiction. The interviews revealed Officer L. did not drive erratically and used turn signals when necessary. The lapel video showed Mr. [REDACTED] asked Officer L. if Officer L. came out of Academy to enter onto Tramway, to which Officer L. replied "no." Officer L. believed that either Mr. [REDACTED] mistook him for another officer, or Mr. [REDACTED] was attempting to get out of the traffic ticket. Officer L.'s lapel video supported Officer L.'s statement that he was speeding in order to issue Mr. [REDACTED] a ticket.

The CPOA finds Officer L.'s conduct to be **UNFOUNDED** regarding the allegation of a violation of this SOP, which means the investigation determined, by clear and convincing evidence, that the alleged misconduct did not occur or did not involve the subject officer.

Your complaint and these findings are made part of Officer L.'s Internal Affairs records.

You have the right to appeal this decision.

Letter to Mr. [REDACTED]

March 11, 2016

Page 3

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 notice. Include your CPC number.
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 Albuquerque'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/iro/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,

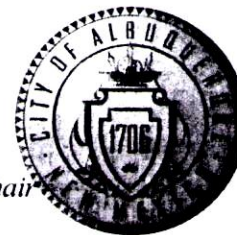
The Civilian Police Oversight Agency by



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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Eric H. Cruz *Joanne Fine* *Rev. Dr. David Z. Ring III*
Jeffery Scott Wilson
Edward Harness, Esq., Executive Director

March 11, 2016
Via Certified Mail

[REDACTED]

[REDACTED]

Re: CPC #053-15

Dear Mrs. [REDACTED]

Our office received the complaint you filed on May 14, 2015 against Officer W. of the Albuquerque Police Department (APD) regarding an incident that occurred on April 4, 2015. 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

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

[REDACTED] wrote that on Saturday April 4, 2015 her apartment caught on fire. Ms. [REDACTED] was not home at the time and as she had arrived she saw the building on fire. Ms. [REDACTED] stated she was very emotional and had realized her daughters' dog was in the backyard. Ms. [REDACTED] stated there was a female officer on scene, later identified as Officer W., who was rude and yelling at her. Ms. [REDACTED] stated she yelled back at the officer. Ms. [REDACTED] alleged that officers apprehended, choked, slammed her up against the officers' car and threw her in the backseat. Ms. [REDACTED] stated that she told the officer that her family's dog was in the backyard and stated Officer W. said she was not going to tell the fire department because Ms. [REDACTED] was "being an asshole." Ms. [REDACTED] stated the Sergeant on scene came to the vehicle to ask Ms. [REDACTED] questions. Ms. [REDACTED] stated during that time Officer W. told Ms. [REDACTED]'s

Letter to Ms. [REDACTED]

March 11, 2016

Page 2

daughter that Ms. [REDACTED] needs to learn manners and respect. Ms. [REDACTED] stated in her complaint that prior to this incident she had respect for the Albuquerque Police Department. Ms. [REDACTED] stated the handcuffs the officer placed on her were so tight it caused her fingers to stay numb for days, and she has carpal tunnel syndrome. Ms. [REDACTED] wrote that her back aches on and off due to the incident and Officer W. showed no compassion. Ms. [REDACTED] stated that the Sergeant let her out of the vehicle and informed her there were no charges against her. Ms. [REDACTED] stated that when the Sergeant let her out, Officer W. laughed at her and taunted her saying "I will charge you for denting my car." Ms. [REDACTED] wrote that if the officer hadn't slammed Ms. [REDACTED] against the car, there would not be a dent. Ms. [REDACTED] wrote that her emotions were running high due to the fire and knowing the dog was still in the yard, however, Officer W. had no compassion and she fears running into this officer out in the streets. Ms. [REDACTED] stated she has nightmares about Officer W.

Several attempts via telephone were made by the Investigator to contact Ms. [REDACTED] for a statement and interview. The Investigator also sent Ms. [REDACTED] a certified letter, which was signed for. Ms. [REDACTED] did not make contact with the Investigator. The investigation was based upon Ms. [REDACTED]'s written complaint.

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 Citizen Police Complaint, Albuquerque Police Department report # [REDACTED], lapel video of Officer W. and the interviews of Officer W. and Sergeant W.

A) The CPOA reviewed Standard Operating Procedure 1-04-1(F) regarding Officer W.'s conduct, which states:

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

Ms. [REDACTED] wrote in her complaint Officer W. yelled, screamed and berated her during the incident.

Lapel video showed Officer W. was chasing down Ms. [REDACTED] as she was running towards a structure fire. Ms. [REDACTED] was cursing and yelling at Officer W. as Officer W. was attempting to stop Ms. [REDACTED] from entering the fire scene. Lapel video showed that although Ms. [REDACTED] was using profanity towards Officer W., Officer W. stated "You're going in handcuffs if you don't knock your shit off". Officer W. then stated "If I let you go are you going to knock your shit off?" After Officer W. placed Ms. [REDACTED] in handcuffs and placed her in the backseat of the police vehicle, Officer W. asked Ms. [REDACTED] about her dog. Ms. [REDACTED] once again used profanity towards Officer W., at which time Officer W. responded with "Okay, I won't tell them about your dog, that's fine."

Letter to Ms. ██████

March 11, 2016

Page 3

The CPOA find Officer W.'s conduct to be **SUSTAINED** regarding the allegation of a violation of this SOP, which means the investigation determined, by a preponderance of the evidence that the alleged misconduct did occur.

B) The CPOA reviewed Standard Operating Procedure 1-04-4 (P) regarding Officer W.'s conduct, which states:

Personnel shall not use coarse, violent, profane or insolent language or gestures.

Ms. ██████ wrote in her complaint that Officer W. cursed at her during the incident including telling Ms. ██████ she was being an asshole.

During the incident, Officer W. did use profanity in her speech while attempting to use verbal control over Ms. ██████. The lapel video did not show Officer W. stating Ms. ██████ was "being an asshole," however, Officer W. did use profanity.

The CPOA find Officer W.'s conduct to be **SUSTAINED** regarding the allegation of a violation of this SOP, which means the investigation determined, by a preponderance of the evidence that the alleged misconduct did occur.

C) The CPOA reviewed Standard Operating Procedure 2-52-3 (A) regarding Officer W.'s conduct, which states:

Officers may use force when objectively reasonable based on the totality of the circumstances. The objectives for which force may be appropriate include:

- ***To effect a lawful arrest or detention of a person***
- ***To gain control of a combative prisoner***
- ***To defend an officer or member of the public from the physical acts of another***

Ms. ██████ wrote in her complaint that Officer W. apprehended her, choked her, slammed her up against Officer W.'s vehicle and threw her in the backseat. Ms. ██████ stated the handcuffs were placed so tight that it caused her fingers to stay numb for days.

The investigation and lapel video showed Ms. ██████ was not choked or slammed up against the car by Officer W. The lapel video showed Officer W. chasing down Ms. ██████ as she tried to run into the scene of a structure fire. Ms. ██████ was continually cursing and broke free, resisting Officer W.'s attempts to keep her safe. At one point, Ms. ██████ assaults Officer W. by reaching up and pushing her in the chest. Ms. ██████'s husband also intervenes and is the person who grabs Ms. ██████ by the waist and head, pushing her into Officer W.'s vehicle.

Officer W. does detain Ms. ██████ for her safety and places her in the back of the police vehicle. Officer W. does not throw Ms. ██████ in the back of the car as Ms. ██████ stated in her complaint.

The CPOA find Officer W.'s conduct to be **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.

D) The CPOA reviewed Standard Operating Procedure 1-39-1 (A) regarding Officer W.'s conduct, which states:

It will be the responsibility of the primary officer to ensure that the incident will be recorded in its entirety...

Lapel video of Officer W. shows the initial part of the incident that Ms. [REDACTED] describes in her complaint. However during review of Officer W.'s lapel video, the entire contact during the incident is not recorded.

The CPOA find Officer W.'s conduct to be **SUSTAINED VIOLATION NOT BASED ON ORIGINAL COMPLAINT**, where the investigation determined, by a preponderance of the evidence, that misconduct did occur that was not alleged in the original complaint but that was discovered during the misconduct investigation.

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 notice. Include your CPC number.
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 Albuquerque'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/iro/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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Eric H. Cruz *Joanne Fine* *Rev. Dr. David Z. Ring III*
Jeffery Scott Wilson
Edward Harness, Esq., Executive Director

March 11, 2016
Via Certified Mail

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Re: CPC # 056-15

Dear Ms. [REDACTED]

Our office received the complaint you filed on April 22, 2015 against an Officer of the Albuquerque Police Department (APD) regarding an incident that occurred on March 31, 2015. 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

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

[REDACTED] wrote in her complaint that on March 31, 2015 she filed a police report with Officer E. Ms. [REDACTED] had called the police to report incidents of alleged child abuse against her ex-husband. Ms. [REDACTED] complained that when she obtained the police report, she noticed that Officer E. omitted key details from the police report. Ms. [REDACTED] wrote one of the details was that her ex-husband struck her daughter in the back with a textbook he threw at her. The other was that her ex-husband prevented her daughter from using her phone to call for help.

The CPOA Investigator interviewed Ms. [REDACTED]. Ms. [REDACTED] repeated her written complaint. Ms. [REDACTED] wanted it documented that her ex-husband had thrown a book, which struck her daughter in the back. She also felt that the fact her ex-husband denied her daughter the use of

her phone to call for help was very important to be documented. In her opinion, Officer E. glossed over the "dangerous parts." She believed Officer E. should take her statement and not edit it to what he felt was important and what was not. Ms. [REDACTED] felt she expressed the importance of these details by providing Officer E. context about previous situations.

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

The CPOA Executive Director reviewed the investigation conducted by the CPOA Investigator, which included review of the Complaint, SOPs, Computer-Aided Dispatch Report (CAD), Albuquerque Police Report, Officer E.'s lapel video, and the CPOA Investigator's interviews of Ms. [REDACTED] and Officer E.

(A) The CPOA reviewed Standard Operating Procedure Order 2-24-3(F)(5) regarding Officer E.'s conduct, which states:

Steps to be followed in conducting preliminary investigations: 5. Report the incident fully and accurately.

Ms. [REDACTED] was upset because Officer E. excluded the two main points she wanted included in the police report. Ms. [REDACTED] understood that her ex-husband threw a book at their daughter, striking her in the back. Ms. [REDACTED] agreed she learned the book incident was more accidental than intentional, but she still felt Officer E. should have been notated it. Ms. [REDACTED] also understood her ex-husband prevented her daughter from calling for help by preventing her daughter from using her phone. Ms. [REDACTED] believed she informed Officer E. about the past where her ex-husband had already been counseled by CYFD over denying her children the ability to call for help. In Ms. [REDACTED]'s opinion, Officer E. glossed over the "dangerous parts." Ms. [REDACTED] believed she gave Officer E. enough history to put the incident in context.

Officer E.'s lapel video showed Ms. [REDACTED] provided some history of her relationship with her ex-husband. Ms. [REDACTED] explained to Officer E. that she wanted a police report, potentially to get a restraining order for her children. The video showed Ms. [REDACTED] said she believed her ex-husband committed criminal acts because he would not let anyone use the phone and hit their daughter with the book. Officer E. reviewed the required elements for potential charges. In order for assault or battery to be charged, Ms. [REDACTED]'s daughter would have had to perceive a threat and she knew nothing about the book until her brother told her.

Officer E. did not include the alleged book-throwing or telephone incident Ms. [REDACTED] mentioned because they did not rise to the level of charges. Prior to writing his police report, Officer E. interviewed Ms. [REDACTED]'s children, ages [REDACTED] and [REDACTED] years old, Mr. [REDACTED] and Ms. [REDACTED]. Officer E.'s understood that Mr. [REDACTED] took his daughter's phone, not to deny Ms. [REDACTED]'s daughter to call for help, but to remove the distraction of the phone, as the phone had initiated the argument between Mr. [REDACTED] and his daughter. After speaking with the children, Officer E. found that Mr. [REDACTED]'s throwing of the book did not rise to a level of a crime. The [REDACTED] year-old son had told Officer E. that his father threw a book at his sister, but that the sister

Letter to Ms. [REDACTED]

March 11, 2016

Page 3

did not see the book or know that her father had thrown the book. In order to be a crime, the daughter would have had to been in fear of being hit with the book. Because the daughter did not know the book was thrown at her, an element of the crime was missing. Officer E. wrote in his report that he was forwarding his report to the Children, Youth, and Families Department (CYFD) for review. Officer E. also indicated in his report that he had recorded the interviews, including his phone interview with Mr. [REDACTED]. The lapel video would be available to CYFD staff to review for possible action.

Officer E. agreed if he had realized the importance of those two items to Ms. [REDACTED], he would have included them, but it would not have changed the outcome of whether there was any probable cause to charge Mr. [REDACTED] with a crime.

The CPOA finds Officer E.'s conduct to be **EXONERATED** regarding the allegation of a violation of this SOP, which means the alleged conduct did occur, but did not violate APD policies, procedures, or training.

Your complaint and these findings will be placed in Officer E.'s Internal Affairs personnel files.

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 notice. Include your CPC number.
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 Albuquerque'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/iro/survey>.

Thank you for participating in the process of civilian oversight of the police, ensuring officers 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 *Beth Mohr, Chair* *Leonard Waites, Vice Chair*
Dr. Moira Amado-McCoy *Dr. Jeannette Baca* *Dr. Susanne Brown*
Eric H. Cruz *Joanne Fine* *Rev. Dr. David Z. Ring III*
Jeffery Scott Wilson
Edward Harness, Esq., Executive Director

March 11, 2016
Via Certified Mail

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Re: CPC #058-15

Dear Mr. [REDACTED]

Our office received the complaint you filed on April 23, 2015 against Officer B. and Sergeant C. of the Albuquerque Police Department (APD) regarding an incident that occurred on October 31, 2013. 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

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

[REDACTED] wrote in his complaint that on October 31, 2013 at around 3:00 AM, he was headed East on Central when he noticed a vehicle behind him with no lights on. Mr. [REDACTED] stated that he turned and the vehicle followed him. He made a few more turns and then the following vehicle's emergency lights came on. Mr. [REDACTED] realized the following vehicle was a police car. Mr. [REDACTED] stopped and had contact with APD Officer B. Mr. [REDACTED] said that Officer B. accused him of speeding and almost causing a "big accident", which, he said, was not true. Officer B., a DWI officer, asked Mr. [REDACTED] if he had been drinking and Mr. [REDACTED] did

not answer. APD Sergeant C. was called to the scene. Mr. [REDACTED] alleged that the officers violated his civil rights. According to Mr. [REDACTED], when he questioned Officer B. about his driving his police car with no headlights on, Officer B. did not want to hear it. Mr. [REDACTED] wrote that Sergeant C. was nice at first but then threatened him with bodily harm if he didn't comply in getting out of the car. Mr. [REDACTED] got out of the car and Officer B. continued his DWI investigation. Mr. [REDACTED] asked for a higher ranking officer than Sergeant C. to come to the scene but his request was refused. Mr. [REDACTED] then decided not to comply with any of the requests made by Officer B. and Sergeant C. related to the DWI investigation. Mr. [REDACTED] wrote that he would have never had to make so many turns if Officer B. had not been following him with his lights off.

II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING OFFICER B.'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 Citizen Police Complaint, the Albuquerque Police Department Reports in the case, The Computer Assisted Dispatch (CADS) Reports, a review of Court Records, an interview with Mr. [REDACTED], and interviews with Officer B., and Sergeant C. Both of the officer's lapel video recordings of the incident were also reviewed.

- A) The CPOA reviewed Standard Operating Procedure 1-02-2-B 2 regarding Officer B.'s conduct, which states:

Officers shall familiarize themselves with and have working knowledge of all laws of the State of New Mexico and the City of Albuquerque which they are required to enforce. Officers shall make only those arrests, searches, and seizures which they know or should know are legal and in accordance with departmental procedures.

Mr. [REDACTED] said that Officer B. accused him of speeding and almost causing a "big accident", none of which was true. Mr. [REDACTED] alleged that the officers violated his civil rights. When Mr. [REDACTED] questioned Officer B. about his driving his police car with no headlights on, Officer B. did not want to hear it. Mr. [REDACTED] felt that Officer B. had no business stopping him, especially because Officer B. had his headlights off at the time. Furthermore, Mr. [REDACTED] said that he was only driving the way he was because he thought he was being followed by someone with their headlights off and he was simply trying to get out of the way of that car.

Mr. [REDACTED] was represented by a lawyer throughout the criminal proceedings. Mr. [REDACTED] said that at each stage of the proceedings, his lawyer raised these same issues with the Court. Metro Court Judge [REDACTED] granted a motion to suppress the evidence in the case and found that there was no probable cause to make the arrest. The District Attorney then dismissed the case in Metro Court but refiled it in District Court. There, another Judge overturned Judge [REDACTED] ruling finding Mr. [REDACTED] to not be credible. The District Court Judge found that there was reasonable suspicion and probable cause for the arrest and Mr. [REDACTED]

would have to stand trial on the charges. Mr. ██████ stood trial before another District Court Judge and a Jury and he was convicted, beyond all reasonable doubt, of the crimes charged.

Mr. ██████ said that he could not tell who was behind him with their headlights off. The evidence suggests that he could. The area between First Street and Second Street on Central is extremely well lit at night. Furthermore, since Officer B.'s headlights were off, there would have been no headlight glare in Mr. ██████'s rearview mirror, so he would have been able to clearly see that the car behind him was a police car.

Based on a preponderance of the evidence and based on the District Court ruling and Jury Conviction, the stop and arrest were legal and in accordance with department procedure. There was no civil rights violation.

The CPOA finds Officer B.'s conduct to be **EXONERATED**, as the investigation determined by a preponderance of the evidence that the alleged conduct did occur but did not violate APD policies, procedures, or training.

- B) The CPOA reviewed Standard Operating Procedure 1-04-1 F regarding Officer B.'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.

Mr. ██████ said that Officer B. lied consistently throughout the incident and throughout the Court proceedings. When asked specifically what Officer B. lied about, Mr. ██████ said that the near accident did not happen and that he was not speeding or driving carelessly. Mr. ██████ said that anyone with commonsense could see that Officer B. lied.

The officer's lapel videos were reviewed. The lapel videos showed that Officer B. asked Mr. ██████ why he was driving around the block in the manner that he was and Mr. ██████ said that he was just looking for a friend. At the scene, Mr. ██████ never told Officer B. that he was trying to get out of the way of a vehicle that was following him with no headlights. While the video did show that Mr. ██████ denied speeding or almost causing an accident, Officer B. maintained that Mr. ██████ did. A Jury found that Mr. ██████ committed the violations.

The lapel video also showed that Officer B. was polite, professional, and restrained in dealing with an uncooperative Mr. ██████.

The investigation did not show that Officer B. lied, and Mr. ██████ was unable to provide proof that Officer B. lied.

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

- C) The CPOA reviewed Standard Operating Procedure 1-19-2 J 3 regarding Officer B.'s conduct, which states:

All employees assigned an APD vehicle will exercise good judgement in utilizing it, and will not drive or use the vehicle so as to cause unfavorable comment, or reflect discredit on the department.

Mr. [REDACTED] claimed that Officer B. was operating his vehicle at night without headlights and because of that, the traffic stop was illegal. Officer B. wrote in his police report, over one and a half years ago, that somehow his headlights did get turned off and were turned off at the time of the traffic stop. That did not make the stop illegal. Furthermore, New Mexico State Law 66-7-6 allows for police officers in an authorized emergency vehicle, while in pursuit of a suspected violator, to be exempt from provisions of the Motor Vehicle Code. There is no proof that Officer B. intentionally turned off his headlights, but even if he did, he was actively engaged in pursuing Mr. [REDACTED], a suspected violator of the law. Officer B.'s actions were lawful.

The CPOA finds Officer B.'s conduct to be **EXONERATED**, as the investigation determined by a preponderance of the evidence that the alleged conduct did occur but did not violate APD policies, procedures, or training.

III. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING SERGEANT C.'S CONDUCT

- A) The CPOA reviewed Standard Operating Procedure 1-04-1 F regarding Sergeant C.'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.

Mr. [REDACTED] wrote that Sergeant C. was nice at first but then threatened Mr. [REDACTED] with bodily harm if he didn't comply in getting out of the car. Mr. [REDACTED] asked for a higher ranking officer than Sergeant C. to come to the scene but his request was refused.

Sergeant C. was the ranking officer on scene. There is no Standard Operating Procedure that requires a Sergeant to call a higher ranking officer to the scene if requested by a person who has been detained during a traffic stop. Sergeant C. was called to the scene to deal with an argumentative and uncooperative Mr. [REDACTED].

Sergeant C.'s lapel video was reviewed. Sergeant C. was polite, professional, and restrained in his dealings with Mr. [REDACTED]. The lapel video showed that Mr. [REDACTED] was never threatened with bodily harm by either officer. The lapel video showed that after several minutes of Mr. [REDACTED] refusing to get out of the car, Sergeant C. said, "The next step is we are going to extract you out of the car. I don't want it to come to that. I've asked you how many times to get out

Letter to Mr. [REDACTED]
March 11, 2016
Page 5

of the car?" The video showed Mr. [REDACTED] did get out of the car after that statement was made. There was no threat of bodily harm to Mr. [REDACTED]

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

Your complaint and these findings are made part of Officer B.'s and Sergeant C.'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 notice. Include your CPC number.
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 Albuquerque'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/iro/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. Moira Amado-McCoy *Dr. Jeannette Baca* *Dr. Susanne Brown*
Eric H. Cruz *Joanne Fine* *Rev. Dr. David Z. Ring III*
Jeffery Scott Wilson
Edward Harness, Esq., Executive Director

March 11, 2016
Via Certified Mail

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

Re: CPC # 060-15

Dear Mr. [REDACTED]

Our office received the complaint you filed on May 1, 2015 against Officers of the Albuquerque Police Department (APD) regarding an incident that occurred on April 29, 2015. 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

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.

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I. THE COMPLAINT

Mr. [REDACTED] stated that Officer C. confronted him in the parking lot of the old Baptist Church. Mr. [REDACTED] wrote that Officer C. approached him and blocked his way. Mr. [REDACTED] wrote that Officer C. asked him why he was there. Mr. [REDACTED] alleged that Officer C. told him not to come back or he would be arrested. Mr. [REDACTED] wrote he asked Officer C. to move his car so that he could leave. Mr. [REDACTED] wrote he asked for Officer C.'s name and badge number. Mr. [REDACTED] alleged that Officer C. said his name was "[REDACTED]" and that was all he needed to know. Mr. [REDACTED] wrote that he had a right to be there.

The CPOA Investigator interviewed Mr. ██████████. Mr. ██████████ restated Officer C. confronted him in the parking lot of the old Baptist Church. Mr. ██████████ stated Officer C. was confrontational and said not to lie to him. Mr. ██████████ stated he had a right to be there and was insulted by the implication he would lie. Mr. ██████████ told Officer C. to move his car, which irritated Officer C. Officer C. told him not to come back. Mr. ██████████ stated he asked Officer C. his name and Officer C. told him his name was "██████" and he would not provide any further information.

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

The CPOA Executive Director reviewed the investigation conducted by the CPOA Investigator, which included review of the Complaint, SOPs, Computer-Aided Dispatch Report (CAD), and the CPOA Investigator's interviews of Mr. ██████████, Officer C., and ██████████, the Mayor's Policy and Program Advisor.

(A) The CPOA reviewed Standard Operating General Order 1-02-2(B)(2) regarding Officer C.'s conduct, which states:

Officers shall familiarize themselves with and have working knowledge of all laws of the State of New Mexico and the Ordinances of the City of Albuquerque, which they are required to enforce. Officers shall 2. Make only those arrests, searches, and seizures, which they know or should know, are legal and in accordance with departmental procedures.

Mr. ██████████ stated he went to a presentation by Mayor Berry. Mr. ██████████ claimed he did not bother anyone, but city employees were not happy to see him at the event. Officer C. confronted him and parked his unmarked car behind him. Mr. ██████████ told Officer C. he had a right to be there. He stated that Officer C. had no business approaching him.

Ms. ██████████ stated she called Officer C. to escort Mr. ██████████ from the property. Mr. ██████████ was being disruptive and the event was only for APS students. Ms. ██████████ wanted to make sure the environment was safe for the children. Mr. ██████████ agreed Officer C. did not block his vehicle in and he could have left. Mr. ██████████ agreed Officer C. did not prevent him from leaving. Even if the contact was not consensual, Officer C. had a legitimate law enforcement concern to contact Mr. ██████████.

The CPOA finds the allegation of a violation of this SOP against Officer C. was **UNFOUNDED**, which means the alleged misconduct did not occur.

(B) The CPOA reviewed Standard Operating General Order 1-04-1(F) regarding Officer C.'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.

Mr. [REDACTED] stated that Officer C.'s behavior was confrontational. Officer C. told him not to lie. Officer C.'s assumption he would be untruthful irritated him. Officer C. threatened if he returned he would be arrested. Officer C. became angry when Mr. [REDACTED] told him to move his car. Officer C.'s manner was confrontational and authoritarian, which only escalated things.

There was no recording as Officer C. is assigned to a special detail that does not have lapel cameras as part of their equipment. Mr. [REDACTED] said Officer C. was confrontational and Officer C. denied it.

The CPOA finds the allegation of a violation of this SOP against Officer C. was **NOT SUSTAINED**, which means the investigation was unable to determine, by a preponderance of the evidence, whether the alleged misconduct occurred.

(C) The CPOA reviewed Standard Operating General Order 1-02-3A regarding Officer C.'s conduct, which states:

Officers shall cordially furnish their name and employee number to any person requesting such information when they are on duty or while acting in an official capacity except (exceptions did not apply in this case).

Mr. [REDACTED] asked Officer C. for his name and badge number. Mr. [REDACTED] claimed Officer C. refused to provide the information and then said all Mr. [REDACTED] needed to know was that his first name was "[REDACTED]". He had a difficult time figuring out the full name of the officer.

Mr. [REDACTED] said Officer C. would not provide the requested information and then provided misleading information. Officer C. denied the allegation. There was no recording, as Officer C. does not have an assigned lapel camera.

The CPOA finds the allegation of a violation of this SOP against Officer C. was **NOT SUSTAINED**, which means the investigation was unable to determine, by a preponderance of the evidence, whether the alleged misconduct occurred.

Your complaint and these findings will be placed in Officer C.'s Internal Affairs personnel file.

You have the right to appeal this decision. Section 9-4-1-9(A) of the Police Oversight Ordinance allows any person who has filed a citizen complaint and who is dissatisfied with the findings of the CPOA or the Chief to appeal that decision within 30 days of receipt of the respective letters. Please promptly communicate your desire to appeal in a signed writing to the undersigned. Include your CPC number.

Letter to Mr. [REDACTED]

March 11, 2016

Page 4

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

Thank you for participating in the process of civilian oversight of the police, ensuring officers 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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Eric H. Cruz *Joanne Fine* *Rev. Dr. David Z. Ring III*
Jeffery Scott Wilson
Edward Harness, Esq., Executive Director

March 11, 2016
Via Certified Mail

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Re: CPC #063-15

Dear Ms. [REDACTED]:

Our office received the complaint you filed on May 6, 2015 against Officer C. of the Albuquerque Police Department (APD) regarding an incident that occurred on March 14, 2013. 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

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

Ms. [REDACTED] said that on March 14, 2013, Officer C. and other APD Officers responded to her residence. Ms. [REDACTED] was subsequently arrested. Ms. [REDACTED] said that APD collected a brown backpack as evidence pursuant to her arrest. Ms. [REDACTED] complained that according to Officer C.'s report her brown backpack was collected, tagged and booked into APD Property and Evidence. However, when Ms. [REDACTED]'s attorney went to retrieve the backpack it was not in APD Property and Evidence. Ms. [REDACTED] alleged the backpack was stolen.

II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING OFFICER C.'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, Officer's reports and interviews with the Complainant and Officer C.

A) The CPOA reviewed Standard Operating Procedure 2-08-2 (A)(1) regarding Officer C.'s conduct, which states:

A. Evidence/Property/Found Item Accountability

- 1. Officers collecting evidence, property, or found items are responsible for the custody of these items until they have been turned into the Evidence Room or substation using the Officer Input Module (OIM) evidence accounting tracking system. A supervisor's signature and completed log sheet is required to authorize the use of hard copy evidence tags for exigent/unusual circumstances like OIM system outages.***

A review of the report written by Officer C. showed Officer C. wrote that he had tagged the backpack into evidence along with a metal baseball bat, a hammer, a flashlight and a pair of gloves. On May 29, 2015, the CPOA Investigator contacted APD Evidence Division. Evidence staff indicated that work gloves, a flashlight, a metal baseball bat, and a hammer were checked into evidence in this case. All of these items were returned to Ms. [REDACTED]. There was no record that a backpack was checked into evidence in this case.

Field Investigator O.'s report indicated that Officer C.'s Field Training Officer R. advised Field Investigator O. that Officer R. would collect the backpack and bat. The interview with Officer C. revealed Officer C. could not recall the events from more than two years ago about who collected the backpack and other items, and/or if anyone booked the backpack into APD Property and Evidence. The interview with Officer C. revealed that Officer C. was in his second week of training with Officer R. who dictated what Officer C. wrote in his report. Additionally, as a Field Training Officer, Officer R. was responsible for ensuring those actions took place and was accountable for Officer C.'s actions or inactions, as it were. Officer R. is no longer an APD employee and therefore, was not targeted in this investigation. Had Officer R. still been with APD, she would have investigated and would have been held accountable for Officer C.'s actions according to Standard Operating Procedure 3-18-2 (D) Supervisor's Duties and Responsibilities.

The CPOA finds Officer C.'s conduct to be **NOT SUSTAINED** regarding the allegation of a violation of this SOP, because the investigation was unable to determine, by a preponderance of the evidence, whether the alleged misconduct occurred.

B) The CPOA reviewed Standard Operating Procedure 1-39-1 (A), and Department Special Order 12-26, which state:

Letter to Ms. ██████████
March 11, 2016
Page 3

1-39-1 USE OF TAPE/DIGITAL RECORDERS

[6] A. Personnel will use issued tape/digital recorders to document the incidents listed below.

It will be the responsibility of the primary officer to ensure that the incident will be recorded in its entirety. If at any time the primary and secondary officer(s) should become separated, it will be the responsibility of the secondary officer(s) to record all their contact and/or actions during that incident. In such incidents where the primary officer tags a recording and secondary officer(s) also have a recording: all recordings will be tagged into evidence. If the primary officer tags a complete recording or there is an outside source recording tagged into evidence and no secondary recording exist; this shall serve as meeting the requirements for this section.

DEPARTMENT SPECIAL ORDER 12-26

Effective immediately, all sworn department personnel will record each and every contact with a citizen during their shift that is the result of a dispatched call for service, arrest warrant, search warrant or traffic stop. The recordings will be saved for no less than 120 days. Personnel will refer to the instructional video on PowerDMS for storing instructions. Failure to record a contact under the listed specifications may result in discipline.

The interview with Officer C. and reports written by Officer C. and Officer R. revealed that Officer C.'s lapel camera fell off of his shirt as he sprinted towards Ms. ██████████ who was swinging a metal baseball bat at her neighbor. After Officer C.'s lapel camera fell to the ground, Officer R. drove over the camera with her vehicle as she followed Officer C. As a result, Officer C. did not have lapel video of the incident due to Officer R. destroying the lapel video in an effort to assist Officer C. Officer C. indicated the events surrounding the lapel camera in his police report as required.

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

Your complaint and these findings are made part of Officer C.'s Internal Affairs records.

You have the right to appeal this decision. The Police Oversight Ordinance allows any person who has filed a citizen complaint and who is dissatisfied with the findings of the CPOA or the Chief to appeal that decision within 30 days of receipt of their respective letters. Please promptly communicate your desire to appeal in a signed writing to the undersigned. Include your CPC number.

Letter to Ms. [REDACTED]
March 11, 2016
Page 4

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

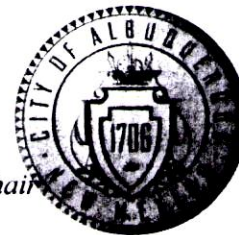
Sincerely,
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



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Eric H. Cruz *Joanne Fine* *Rev. Dr. David Z. Ring III*
Jeffery Scott Wilson
Edward Harness, Esq., Executive Director

March 11, 2016
Via Certified Mail

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Re: CPC # 065-15

Dear Ms. Orozco:

Our office received the complaint you filed on May 8, 2015 against Officers of the Albuquerque Police Department (APD) regarding an incident that occurred on March 26, 2015. 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

New Mexico 87103

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Upon completion of the investigation the CPOA determined, based on a preponderance of the evidence, whether or not the APD Officer(s) involved violated Standard Operating Procedures (SOPs). A preponderance of the evidence means that one side has demonstrated a greater weight of evidence (more than 50%) that is more credible and convincing than the other side. If the credible evidence is 50-50, the proper finding is Not Sustained.

Please be aware, the contract between the Albuquerque Police Officers' Association (APOA) and the City of Albuquerque requires that officers cooperate in the investigation; therefore, the officer's statements may not be made public. Below is a summary of the complaint, the CPOA's investigation, and findings.

I. THE COMPLAINT

Ms. [REDACTED] wrote that Ms. [REDACTED] attacked her and injured her. Ms. [REDACTED] wrote that Officer M. was impatient and pressured her to speak louder, but she could not due to her injuries. Ms. [REDACTED] wanted to press charges against Ms. [REDACTED]. Ms. [REDACTED] wrote Officer M. did not try to understand the situation based on the police report. Ms. [REDACTED] wrote that Officer M. was racist thinking that she could not speak English.

The CPOA Investigator interviewed Ms. [REDACTED]. Ms. [REDACTED] repeated that Officer M. was impatient with her and did not listen to her. Ms. [REDACTED] stated Officer M. became irritated with her because her injuries prevented her from speaking loudly. Ms. [REDACTED] stated Officer M. was racist because Officer M. assumed her inability to speak was due to a language

barrier. Ms. [REDACTED] stated Officer M. did not pay attention to her. Ms. [REDACTED] accused Officer M. of being very rude. Ms. [REDACTED] stated the report was inaccurate.

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

The investigation included review of the Complaint, SOPs, Computer-Aided Dispatch Report (CAD), the Police Report, Officer M.'s lapel video, Officer C.'s lapel video, Sgt. D.'s lapel video and interviews of [REDACTED], [REDACTED], and Officer M.

(A) The CPOA reviewed Standard Operating Procedural Order 2-24-3F1-2, 4-5 regarding Officer M.'s conduct, which states:

Steps to be followed in conducting preliminary investigations: 1. Observe all conditions, events, and remarks. 2. Locate, identify, and interview witnesses, victims, and suspect(s). 4. Effect the arrest of the suspect. 5. Report the incident fully and accurately.

Ms. [REDACTED] stated Officer M. did not give her the opportunity to explain everything fully. Ms. [REDACTED] stated Officer M. did not listen to her or pay attention to her. Ms. [REDACTED] felt if Officer M. had listened to her Officer M. would have found Ms. [REDACTED] at fault. Ms. [REDACTED] said there were untrue statements in the police report. Ms. [REDACTED] stated Ms. [REDACTED] deserved to be punished. Ms. [REDACTED] stated Officer M. was supposed to come to her house to get a better statement, but never did. Mr. [REDACTED] also stated Officer M. did not allow his mother to explain things fully. Mr. [REDACTED] stated Officer M. should have understood his mother's injuries prevented his mother from giving a proper statement. Mr. [REDACTED] stated Officer M.'s report was inaccurate because Officer M. misquoted a statement. Mr. [REDACTED] stated the report was prejudicial against his mother.

The lapel video showed Officer M. spoke to a witness, Mr. [REDACTED], Ms. [REDACTED], and Ms. [REDACTED]'s opponent, Ms. [REDACTED]. Mr. [REDACTED] was not present during the altercation. The lapel video also showed Officer M. asked the woman with Ms. [REDACTED], Ms. [REDACTED], if she saw anything, but Ms. [REDACTED] claimed she did not. The lapel video showed Ms. [REDACTED] also said the owner of the booth was not present during the altercation. The lapel video showed Officer M. attempted to see if there was surveillance video, but surveillance video did not show anything. The lapel video showed Officer M. asked another unidentified woman if she saw anything, but that person did not have anything to contribute. The lapel video showed Officer M. allowed Ms. [REDACTED] to say what she wanted and injected at times to ask clarifying questions. The lapel video showed Officer M. asked why Ms. [REDACTED] and Ms. [REDACTED] fought. Ms. [REDACTED] only said they had issues, which prompted Officer M. to encourage her to be more specific since she would obtain Ms. [REDACTED]'s version. The lapel video showed Ms. [REDACTED]'s son interrupted his mother's narrative with concerns over Mr. [REDACTED] hearing her statement, but Ms. [REDACTED] continued explaining her story. The lapel video showed Officer M. explained both parties could be charged. Officer M. used discretion and did not file charges on either party even though one witness named Ms. [REDACTED] as the

aggressor. The report reflected essentially, what the different parties told Officer M. Ms. [REDACTED]'s written statement did not differ greatly from what Officer M. received at the scene. The fact that Ms. [REDACTED] did not agree with the outcome is outside of the issue of Officer M.'s compliance with the SOP.

The CPOA finds Officer M.'s conduct to be **UNFOUNDED** regarding the allegation of a violation of this SOP, which means the alleged misconduct did not occur.

(B) 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. [REDACTED] claimed Officer M. was very rude and treated her in a demeaning way. Ms. [REDACTED] stated Officer M. was very impatient with her and kept yelling at her to speak louder. Ms. [REDACTED] had difficulty speaking due to her injuries and Officer M. would not accommodate her by getting closer. Mr. [REDACTED] also claimed Officer M. would not accommodate his mother and acted in a dominating manner. Mr. [REDACTED] said Officer M. asked repetitive questions. Mr. [REDACTED] complained Officer M. told him not to get involved. Mr. [REDACTED] stated Officer M. blamed his mother for the altercation.

The video showed Officer M. allowed Ms. [REDACTED] to tell her side of the story with minimal interruption. Officer M. asked clarifying questions when she did interject. The video showed Officer M. asked Ms. [REDACTED] to speak up, but did not shout at her. It would be a safety issue for Officer M. to kneel down by Ms. [REDACTED]. The video showed Mr. [REDACTED] interrupted on occasions and Officer M. responded, sometimes sternly, but professionally. The video showed Officer M. suggested Ms. [REDACTED] avoid conflicts by avoiding the business since this was an ongoing conflict. The conduct did not occur as described or was not a violation.

The CPOA finds Officer M.'s conduct to be **EXONERATED** regarding the allegation of a violation of this SOP, which means the alleged conduct did occur, but did not violate APD policies, procedures, or training.

(C) The CPOA reviewed Standard Operating General Order 1-03-2C regarding Officer M.'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.

Ms. [REDACTED] claimed Officer M. was racist because Officer M. assumed she could not speak English well. Ms. [REDACTED] stated there was no language barrier and she continued to speak in

Letter to Ms. [REDACTED]
March 11, 2016
Page 4

English even after Officer M. spoke in Spanish. Ms. [REDACTED] stated Officer M. did not pay attention to her even though she was the victim.

The lapel video showed someone initiated speaking Spanish. Officer M. politely offered to communicate in Spanish. Ms. [REDACTED] became more talkative in Spanish. The lapel video refuted Ms. [REDACTED]'s claim that she never spoke to Officer M. in Spanish. The lapel video showed Officer M. attempted to accommodate Ms. [REDACTED] in whatever means she was comfortable with to get the information. The lapel video showed Officer M. did not make an assumption about Ms. [REDACTED]'s ability to communicate.

The CPOA finds Officer M.'s conduct to be **UNFOUNDED** regarding the allegation of a violation of this SOP, which means the alleged misconduct did not occur.

Your complaint and these findings will be placed in Officer M.'s Internal Affairs personnel 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 notice. Include your CPC number.
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 Albuquerque'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/iro/survey>.

Thank you for participating in the process of civilian oversight of the police, ensuring officers 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 *Beth Mohr, Chair* *Leonard Waites, Vice Chair*
Dr. Moira Amado-McCoy *Dr. Jeannette Baca* *Dr. Susanne Brown*
Eric H. Cruz *Joanne Fine* *Rev. Dr. David Z. Ring III*
Jeffery Scott Wilson
Edward Harness, Esq., Executive Director

March 11, 2016
Via Certified Mail

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

Re: CPC # 067-15

Dear Mr. [REDACTED]

Our office received the complaint you filed on May 14, 2015 against an unidentified officer of the Albuquerque Police Department (APD), regarding an incident that occurred May 13, 2015.

I. THE COMPLAINT

PO Box 1293 Mr. [REDACTED] wrote that on May 13, 2015 at about 4:00 PM, he was leaving a friend's house near
Albuquerque Comanche Street and Washington Street NE, when he observed a young man holding onto the
New Mexico 87105 side of a car as it turned onto Comanche and sped off. Mr. [REDACTED] was concerned about what he
www.cabq.gov saw and felt that he should report it to the police. On Washington Street, he saw a police car so
he waved at the officer to get the officer's attention. Mr. [REDACTED] wrote that the officer stopped and
Mr. [REDACTED] approached the car. Mr. [REDACTED] said that he leaned in through the open window of the
police car to inform the officer of what he had observed and he was immediately yelled at by the
officer. Mr. [REDACTED] alleged that the officer told Mr. [REDACTED] not to hit the officer's car. Mr. [REDACTED]
wrote that the officer was rude and he felt threatened by the officer. Mr. [REDACTED] said that he was
yelled at as if he were some sort of hooligan throwing rocks. Mr. [REDACTED] alleged that after the
officer allowed Mr. [REDACTED] to finish what he was saying, the officer gave him a dirty look and
sped off down the road. Mr. [REDACTED] wrote that he expected the officer to thank him, not berate
him or yell at him, or shoot him dirty looks as if Mr. [REDACTED] was interfering with the officer's day.
Mr. [REDACTED] was startled by the officer's response and he did not get the name or the badge number
of the officer or the number on the car that the officer was driving. Mr. [REDACTED] closed his
complaint by writing that he does not hate the police and he appreciates the job that the police do.
He wrote, "Thanks for being out there and protecting us. Now train your officers better."

II. INVESTIGATION BY THE CIVILIAN POLICE OVERSIGHT INVESTIGATOR

A Civilian Police Oversight Agency (CPOA) Investigator reviewed Mr. [REDACTED]'s complaint and researched the matter so that we could obtain more information about the incident. The Investigator contacted the Research and Recording Unit of the Albuquerque Police Department and had the Coordinator there conduct a search of police activity in the area on the date and time of the complaint. The APD Coordinator researched the police activity in both sectors that covered

Letter to Mr. [REDACTED]
March 11, 2016
Page 2

that area for the entire day in hopes of discovering whether or not the officer called out or logged out on his computer that he had been flagged down by a citizen. Unfortunately, the search did not reveal who the offending officer may have been.

In an effort to obtain more information, the CPOA Investigator contacted Mr. [REDACTED] on May 18, 2015 and spoke with him over the phone. Mr. [REDACTED] told the Investigator about the incident. Mr. [REDACTED] gave the best description he could give of the officer, and that the officer was in his early to mid-30s and probably Hispanic. Mr. [REDACTED] said that he thought that he may have startled the officer, but was surprised of the reaction from the officer. Mr. [REDACTED] told the Investigator that he did not file the complaint to get anyone into any trouble. Mr. [REDACTED] just wanted to make someone aware of what took place and his unpleasant experience with an APD Officer. The Investigator explained Mr. [REDACTED] that he would forward your complaint to Commander [REDACTED] of the Northeast Area Command where the incident took place, so that Commander [REDACTED] could address the complaint in general with his staff. The Investigator then sent the complaint along with Mr. [REDACTED]'s concerns to Commander [REDACTED].

III. FINDINGS AND CONCLUSIONS

The CPOA office attempted to identify the officer involved, but was unsuccessful. Mr. [REDACTED] stated that he did not want the officer to get into trouble but hoped that someone would address the officer's behavior and the situation that occurred. The CPOA Office sent Mr. [REDACTED]'s complaint to the Northeast Area Commander so that he would be aware of the incident and so that he could address the matter with his staff as a whole.

The Executive Director reviewed the complaint and investigation. Because the complaint only contained an allegation of a minor policy violation by the officer and the fact that the CPOA was unable to identify the officer involved in the incident, the CPOA will administratively close this complaint. No further investigation will occur. Should you encounter a similar situation in the future, or wish to report observed misconduct by APD personnel, please do not hesitate to file a complaint with the Agency.

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

Please contact me if you have any questions or concerns.

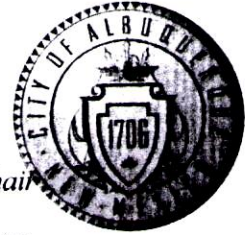
Sincerely,
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

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Eric H. Cruz *Joanne Fine* *Rev. Dr. David Z. Ring III*
Jeffery Scott Wilson
Edward Harness, Esq., Executive Director

March 11, 2016
Via Certified Mail

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Re: CPC #068-15

Dear Ms. [REDACTED].

Our office received the complaint you filed on May 14, 2015 against Officer L. of the Albuquerque Police Department (APD) regarding an incident that occurred on May 11, 2015. 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

New Mexico 87103

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Upon completion of the investigation the CPOA determined, based on a preponderance of the evidence, whether or not the APD Officer(s) involved violated Standard Operating Procedures (SOPs). A preponderance of the evidence means that one side has demonstrated a greater weight of evidence (more than 50%) that is more credible and convincing than the other side. If the credible evidence is 50-50, the proper finding is Not Sustained.

Please be aware, the contract between the Albuquerque Police Officers' Association (APOA) and the City of Albuquerque requires that officers cooperate in the investigation; therefore, the officer's statements may not be made public. Below is a summary of the complaint, the CPOA's investigation, and findings.

I. THE COMPLAINT

[REDACTED] stated that on [REDACTED], 2015, at approximately [REDACTED] PM, she was at the [REDACTED] Restaurant located at [REDACTED] Central Avenue SE, Albuquerque, NM 87106 and witnessed Albuquerque Police Department (APD) Officer L. and Albuquerque Fire Department (AFD) personnel respond to the bus stop in front of the restaurant in reference to a male subject who fell from the bench onto the ground. Ms. [REDACTED] said two AFD fire fighters attended to the subject and one of them stood on the subject's shin and became aggressive with the subject. Ms. [REDACTED] complained the fire fighters and Officer L. laughed at and provoked the subject while in contact with the subject. Ms. [REDACTED] said Officer L. told her that the subject fights with first responders all the time, to which she responded this time the man was provoked. Ms. [REDACTED] complained that Officer L. told her the subject kicked the fire fighter first, to

which she responded, "So? That doesn't give the fireman the right to take out some kind of vengeance on the man. Can't you take a hit once in a while?" Ms. ██████ said Officer L. told her he didn't get paid to take a hit or to get kicked. Ms. ██████ complained that Officer L.'s response was inappropriate. Ms. ██████ complained the subject/patient was not properly restrained. Ms. ██████ complained the subject/patient was provoked and probably harmed. Ms. ██████ alleged the first responders on scene were not fit for public service or were experiencing burn out. Ms. ██████ alleged the first responders needed training on how to treat the public and how to properly restrain disruptive patients.

II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING OFFICER L.'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 Citizen Police Complaint, lapel video, the police report and interviews with Ms. ██████ and Officer L.

A) The CPOA reviewed Standard Operating Procedure 1-4-1 (F) regarding Officer L.'s conduct, which states:

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

Ms. ██████ complained that Albuquerque Police Department (APD) Officer L. laughed at and provoked the subject while in contact with the subject. Ms. ██████ said Officer L. told her that the subject fights with first responders all the time, to which she responded this time the subject was provoked. Ms. ██████ complained that Officer L. told her the subject kicked the fire fighter first, to which she responded, "So? That doesn't give the fireman the right to take out some kind of vengeance on the man. Can't you take a hit once in a while?" Ms. ██████ said Officer L. told her he didn't get paid to take a hit or to get kicked. Ms. ██████ complained that Officer L.'s response was inappropriate. Ms. ██████ complained the subject/patient was not properly restrained. Ms. ██████ complained the subject/patient was provoked and probably harmed. Ms. ██████ alleged the first responders on scene were not fit for public service or were experiencing burn out. Ms. ██████ alleged the first responders needed training on how to treat the public and how to properly restrain disruptive patients.

The interviews, lapel video and report revealed Ms. ██████ was inside the restaurant when Officer L. and AFD fire fighters arrived at the bus stop to assist an intoxicated and unconscious male subject. The lapel video showed that Ms. ██████'s view of the bus stop and actions of the fire fighters and the subject/patient were at least partially obstructed by the metal mesh walls of the bus stop shelter and the bus bench. Lapel video showed Officer L. and the fire fighters did not laugh at or provoke the subject/patient. Lapel video showed Ms. ██████ spoke to an AFD Lieutenant and not Officer L. when voicing her concerns about the fire fighter being inside the ambulance with the subject/patient. Lapel video showed the AFD Lieutenant and not Officer L. told Ms. ██████ that the subject/patient fights them all the time

Letter to Ms. ██████████

March 11, 2016

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and that the subject/patient kicked the fire fighter first before the fire fighter stepped on the subject's/patient's foot or leg. The video showed Officer L. told Ms. ██████████, "It's not part of our job to get kicked, ma'am." The video also showed Ms. ██████████ asked the AFD Lieutenant, "You guys can't take a hit once in a while?" to which Officer L. responded, "Really? What do you think they pay us to do? Take hits?" Ms. ██████████ responded to Officer L. with, "Yes."

The CPOA finds Officer L.'s conduct to be **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 Albuquerque Police Department policies, procedures or training.

The interviews revealed that when the incident became a medical call only and in an effort to protect the subject's/patient's medical information, Officer L. turned off his lapel camera. As a result, there is no video to show when or how the subject/patient was restrained however restraining the subject/patient was the responsibility of AFD and not Officer L. Lapel video showed Officer L. was professional and courteous to all citizens he came into contact with while at the scene, to include Ms. ██████████, and he did not appear to be experiencing burnout or need additional training in how to treat the public, as Ms. ██████████ alleged in her written complaint.

Additionally, Ms. ██████████ was informed that the CPOA does not have jurisdiction to investigate complaints against AFD and was told how to file a complaint with AFD.

Your complaint and these findings are made part of Officer L.'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 notice. Include your CPC number.
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 Albuquerque'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/iro/survey>.

Letter to Ms. [REDACTED]
March 11, 2016
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.

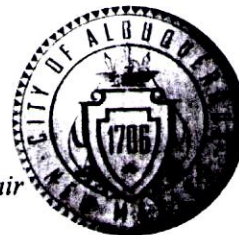
Sincerely,
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

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Eric H. Cruz *Joanne Fine* *Rev. Dr. David Z. Ring III*
Jeffery Scott Wilson
Edward Harness, Esq., Executive Director

March 11, 2016
Via Certified Mail

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Re: CPC #071-15

Dear Mr. [REDACTED]:

Our office received the complaint you filed on May 15, 2015 against Officer D. and Sergeant M. of the Albuquerque Police Department (APD) regarding an incident that occurred on May 9, 2015. 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

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.

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I. THE COMPLAINT

[REDACTED] wrote in his complaint that on May 9, 2015 at about 2:25 PM, he was driving South on Wyoming near Osuna when he was stopped by Officer D. Mr. [REDACTED] was on his way to his daughter's UNM graduation at the time. Officer D. was about to turn West onto Osuna towards the police substation located there. Mr. [REDACTED] alleged that Officer D. who was immediately in front of Mr. [REDACTED], stopped suddenly, activated the emergency equipment on his police car, stepped out of the police car and approached Mr. [REDACTED]. Mr. [REDACTED] wrote that Officer D. asked Mr. [REDACTED] loudly if Mr. [REDACTED] was flipping him off. Mr. [REDACTED] told Officer D. that he was not flipping off the officer, but he was flipping off the driver of a different car. Mr. [REDACTED] explained to Officer D. that further back in traffic a car had swerved into his traffic lane. Mr. [REDACTED] honked at the car and the other driver honked back and threw him the finger

so he threw the finger back at the other driver. Officer D. must have seen Mr. [REDACTED] when he flipped off the other driver. Officer D. then told Mr. [REDACTED], "You be careful bro." Officer D. then got back in his car and left.

Mr. [REDACTED] wrote that even if the finger throwing was intended for the officer he was exercising his freedom of speech in doing so. When Mr. [REDACTED] later spoke with Officer D.'s supervisor, Sergeant M., about the incident, she allegedly told him that when APD gets flipped off they think that someone needs help or the police are being asked for help.

Mr. [REDACTED] alleged that Officer D. was just trying to show APD's muscle and that he was never asked for ID or Registration. Mr. [REDACTED] suspected that Officer D. did not record the encounter either as he was required by policy to do. Mr. [REDACTED] alleged that Officer D. acted like a bully and that Officer D. had no right to stop and confront him. Mr. [REDACTED] later said in a recorded interview that Sergeant M. was wrong in her assessment of what had occurred and that she was the least helpful of anyone that he dealt with throughout the complaint process. Mr. [REDACTED] said that Sergeant M. never told him how to file a complaint or with whom to file a complaint. Mr. [REDACTED] said that it was another female APD Sergeant who told him how to file a complaint.

II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING OFFICER D.'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 Citizen Police Complaint, Albuquerque Police Department Report in the case, The Computer Assisted Dispatch (CADS) Report, two interviews of Mr. [REDACTED], an interview with Officer D. and an interview with Sergeant M. A review of applicable case law was also conducted by the CPOA Investigator.

- A) The CPOA reviewed Standard Operating Procedure 1-02-2 b 2 regarding Officer D.'s conduct, which states:

Officers shall familiarize themselves and have working knowledge of all laws of the State of New Mexico and the Ordinances of the City of Albuquerque which they are required to enforce. Officers shall make only those arrests, searches, and seizures which they know or should know are legal and in accordance with departmental procedures.

Mr. [REDACTED] complained that Officer D. had no legal right to stop him even if Mr. [REDACTED] did throw a finger at Officer D. Mr. [REDACTED] alleged that the stop and subsequent confrontation and detention were a violation of his right to free speech. The investigation revealed that Mr. [REDACTED] was not flipping off Officer D., but was instead giving the finger to another motorist who had flipped off Mr. [REDACTED]. Officer D. thought that the finger throwing was intended for him and he reacted to that by engaging his emergency equipment and stopping Mr. [REDACTED].

Officer D. wrote the following in a police report that was written within hours of the actual stop.

On 05-29-15 I was traveling southbound on Wyoming in my fully marked police unit to turn West Bound onto Osuna. As I checked my rearview mirror I observed the driver behind me giving me the finger commonly known as a "Fuck You" gesture. I stopped my car in the slow lane and turned on my emergency equipment and walked back towards the male and his car. At that moment I did not turn on my camera as I was walking into oncoming traffic. I asked the male, "Are you flipping me off?" The male replied, "No I was flipping that guy off. I had my turn signal on and he wouldn't let me in. Why don't you go pull him over?"

It is well established in Court rulings that the act of flipping off or giving the finger to a police officer is constitutionally protected speech. For example, in a most recent 9th Circuit case the court said, "Police officers in particular may not exercise their authority for personal motives, particularly in response to real or perceived slights to their dignity."

The US Court of Appeals for the 2nd District recently ruled that the "ancient gesture of insult is not the basis for reasonable suspicion of a traffic violation or impending criminal activity."

The US Supreme Court ruled in 1971 the following, "The First Amendment protects a significant amount of verbal criticism and challenge directed at police officers. The freedom of individuals to oppose or challenge police action verbally without thereby risking arrest is one important characteristic by which we distinguish ourselves from a police state. Thus, while police, no less than anyone else, may resent having obscene words and gestures directed at them, they may not exercise the awesome power at their disposal to punish individuals for conduct that is not merely lawful, but protected by the First Amendment."

Officer D. stated in his police report that he stopped the complainant because the complainant gave Officer D. "the finger commonly known as a 'fuck you' gesture." It was clear from the report that Officer D. was insulted by the obscene gesture and he stopped Mr. [REDACTED] because of that. The investigation revealed that Mr. [REDACTED] did not do anything else to cause the officer concern that perhaps Mr. [REDACTED] was not his the right mental state of mind to be operating a vehicle. There was no legitimate, articulable reason for Officer D. to have detained Mr. [REDACTED].

Officer D. did not have reasonable suspicion based on Mr. [REDACTED]'s actions that Officer D. did observe that Mr. [REDACTED] had committed any crime or was engaged in any criminal activity. The investigation revealed that the stop was made because Officer D. felt slighted by Mr. [REDACTED]'s actions.

The CPOA finds Officer D.'s conduct to be SUSTAINED regarding the allegation of a violation of this SOP, which means that the investigation determined, by a preponderance of the evidence that the alleged misconduct did occur.

- B) The CPOA reviewed Standard Operating Procedure 1-04-1 F regarding Officer D.'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.

Mr. ██████ alleged that Officer D. was just trying to show APD's muscle and that Mr. ██████ was never asked for ID or Registration. Mr. ██████ suspected that Officer D. did not record the encounter as Officer D. is required by policy to do. Mr. ██████ alleged that Officer D. acted like a bully.

As stated in the police report in this case, Officer D. did not record his encounter with Mr. ██████. Mr. ██████ alleged that Officer D. acted like a bully. Officer D. denied the allegation. There was no lapel video of the encounter to determine independently how Officer D. acted.

The CPOA finds Officer D.'s conduct to be NOT SUSTAINED regarding the allegation of a violation of this SOP, as the investigation was unable to determine by a preponderance of the evidence whether the alleged misconduct occurred.

- C) The CPOA reviewed Standard Operating Procedure 1-39-2 (B) regarding Officer D.'s conduct, which states:

All sworn department personnel will record each and every contact with a citizen during their shift that is the result of a...traffic stop...Personnel will activate the recorder prior...to citizen contact...and will record the entirety of the citizen contact.

Mr. ██████ suspected that Officer D. did not record the encounter as Officer D. is required by policy to do. The investigation revealed that Officer D. did not record the encounter.

The CPOA finds Officer A.'s conduct to be SUSTAINED regarding the allegation of a violation of this SOP, which means that the investigation determined, by a preponderance of the evidence that the alleged misconduct did occur.

III. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING Sergeant M.'S CONDUCT

- A) The CPOA reviewed Standard Operating Procedure 1-04-1 F regarding Sergeant 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.

Mr. ██████ said that Sergeant M. was the least helpful of anyone that he contacted in his quest to file a complaint against Officer D. Mr. ██████ further alleged that Sergeant M. acted as if the allegation that Mr. ██████ was making was not serious in nature and that she did not take the allegation seriously. Lastly he was concerned at the response that he was allegedly given by Sergeant M. that when a police officer is given the finger that it is a sign that the person

doing so is actually requesting help from the officer or that they need something from the officer and that APD is going to stop and check it out.

In the 2nd Circuit ruling referenced above, the court said "Surely, no passenger planning some wrongful conduct toward another occupant of an automobile would call attention to himself by giving the finger to a police officer. And if there might be an automobile passenger somewhere who will give the finger to a police officer as an ill-advised signal for help, it is far more consistent with all citizen's protection against improper police apprehension to leave that highly unlikely signal without a response than to lend judicial approval to the stopping of every vehicle from which a passenger makes that gesture."

The investigation revealed that Sergeant M. was unaware of any court rulings regarding the giving of a finger to a police officer. She believed that Officer D. did not commit any misconduct.

Mr. [REDACTED] alleged that Sergeant M. did not tell him how to file a complaint. Sergeant M. disputed that, but if she believed there was no misconduct, it is highly likely that she did not tell Mr. [REDACTED] how to file a complaint.

Sergeant M.'s conduct as a Supervisor in this case was not conduct that reflected favorably on the department.

The CPOA finds Sergeant M.'s conduct to be SUSTAINED regarding the allegation of a violation of this SOP, which means that the investigation determined, by a preponderance of the evidence that the alleged misconduct did occur.

B) The CPOA reviewed Administrative Order 3-18-2 D regarding Sergeant M.'s conduct, which states:

Supervisors shall be held accountable for the performance of personnel under their immediate control.

The investigation showed that Sergeant M. did not believe that Officer D. committed any misconduct even though she was aware that Officer D. did not record the encounter as he is required to do. The only action that Sergeant M. took was to write an internal memorandum and place it in her own file that she kept of Officer D.

Sergeant M. knew that Officer D. violated at least one policy during this incident and she took no action on the complaint or on the officer. As a supervisor, to condone an act of misconduct by a subordinate is unacceptable. Sergeant M., by the above referenced policy should be held accountable for Officer D.'s performance in this matter.

The CPOA finds Sergeant M.'s conduct to be SUSTAINED regarding the allegation of a violation of this SOP, which means that the investigation determined, by a preponderance of the evidence that the alleged misconduct did occur.

- B) The CPOA reviewed Administrative Order 3-43-3 G regarding Sergeant M.'s conduct, which states in part:

Verbal citizen complaints will be accepted by the Albuquerque Police Department.

2. The individual receiving a verbal complaint or conducting a follow-up regarding a complaint must notify a citizen of his right to make a written complaint and explain the process for making a written complaint.

4. If a supervisor receives a verbal complaint, the supervisor is responsible for conducting a sufficient preliminary investigation to determine if the complaint merits documentation and/or further investigation.

6. If a verbal complaint alleges a violation of criminal law, a violation of a citizen's Constitutional Rights or a serious violation of department policy, then the individual handling the complaint must document the complaint. "Verbal Complaint Form" (PD-1113) will be used and a copy shall immediately be forwarded to Internal Affairs.

The Settlement Agreement/Consent Decree that the Albuquerque Police Department is under also addresses the things that a supervisor must do when they receive a complaint of misconduct by a citizen. The Consent Decree requires that all officers must report misconduct complaints directly to the Internal Affairs Bureau for investigation. It states, "Where alleged misconduct is reported to a supervisor, the supervisor shall immediately document and report this information to the Internal Affairs Bureau." The requirement is that the misconduct must be reported to IA by the end of the shift following the shift in which it was received.

The investigation could not determine whether or not Sergeant M. told Mr. [REDACTED] that he had a right to file a written complaint. It is undisputed however, that she did not explain the process for making a written complaint.

The investigation showed that Sergeant M. met with Officer D. at Officer D.'s insistence and not because Sergeant M. received a complaint from Mr. [REDACTED]. If Sergeant M. would have conducted a sufficient investigation into the complaint, she would have known that Officer D. violated policy in stopping and detaining Mr. [REDACTED]. The investigation showed that Officer D. told Sergeant M. that he did not record the encounter, a violation of policy, but Sergeant M. concluded that no misconduct occurred.

The verbal complaint made by Mr. [REDACTED] was that his constitutional right to free speech was violated. Sergeant M. was required by this policy to document the complaint and to immediately forward the complaint to Internal Affairs. Sergeant M. failed to do that.

The CPOA finds Sergeant M.'s conduct regarding a violation of this SOP to be **SUSTAINED VIOLATION NOT BASED ON THE ORIGINAL COMPLAINT**, because the investigation determined by a preponderance of the evidence that misconduct did occur that

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was not alleged in the original complaint but was discovered during the misconduct investigation.

Your complaint and these findings are made part of Officer D.'s and Sergeant M.'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 notice. Include your CPC number.
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 Albuquerque'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/iro/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