

CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board

Dr. Susanne Brown

Dr. Carlotta Garcia

Rev. Dr. David Z. Ring III

Edward Harness, Esq., Executive Director

Beth Mohr, Chair

Eric H. Cruz

Dr. Lisa M. Orick-Martinez

Leonard Waites, Vice Chair

Joanne Fine

POLICE OVERSIGHT BOARD AGENDA

Thursday, April 14, 2016 – 5:00 PM

Vincent E. Griego Chambers

- I. Welcome and call to order.**
- II. Pledge of Allegiance- Dr. Lisa M. Orick-Martinez**
- III. Approval of the Agenda**
- IV. Public Comments**
- V. Review and Approval of Minutes**
- VI. Consent Agenda Cases:**

142-15 150-15 173-12 176-14 182-13 186-14 190-13
198-14 202-14 204-14 207-14 210-14 213-14 215-14
216-14 218-14 221-14 222-14 223-14 224-14 225-14
232-14 249-13 255-13 257-13 228-14 229-14
- VII. Case to be heard by the POB: 234-15, 248-15**
- VIII. Reports from Sub-Committees**
 - a. Outreach Sub-committee – Leonard Waites**
 - i. POB Mission statement**
 - ii. Brochure design review**
 - iii. Community Policing Councils**
 - b. Policy and Procedure Review Sub-Committee – Susanne Brown**
 - i. Letter to Chief Eden re: Use of Force**
 - ii. Letter to City Council re: Policy**
 - iii. Ordinance changes**
 - c. Case review Sub-committee – Joanne Fine**
 - i. Ordinance changes – Statute of Limitations on complaints**
 - ii. Officer Involved shootings**
- IX. Reports from City Staff**
 - a. APD**
 - b. City Council**
 - c. Mayor's Office**
 - d. City Attorney**
 - e. CPOA – Edward Harness, Executive Director**

- X. 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).

- XI. Other Business**

- XII. Adjournment- *Next Regularly scheduled POB meeting will be on May 17, 2016 at 5 p.m. in the Vincent E. Griego Chambers.***

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

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

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

April 15, 2016
Via Certified Mail
7014 2120 0004 7659 5283

[REDACTED]
[REDACTED]
[REDACTED]

Re: CPC #173-12

Dear Mr. [REDACTED]:

Our office received the complaint you filed on May 28, 2012 against an Officer of the Albuquerque Police Department (APD) regarding an incident that occurred on May 28, 2012. 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] complained that on May 28, 2012, at 3:25 a.m., he called police to report that he had been a victim of a theft of items from his home. He alleged that APD Officer B., who was one of two officers who responded to the call, acted as if the crime that Mr. [REDACTED] was reporting was not worthy of his time. He alleged that the officer refused to believe his story about what had happened and that the officer did not take a report on the theft. Mr. [REDACTED] believed that the officer mistreated Mr. [REDACTED] and the officer was prejudiced because Mr. [REDACTED] has a brain injury. Mr. [REDACTED] alleged that the officer believed that his disability meant that he was stupid. Mr. [REDACTED] alleged that the officer did not record the contact.

April 15, 2016

Page 2

Mr. ██████ alleged that when he called APD dispatch to complain about the officer and the way that he was treated, the dispatcher, Operator J., told him that she would send a supervisor to his home to address his complaint, and that she never did that. Mr. ██████ also alleged that the dispatcher never told him how to file a formal complaint.

II. INVESTIGATION BY INDEPENDENT REVIEW INVESTIGATOR

I reviewed the investigation conducted by the CPOA Investigator which included interviews with Mr. ██████, Officer B., Officer G., and Telephone Operator J. Also reviewed were the CAD (Computer Aided Dispatch) printouts, the police report, message logs, and the lapel video.

The CPOA Investigator conducted an interview with Mr. ██████. Mr. ██████ did not respond to messages and requests for an interview until most of the investigation in this case was completed. Mr. ██████ repeated what he had written in his complaint, but added to it by saying that he patronized a prostitute three weeks prior to this incident and paid her, and later the prostitute and her pimp showed back up at his apartment demanding more money. Mr. ██████ went to the bank and took out more money from the ATM and paid a second time.

On May 28, 2012, Mr. ██████ said a female knocked on his door and when he answered it, the female and the same pimp forced their way into the apartment and they looked through all of his things. Two hours later they left with his computer. The woman told him that she would call him later to return the computer. They kept the computer because they believed it contained evidence that Mr. ██████ had raped another prostitute and it had been filmed and that video was on his laptop. Mr. ██████ told me that allegation by his offenders was absurd.

Mr. ██████ called to report the theft of his computer and said that Officer B. didn't believe his story about what happened, and that he was treated badly because he has a brain injury and disability. He said that the officer was not helpful and acted as if the matter was petty or insignificant. Mr. ██████ alleged that he called back to police to complain about the officer, and that the dispatcher assured him that she would send a supervisor out to speak with him, but she never did. Mr. ██████ stated that he should have been informed by the dispatcher how to file a formal Complaint.

Mr. ██████ alleged that Officer B. failed to run lapel video on the incident and he failed to write a report on the incident. Mr. ██████ was not aware until the CPOA Investigator told him that the officer did run lapel video on the incident and that the officer did write a report. Mr. ██████ complained that Officer B. was rude and unprofessional. Mr. ██████ stated that his brain injury is what led to his poor treatment. Mr. ██████ did not complain about Officer A.

Mr. ██████ stated that he formally objects to any dissemination in any public forum, including any Police Oversight meetings, of his complaint, or any documents prepared by the CPOA pursuant to the investigation of the complaint, wherein the officers' names or

April 15, 2016

Page 3

identifying information is redacted or obscured, while any information that identifies him is left viewable by the public.

The CPOA Investigator interviewed Officer B. Officer B. stated that he had been dispatched to Mr. ██████ residence in reference to a theft. Officer B. claimed that he handled the matter professionally and that he was concerned about the incident that Mr. ██████ had reported. He said that at the beginning of the incident, he found the story given to him as suspicious because based on his training and experience, the actions taken by the offenders and Mr. ██████ were not consistent with a home invasion. Officer B. stated that he had to ask a series of questions during his investigation to determine what crime or crimes had occurred. Officer B. felt Mr. ██████ was not forthcoming with all of the information. Officer B. stated that eventually Mr. ██████ told Officer B. that he suspected it was a prostitute and a pimp who had done business with him in the past that had taken his computer.

Officer B. denied that he had done anything wrong in his handling of the incident, and said that he even called rescue to have Mr. ██████ evaluated, as he was complaining of pain. Officer B. ran lapel video and provided lapel video to the CPOA investigator. Officer B. also followed up on the crime when Mr. ██████ called back, stating he wanted to have a drinking glass fingerprinted that was touched by the offenders. Officer B. was never told by the dispatcher that Mr. ██████ wanted to file a complaint against him.

The CPOA Investigator interviewed Officer G. Officer G. was the acting supervisor on duty at the time this incident took place. Officer G. said that Mr. ██████ did not tell him that he wanted to file a complaint, nor was any such message relayed to Officer G. by the dispatcher. Officer G. said that if he had been notified, he certainly would have called Mr. ██████ and told him how to file a complaint. A review of the available evidence in this case shows that Officer G. was never told that Mr. ██████ wanted to file a complaint or wanted to be contacted to file a complaint.

The CPOA Investigator interviewed Telephone Operator J. When Mr. ██████ called back after the initial encounter with the police, Operator J. handled the call. Mr. ██████ expressed to her that he wanted to complain about the initial officer. Operator J. asked him about his complaint, but she stated that she never told Mr. ██████ she would send a supervisor to his home. Operator J. told him that she would have a supervisor call him. Officer J. stated that she felt that was sufficient and she did not need to explain to him how to file a complaint because the supervisor would probably take care of that.

The CPOA Investigator reviewed the message audit logs in this case, which confirmed that Mr. ██████ did call to complain about the officer, and that the telephone operator sent a message to the radio dispatcher to have the Sergeant call Mr. ██████. That message was never sent to Officer G., according to the logs. The log shows Officer G. out on a priority call at the time the call came in and that he went off duty just after that priority call. There was a shift change at that time, and it appears that the message to call Mr. ██████ was never sent to Acting Supervisor G. The phone calls from Mr. ██████ were recorded. The final calls

indicated that he may have known the offender, as she had apparently called him on his phone later to return his stolen laptop.

The CPOA Investigator reviewed the lapel video furnished by Officer B. The video only covers the first six minutes of the incident. The video starts with the officers arriving on scene and Mr. █████ is on his cell phone with someone. After Mr. █████ completed his call, Officer B. and Officer A. asked him what happened. Mr. █████ told them that he had just been robbed.

The video showed that a second officer, Officer A., told Mr. █████ to just be honest. Officer B. can be heard asking Mr. █████ if it was the same prostitute who had robbed him before, and he said that it was not but that the same male or pimp was involved. Mr. █████ continued telling his story to Officer B., and at that time Officer A. walked away. Officer A. returned and asked Mr. █████ about the incident taking place at midnight, but he didn't report it until 4 a.m. Officer B. asked, "They were in your apartment for four hours?" Mr. █████ answered, "Yeah."

Officer A. told Mr. █████ that he was going to let rescue tend to him and then they would regroup because the incident sounded odd to him. Officer A. said "If you said it's been since midnight, and where does the forcing their way in part come in if it just happened right now?"

Officer B. asked Mr. █████ about what problems he was having medically. Mr. █████ reported that he is having trouble breathing. One of the officers suggests that he put his cigarette out until the paramedics can evaluate him. Rescue arrived on scene and Mr. █████ told the paramedics that he suffers from anxiety attacks. The paramedic asked Mr. █████ if he wanted to go to the hospital, but he declined.

III. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING OPERATOR J.'S CONDUCT

The CPOA reviewed Albuquerque Police Department Administrative Order 3-43-3(G)(1) and (2) regarding 911 Operator J.'s conduct, which states:

Verbal citizen complaints will be accepted by the Albuquerque Police Department. Any person receiving a verbal complaint will be responsible for obtaining sufficient information to assess the seriousness of the complaint and for determining if an informal resolution may be reached.

The individual receiving the 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.

The evidence revealed that 911 Operator J. did obtain sufficient information to assess the seriousness of Mr. █████' complaint and decided to have a supervisor call Mr. █████ to assist him further with his complaint. Operator J. did not notify Mr. █████ that he had a

right to make a written complaint, and she did not explain the process for making a written complaint.

The CPOA finds this allegation against Telephone Operator J. is **SUSTAINED**, which means the allegation is supported by sufficient evidence.

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

(A) The CPOA reviewed Albuquerque Police Department General Order 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. ██████ alleged that Officer B. was rude and unprofessional during the encounter. Although there is video that suggests that Officer B. was not rude or unprofessional, the video is only six minutes long and the officers were at the scene for at least an hour-and-a-half. That is not sufficient evidence to prove or disprove the allegation.

The CPOA finds this allegation against Officer B. is **NOT SUSTAINED**, which means there is insufficient evidence to prove or disprove the allegation.

(B) The CPOA reviewed Albuquerque Police Department General Order 1-04-4(O) regarding Officer B.'s conduct, which states:

In the performance of their duties, personnel shall maintain a neutral and detached attitude without indicating disinterest or that a matter is petty or insignificant.

Mr. ██████ alleged that Officer B. acted as if what happened to him was insignificant and not worthy of his time. Although there is video and other evidence that suggests that Officer B. was concerned about what happened, and that the matter was not petty or insignificant, the video is only six minutes long and the officers were at the scene for at least an hour-and-a-half. That is not sufficient evidence to prove or disprove the allegation.

The CPOA finds this allegation against Officer B. is **NOT SUSTAINED**, which means there is insufficient evidence to prove or disprove the allegation.

(C) The CPOA reviewed Albuquerque Police Department General Order 1-04-4(Q) regarding Officer B.'s conduct, which states:

Personnel shall obtain information in an official and courteous manner, and act upon it in a proper and judicious manner, within the scope of their duties, and consistent with established department procedures whenever any person requests

assistance or advice, or makes complaints or reports, either by telephone or in person.

Mr. ██████ alleged that Officer B. did not obtain information from him in a courteous manner, and he only conducted a cursory investigation of the crime he reported to Officer B.

Although there is video and other evidence that suggests that Officer B. did conduct a proper preliminary investigation, the video provided is only six minutes long and the officers were at the scene for at least an hour-and-a-half. That is not sufficient evidence to prove or disprove the allegation.

The CPOA finds this allegation against Officer B. is **NOT SUSTAINED**, which means there is insufficient evidence to prove or disprove the allegation.

(D) The CPOA reviewed Albuquerque Police Department General Order 1-03-2(C) regarding Officer B.'s conduct, which states:

Department personnel will provide the same level of 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.

Mr. ██████ alleges that Officer B. treated him differently than he would have anyone else because he has a brain injury. Specifically, he alleged that Officer B. believed that he was stupid because of his injury, that he was prejudiced towards Mr. ██████ and that led Officer B. to treat him poorly. There is no evidence or any valid facts offered by Mr. ██████ to support that allegation.

The CPOA finds this allegation against Officer B. is **UNFOUNDED**, which means the allegation is false or not based on valid facts.

(E) The CPOA reviewed Albuquerque Police Department General Order 1-39-2(B) regarding Officer B.'s conduct, which states:

All sworn 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 service, or traffic stop... The recordings will be saved no less than 120 days.

The investigation revealed that Officer B. did record the encounter with Mr. ██████ but by the time Officer B. was made aware of the existence of the complaint, 120 days had passed. Officer B. was only required to keep the video for 120 days. Even though he no longer had video, his backup officer did, and the officer provided that video to the CPOA Investigator.

The CPOA finds Officer B. is **EXONERATED** with respect to this allegation, which means the incident which occurred was lawful or proper.

Your complaint and these findings are made part of Officer B.'s and Operator J.'s Internal Affairs record.

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. Susanne Brown *Eric H. Cruz* *Joanne Fine*
Dr. Carlotta A. Garcia *Dr. Lisa M. Orick-Martinez*
Rev. Dr. David Z. Ring III
Edward Harness, Esq., Executive Director

April 15, 2016
Via Certified Mail
7014 2120 0004 7659 5306

[REDACTED]
[REDACTED]
[REDACTED]

Re: CPC # 182-13

Dear Mrs. [REDACTED]:

Our office received the complaint you filed on August 23, 2013 against Officers of the Albuquerque Police Department (APD) regarding an incident that occurred on August 16, 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

Mrs. [REDACTED] wrote that on August 16, 2013, her son, who has Down Syndrome, had taken off from her home with his Nerf guns and a broken rubber band gun. Mrs. [REDACTED] stated that her son's sister was following him to make sure he had not gone too far. Mrs. [REDACTED] stated the neighbor had become upset due to her dogs barking and informed the sister that she could not be in the alley.

Mrs. [REDACTED] then wrote the entire South East police department showed up with guns pointed at her son and daughter. Mrs. [REDACTED] stated that Sergeant V. informed her a neighbor had called the police stating Mrs. [REDACTED]'s son was in the alley with a rifle. Mrs. [REDACTED] wrote that she was very frustrated with the lack of concerns for people with disabilities.

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

I reviewed the investigation conducted by the CPOA Investigator, which included review of the Complaint, SOPs, Computer-Aided Dispatch Reports (CADS), the police report, and interviews of Mrs. [REDACTED], Officer F. and Sergeant V.

I, as Executive Director, reviewed Standard Operating Procedure Order 2-52-3(C) regarding Officer F.'s conduct, which states:

While it is not possible to precisely define what is reasonable for a given situation, use of force requires careful consideration of the facts and circumstances that surround that particular situation. When determining whether force is reasonable and the level of force used, officers always consider:

1. Threats presented by the subject to the officer and/or public and the immediacy of them.

Mrs. [REDACTED] stated in her complaint and during her interview she had felt the police should have considered and understood her son had Down Syndrome. Mrs. [REDACTED] stated that she felt the officers should not have had their weapons drawn on her son and should have realized the guns her son had were fake.

Officer F. and other officers responded to a dispatched call of two subjects in an alley with a rifle. Officer F. arrived to the call at 1817 hours and was the first and primary officer on scene with Sergeant V. The CAD report showed that within six minutes of arriving, the officers had received information and determined that the subject, Mrs. [REDACTED]'s son, had Down Syndrome and had toy guns. Officer F. had his firearm out but never pointed it at Mrs. [REDACTED]'s son. At that time the officers stood down and spoke to [REDACTED], Mrs. [REDACTED]'s son, and Mrs. [REDACTED]. Officer F. and Sergeant V. spoke with Mrs. [REDACTED] and informed her of why they were there and why they had shown up with rifles and weapons drawn. Sergeant V. explained to Mrs. [REDACTED] the call was a subject with a gun in the alley and the caller made no reference to any disability or that they were toy guns. Officer F. indicated that Mrs. [REDACTED] stated she understood why the officers' presence with force was utilized. Lapel video of the incident was unavailable at the time the investigation was completed due to the 120-day retention policy.

I find Officer F.'s conduct to be **EXONERATED** regarding the allegation of a violation of this SOP, which means the incident that occurred was lawful or proper.

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

I, as Executive Director, reviewed Standard Operating Procedure Order 2-52-3(C) regarding Sergeant V.'s conduct, which states:

While it is not possible to precisely define what is reasonable for a given situation, use of force requires careful consideration of the facts and circumstances that surround that particular situation. When determining whether force is reasonable and the level of force used, officers always consider:

1. Threats presented by the subject to the officer and/or public and the immediacy of them.

Mrs. [REDACTED] stated in her complaint and during her interview that she felt the police should have considered and understood her son had Down Syndrome. Mrs. [REDACTED] stated that the officers should not have had their weapons drawn on her son and should have realized the guns her son had were fake.

Sergeant V. was dispatched to a call on August 16, 2013, in reference to a subject in an alley with a rifle. There was no information given by the caller that the subject had Down Syndrome or a disability of any kind, or that the gun was fake.

Upon arrival at the scene, Sergeant V. noticed there were officers with long guns and firearms out but could not recall if they were pointed at the subject. It was possible due to the officers using scopes on their rifles to gain a visual on the subject. Shortly after being there, contact was made with Mrs. [REDACTED]'s husband and daughter and Sergeant V. was informed the subject had Down Syndrome and that the weapons he was carrying were fake. As soon as Sergeant V. confirmed that, he made contact with Mrs. [REDACTED]'s son and Mrs. [REDACTED]. Sergeant V. recalled Mrs. [REDACTED] being upset about the officers' presence with firearms, but Sergeant V. explained to Mrs. [REDACTED] why the response was necessary.

I find Sergeant V.'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 F. and Sergeant V.'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.

Letter to Mrs. [REDACTED] CPC 182-13

April 15, 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,
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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Rev. Dr. David Z. Ring III
Edward Harness, Esq., Executive Director

April 15, 2016
Via Certified Mail
7014 2120 0004 7659 2398

[REDACTED]
[REDACTED]
[REDACTED]

Re: CPC #190-13

Dear Ms. [REDACTED]:

Our office received the complaint you filed on September 4, 2013 against Officer B., Sergeant T., and Detective C. of the Albuquerque Police Department (APD) regarding an incident that occurred on August 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

[REDACTED] wrote in her complaint that on August 27, 2013, Albuquerque Police Department Officers came to her door, entered her house and repeatedly asked her questions while interrogating her. Ms. [REDACTED] further alleged that as many as six officers entered her house during the incident and looked around the house without gaining consent to do so. Ms. [REDACTED] alleged that officers were looking for her son, who they claimed had a battery charge and an intimidation charge. Ms. [REDACTED] alleged that she was harassed by the officers.

II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING SERGEANT T.'S CONDUCT

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator and 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 lapel camera recording.

A) The CPOA reviewed Standard Operating Procedure 2-17-1 regarding procedure, which states:

Department policy is to provide officers with guidelines to conduct warrantless searches and seizures in order to uphold individual civil rights, protect officers and others, and govern the collection of evidence.

Officer B. and Detective C. were interviewed via the telephone. The investigation revealed that Officer B. gone to [REDACTED] NW to assist Northwest Impact Team Members in locating a suspect who was wanted for Felony Battery and Intimidation of a Witness. When they arrived, they made contact with [REDACTED]. Ms. [REDACTED] told officers that her son was not home and asked officers to come in. Officer B. stayed in the entrance and living room. Officer B. could not remember if he walked all the way into the house or just stood outside and in the entry area of the house. Officer B. did not conduct a protective sweep and does not recall anyone else conducting a sweep. Officer B. did not witness any behavior on the part of officers that he though was inappropriate.

Detective C. had driven to the residence because this was the listed residence for [REDACTED] son, [REDACTED]. Mr. [REDACTED] was wanted for Battery and Intimidation of a Witness regarding an incident that occurred on August 1, 2013. After conducting an investigation, Detective C. had obtained from the court an arrest warrant for Mr. [REDACTED]. Officer B. and Sergeant T. accompanied him. They knocked at the door. Ms. [REDACTED] answered and invited the officers into her home. Ms. [REDACTED] wanted to know about the charges levied against her son and if the charges were based on rumor. Detective C. explained that the victim had sustained serious injuries from her son and that there were a number of witnesses who had identified him as the perpetrator of the crime. In addition, the crime was captured on video. After a short conversation the officers left. No one conducted a protective sweep of the residence. Officer C. did not see any officer conduct himself in a manner that was inappropriate or unprofessional. Detective C. made lapel camera recording of the incident.

The lapel camera recording was reviewed and revealed that only three officers were at the incident. Ms. [REDACTED] answered the door and invited officers into her home. She told officers that her son was not home. At no time did any officer ever leave the room that Ms. [REDACTED] had asked officers to come into. The video showed that the officers did not search the residence. The video showed that the officers were courteous and answered all of Ms. [REDACTED]'s

questions. All three officers made every attempt to reasonably explain why they were looking for her son. At no time did officers interrogate Ms. [REDACTED]. No one repeatedly asked any questions.

The CPOA finds Sergeant T.'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.

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

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator and 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 lapel camera recording.

A) The CPOA reviewed Standard Operating Procedure 2-17-1 regarding procedure, which states:

Department policy is to provide officers with guidelines to conduct warrantless searches and seizures in order to uphold individual civil rights, protect officers and others, and govern the collection of evidence.

Officer B. and Detective C. were interviewed via the telephone. The investigation revealed that Officer B. went to [REDACTED] NW to assist Northwest Impact Team Members in locating a suspect who was wanted for Felony Battery and Intimidation of a Witness. When they arrived, they made contact with [REDACTED]. Ms. [REDACTED] told officers that her son was not home and asked officers to come in. Officer B. stayed in the entrance and living room. Officer B. could not remember if he walked all the way into the house or just stood outside and in the entry area of the house. Officer B. did not conduct a protective sweep and does not recall anyone else conducting a sweep. Officer B. did not witness any behavior on the part of officers that he thought was inappropriate.

Detective C. had driven to the residence because this was the listed residence for [REDACTED] son, [REDACTED]. Mr. [REDACTED] was wanted for Battery and Intimidation of a Witness regarding an incident that occurred on August 1, 2013. After conducting an investigation, Detective C. had obtained from the court an arrest warrant for Mr. [REDACTED]. Officer B. and Sergeant T. accompanied him. They knocked at the door. Ms. [REDACTED] answered and invited the officers into her home. Ms. [REDACTED] wanted to know about the charges levied against her son and if the charges were based on rumor. Detective C. explained that the victim had sustained serious injuries from her son and that there were a number of witnesses who had identified him as the perpetrator of the crime. In addition, the crime was captured on video. After a short conversation the officers left. No one conducted a protective sweep of the residence. Officer C. did not see any officer conduct himself in a

manner that was inappropriate or unprofessional. Detective C. made lapel camera recording of the incident.

The lapel camera recording was reviewed and revealed that only three officers were at the incident. Ms. [REDACTED] answered the door and invited officers into her home. She told officers that her son was not home. At no time did any officer ever leave the room that Ms. [REDACTED] had asked officers to come into. The video showed that the officers did not search the residence. The video showed that the officers were courteous and answered all of Ms. [REDACTED]'s questions. All three officers made every attempt to reasonably explain why they were looking for her son. At no time did officers interrogate Ms. [REDACTED]. No one repeatedly asked any questions.

The CPOA finds Detective C.'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.

IV. 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 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 lapel camera recording.

A) The CPOA reviewed Standard Operating Procedure 2-17-1 regarding procedure, which states:

Department policy is to provide officers with guidelines to conduct warrantless searches and seizures in order to uphold individual civil rights, protect officers and others, and govern the collection of evidence.

Officer B. and Detective C. were interviewed via the telephone. The investigation revealed that Officer B. gone to [REDACTED] NW to assist Northwest Impact Team Members in locating a suspect who was wanted for Felony Battery and Intimidation of a Witness. When they arrived, they made contact with [REDACTED]. Ms. [REDACTED] told officers that her son was not home and asked officers to come in. Officer B. stayed in the entrance and living room. Officer B. could not remember if he walked all the way into the house or just stood outside and in the entry area of the house. Officer B. did not conduct a protective sweep and does not recall anyone else conducting a sweep. Officer B. did not witness any behavior on the part of officers that he thought was inappropriate.

Detective C. had driven to the residence because this was the listed residence for [REDACTED]'s son, [REDACTED]. Mr. [REDACTED] was wanted for Battery and Intimidation of a Witness regarding an incident that occurred on August 1, 2013. After conducting an investigation, Detective C. had obtained from the court an arrest warrant for Mr. [REDACTED].

Officer B. and Sergeant T. accompanied him. They knocked at the door. Ms. [REDACTED] answered and invited the officers into her home. Ms. [REDACTED] wanted to know about the charges levied against her son and if the charges were based on rumor. Detective C. explained that the victim had sustained serious injuries from her son and that there were a number of witnesses who had identified him as the perpetrator of the crime. In addition, the crime was captured on video. After a short conversation the officers left. No one conducted a protective sweep of the residence. Officer C. did not see any officer conduct himself in a manner that was inappropriate or unprofessional. Detective C. made lapel camera recording of the incident.

The lapel camera recording was reviewed and revealed that only three officers were at the incident. Ms. [REDACTED] answered the door and invited officers into her home. She told officers that her son was not home. At no time did any officer ever leave the room that Ms. [REDACTED] had asked officers to come into. The video showed that the officers did not search the residence. The video showed that the officers were courteous and answered all of Ms. [REDACTED]'s questions. All three officers made every attempt to reasonably explain why they were looking for her son. At no time did officers interrogate Ms. [REDACTED]. No one repeatedly asked any questions.

The CPOA finds Officer B.'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 Sergeant T., Detective C. and Officer B.'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 [REDACTED] CPC 190-13

April 15, 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



CIVILIAN POLICE OVERSIGHT AGENCY

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

April 15, 2016
Via Certified Mail
7014 2120 0004 7659 5191

[REDACTED]

Re: CPC #249-13

Dear Mrs. [REDACTED]:

The complaint you filed against Officer N. of the Albuquerque Police Department (APD) was received in our office on December 17, 2103 regarding an incident that occurred on December 16, 2013. A Civilian Police Oversight Agency (CPOA) Investigator and an independent contract investigator were assigned to investigate your Complaint. The Administrative Office of the CPOA thoroughly and impartially investigated your complaint. The CPOA made findings of whether the Albuquerque Police Department (APD) Officer involved violated Standard Operating Procedures (SOPs) based on a preponderance of the evidence. A preponderance of the evidence means that one side has a greater weight of evidence that is more credible and convincing than the other side. Another way of saying it is more than 50% of the credible evidence. If the credible evidence is 50-50, the proper finding is Not Sustained.

PO Box 1293

Albuquerque

New Mexico 87103

www.cabq.gov

Our office received the complaint you filed on December 17, 2013 against Officer N. of the Albuquerque Police Department (APD) regarding an incident that occurred on . A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint.

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] wrote in her complaint that on December 16, 2013, her son was detained at [REDACTED] School by Officer N. During this detention Officer N. pulled his baton for no reason. [REDACTED] also alleged that Officer N. used profane language and called her son a "pussy" and told her son "Do something so I can lay you out in 2 hits." [REDACTED] also alleged that [REDACTED] referred to her as a "whore" when her son had asked that his mother be called to the scene.

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

The Acting 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, a review of a recorded interview with Officer N., and a telephonic interview with [REDACTED].

A) The CPOA reviewed Standard Operating Procedure 1-04-1 (F) regarding Officer N.'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] alleged that Officer N. pulled his baton out for no reason and threatened to strike her son. In addition the complaint alleged that Officer N. referred to [REDACTED]'s mother as a "whore" and directly called [REDACTED] a "pussy."

The investigation revealed that although Officer N. pulled his baton the pulling of that baton was well within reason based on the actions of [REDACTED] at the time of the incident. [REDACTED] was loud, abusive and used curse language towards an unarmed Albuquerque Public Schools CSA. In addition, [REDACTED] closed distance on the CSA leading Officer N. and the CSA to believe that she was in immediate peril of being struck by [REDACTED]. [REDACTED] told the officer "Fucking cop, if you didn't have that badge I would pop you in the face."

The CPOA finds the allegation to be **UNFOUNDED** regarding Officer N.'s conduct and 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.

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

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

Mrs. [REDACTED] alleged that Officer N. pulled his baton out for no reason and threatened to strike her son. In addition the complaint alleges that Officer N. referred to [REDACTED]'s mother as a whore and directly called [REDACTED] a "pussy."

Letter to Mrs. [REDACTED] CPC 249-13

April 15, 2016

Page 3

Although there was no evidence to support the allegation that Officer N. used the term "pussy" or referred to Mrs. [REDACTED] as a whore, there is evidence that Officer N. told [REDACTED] to "shut the fuck up." Officer N. documented this in his report.

The CPOA find Officer N.'s conduct to be **SUSTAINED** 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 occur.

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

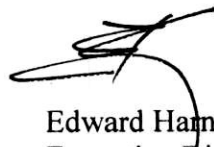
You have the right to appeal this decision.

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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Dr. Carlotta A. Garcia *Dr. Lisa M. Orick-Martinez*
Rev. Dr. David Z. Ring III
Edward Harness, Esq., Executive Director

April 15, 2016
Via Certified Mail
7010 1670 0000 0921 5708

[REDACTED]

Re: CPC #255-13

Dear Mr. [REDACTED]

The complaint you filed against Officer N., Officer V., Officer L., and Officer W., of the Albuquerque Police Department (APD) was received in our office on December 30, 2014 regarding incidents that occurred on October 24, October 25, November 11, and November 13, 2013. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint. The Administrative Office of the CPOA thoroughly and impartially investigated your complaint. The CPOA made findings of whether the Albuquerque Police Department (APD) Officers involved violated Standard Operating Procedures (SOPs) based on a preponderance of the evidence. A preponderance of the evidence means that one side has a greater weight of evidence that is more credible and convincing than the other side. Another way of saying it is more than 50% of the credible evidence. If the credible evidence is 50-50, the proper finding is Not Sustained.

PO Box 1293

Albuquerque

New Mexico 87103

www.cabq.gov

Because officers are compelled to cooperate in the investigation, the Albuquerque Police Officers' Association's (APOA) Contract with the City of Albuquerque mandates that officers' statements not be made public. Below is a summary of the complaint, the CPOA's investigation and findings.

I. THE COMPLAINT

[REDACTED], an Attorney representing the [REDACTED] Mobile Home Park filed his complaint alleging that on October 24, 2013, October 25, 2013, November 11, 2013, and November 21, 2013, different tenants of the [REDACTED] Mobile Home Park were attempting to move their mobile homes out of the park, but the tenants had not paid a \$1500.00 "move out deposit" required by the Mobile Home Park Owners. Mr. [REDACTED] alleged that on each occasion, an APD police officer, or officers responded to a call for service and each of the officers took action that allowed the tenants to remove the homes from the mobile home park without paying the move-out deposit. Mr. [REDACTED] alleged that each situation was a civil matter taking place on private property and that the police have no right

April 15, 2016

Page 2

to interfere with the mobile home park's procedures governing the removal of the resident's homes.

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

The Acting 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 Mr. [REDACTED] interviews with Officer N., Officer V., Officer L., and Officer W.. Applicable State Statutes, as well as a court ruling by a Metropolitan Court Judge was also reviewed.

A) The CPOA reviewed Standard Operating Procedure 3-14-2 regarding Officer N.'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.

It is the policy of the Albuquerque Police Department to respond to calls involving civil disputes primarily for the purpose of restoring order. DISPUTES INVOLVING LIENS: The officer should not attempt to take personal property away from one party and give it to another if there is a dispute of ownership of the property involved.

[REDACTED] attorney for [REDACTED] Mobile Home Park, stated that officers out of the Phil Chacon substation have taken it upon themselves to interfere in civil matters within private property, namely the [REDACTED] Mobile Home Park. Mr. [REDACTED] stated that Officer N. was present on November 31, 2013. Mr. [REDACTED] alleged that the Officer N. acted to the detriment of his client's private property rights. Mr. [REDACTED] said that owners must pay a \$1500 moving fee deposit before their mobile home could leave the property. Mr. [REDACTED] claimed that Officer N. either ordered or allowed the mobile homes to be removed from the park without the consent of park management. Mr. [REDACTED] stated that these incidents are civil matters and the police have no business being involved in civil matters.

Officer N. was dispatched to the [REDACTED] Mobile Home Park on November 21, 2013, because a Spanish-speaking officer was needed. The park management had refused to allow a mobile home to be moved from the park until a \$1500 moving fee was paid. The owner of the mobile home had all the proper paperwork and was not in arrears on her rent. The tow truck driver offered his paperwork to management, but they refused to take it. The park management could not produce paperwork to support that the home owner must pay \$1500 moving fee before moving the mobile home out of the lot. The park management refused to provide Officer N. with any paperwork regarding the moving fee policy. The

Officers were there to make sure that problems did not arise during the incident. Without any paperwork shown by the management to the officer that the mobile home did in fact have a lien on it, there was no way that Officer N. could prevent the owner from moving the mobile home. Officer N.'s lapel video recording showed that the park management personnel were rude, stating that they would file a lawsuit and file a complaint against the officers. The video also showed that Park management became irate and told Officer N. not to come back to the property.

There was a court finding in one of the cases and the Judge hearing the case ruled that charging a move out deposit does not appear to be illegal but because the move out deposit was not identified before the move in and because it was not part of any lease agreement, the move out deposit, demanded on the day a tenant is moving their home from the park, is inappropriate and it breaches the duty of good faith that is a requirement of the law. Absent any proof that there is a lien on the mobile home to prevent it from being moved, the officer acted appropriately.

Mr. [REDACTED] alleged that the Police had no business getting involved in this matter in the first place. Police Officers will always respond to calls for service from citizens who believe they are being wronged, whether or not it is on private or public property. Our review of the evidence and of the facts and circumstances surrounding the case show that Officer N. acted appropriately and within policy.

The CPOA finds Officer N.'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.

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

A) The CPOA reviewed Standard Operating Procedure 3-14-2 regarding Officer V.'s conduct, which states:

*It is the policy of the Albuquerque Police Department to respond to calls involving civil disputes primarily for the purpose of restoring order. **DISPUTES INVOLVING LIENS: The officer should not attempt to take personal property away from one party and give it to another if there is a dispute of ownership of the property involved.***

[REDACTED] attorney for [REDACTED] Mobile Home Park, stated that officers out of the Phil Chacon substation have taken it upon themselves to interfere in civil matters within private property, namely the [REDACTED] Mobile Home Park. Mr. [REDACTED] stated that Officer [REDACTED] was present on October 24, and October 25, 2013. Mr. [REDACTED] alleged that the Officer [REDACTED] acted to the detriment of his client's private property rights. Mr. [REDACTED] said that owners must pay a \$1500 moving fee deposit before their mobile home could leave the property. Mr. [REDACTED] claimed that Officer [REDACTED] ordered or allowed the mobile homes to be

April 15, 2016

Page 4

removed from the park without the consent of park management. Mr. [REDACTED] stated that these incidents are civil matters and the police have no business being involved in civil matters.

Officer V. was dispatched to the [REDACTED] Mobile Home Park on October 24 and October 25, 2013, and he has been dispatched to the park several times. On October 24, he observed that a park management truck was blocking a mobile home from being moved from the park. The park management personnel told Officer V. that the mobile home could not leave the park until a \$1500 moving fee and lien was paid. The owner of the mobile home claimed to have no idea about the moving fee. The weather was very windy, and the mobile home could not safely be moved at that time. Officer V. left the scene. The mobile home was apparently moved sometime later in the day, but Officer V. was not present.

On October 25, Officer V. was dispatched to the park. A park management truck was blocking a mobile home from being moved out of the park. Officer V. spoke to the park management personnel about the situation, but stated that he never gave a direct lawful order that the mobile home would be moved from the park. Mr. [REDACTED] alleged that a Sergeant arrived on scene and the Sergeant told Officer V. this was a civil matter. Officer V. stated that at no time did he request a Sergeant to respond to the scene. Even though this was a civil matter, Officer V. was there only to keep the peace. Shortly thereafter, the tow truck driver did remove the mobile home from the park.

There was a court finding in one of the cases and the Judge hearing the case ruled that charging a move out deposit does not appear to be illegal but because the move out deposit was not identified before the move in and because it was not part of any lease agreement, the move out deposit, demanded on the day a tenant is moving their home from the park, is inappropriate and it breaches the duty of good faith that is a requirement of the law. Absent any proof that there is a lien on the mobile home to prevent it from being moved, the officer acted appropriately. Mr. [REDACTED] alleged that the Police had no business getting involved in this matter in the first place. Police Officers will always respond to calls for service from citizens who believe they are being wronged, whether or not it is on private or public property. Our review of the evidence and of the facts and circumstances surrounding the case show that Officer V. acted appropriately and within policy.

The CPOA finds Officer V.'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.

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

A) The CPOA reviewed Standard Operating Procedure 3-14-2 regarding Officer L.'s conduct, which states:

April 15, 2016

Page 5

It is the policy of the Albuquerque Police Department to respond to calls involving civil disputes primarily for the purpose of restoring order. DISPUTES INVOLVING LIENS: The officer should not attempt to take personal property away from one party and give it to another if there is a dispute of ownership of the property involved.

[REDACTED] attorney for [REDACTED] Mobile Home Park, stated that officers out of the Phil Chacon substation have taken it upon themselves to interfere in civil matters within private property, namely the [REDACTED] Mobile Home Park. Mr. [REDACTED] stated that Officers W. and Officer L. were present on November 11, 2013 (actual date determined to be 11-8-13). Mr. [REDACTED] alleged that the Officers W. and Officer L. acted to the detriment of his client's private property rights. Mr. [REDACTED] said that owners must pay a \$1500 moving fee deposit before their mobile home could leave the property. Mr. [REDACTED] claimed that Officer W. and Officer L. ordered or allowed the mobile homes to be removed from the park without the consent of park management. Mr. [REDACTED] stated that these incidents are civil matters and the police have no business being involved in civil matters.

The investigation revealed that the actual date of the incident was November 8, 2013. Officer W. had requested Officer L., who was acting sergeant at the time, to respond to the mobile home park at the request of park management. Upon arrival, she noted that a park management truck was blocking a mobile home which had been towed into the street. The truck was blocking access to the roadway. For safety reasons, Officer W. informed park management that their truck had to be moved because it was blocking the roadway. Management refused to remove their vehicle from the street. Officer W. informed park management that the vehicle would be towed. Park management then agreed to move the truck. Officer W. was informed that park management was trying to charge a \$1500 moving fee to the owner of the mobile home, but management had no paperwork to that effect. The mobile home owner did have all their paperwork in order. The mobile home had been moved into the street, and the tow truck then moved the mobile home from the park property. Officer L. was subpoenaed to a court hearing before Metro Court Judge Sedillo, but was not allowed to testify. Judge Sedillo ruled that the park was engaging in Unfair Practices and must return the moving fee that they had charged.

There was a court finding in one of the cases and the Judge hearing the case ruled that charging a move out deposit does not appear to be illegal but because the move out deposit was not identified before the move in and because it was not part of any lease agreement, the move out deposit, demanded on the day a tenant is moving their home from the park, is inappropriate and it breaches the duty of good faith that is a requirement of the law. Absent any proof that there is a lien on the mobile home to prevent it from being moved, the officers acted appropriately. Mr. [REDACTED] alleged that the Police had no business getting involved in this matter in the first place. Police Officers will always respond to calls for service from citizens who believe they are being wronged, whether or not it is on private or public property. Our review of the evidence and of the facts and circumstances surrounding the case show that Officer L. acted appropriately and within policy.

The CPOA finds Officer L.'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.

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

A) The CPOA reviewed Standard Operating Procedure 3-14-2 regarding Officer L.'s conduct, which states:

*It is the policy of the Albuquerque Police Department to respond to calls involving civil disputes primarily for the purpose of restoring order. **DISPUTES INVOLVING LIENS: The officer should not attempt to take personal property away from one party and give it to another if there is a dispute of ownership of the property involved.***

[REDACTED] attorney for [REDACTED] Mobile Home Park, stated that officers out of the Phil Chacon substation have taken it upon themselves to interfere in civil matters within private property, namely the [REDACTED] Mobile Home Park. Mr. [REDACTED] stated that Officers [REDACTED] W. and Officer L. were present on November 11, 2013 (actual date determined to be 11-8-13). Mr. [REDACTED] alleged that the Officers W. and Officer L. acted to the detriment of his client's private property rights. Mr. [REDACTED] said that owners must pay a \$1500 moving fee deposit before their mobile home could leave the property. Mr. [REDACTED] claimed that Officer W. and Officer L. ordered or allowed the mobile homes to be removed from the park without the consent of park management. Mr. [REDACTED] stated that these incidents are civil matters and the police have no business being involved in civil matters.

The investigation revealed that the actual date of the incident was November 8, 2013. Officer W. was dispatched to the [REDACTED] Mobile Home Park regarding a truck that was blocking a mobile home from being moved from the park. There have been several incidents of this nature at the park. The mobile home had already been moved into the street before two park management trucks blocked it from moving any further. The trucks were blocking access to the street. Officer W. informed the park management that their vehicles had to be moved because it was a safety concern for emergency vehicles. Park management told Officer W. this was a civil matter, and their policy allowed them to collect a \$1500 moving fee before any mobile home was moved from the property. Officer W. informed park management that their vehicles would be towed because they were illegally blocking the roadway. Management at first refused to move the vehicles, but before the tow truck was called, management agreed to move the vehicles. The towing company and the mobile home owner had the proper paperwork. The mobile home had already been moved into the street, and the tow truck moved the mobile home off the property.

There was a court finding in one of the cases and the Judge hearing the case ruled that charging a move out deposit does not appear to be illegal but because the move out deposit was not identified before the move in and because it was not part of any lease agreement, the

April 15, 2016

Page 7

move out deposit, demanded on the day a tenant is moving their home from the park, is inappropriate and it breaches the duty of good faith that is a requirement of the law. Absent any proof that there is a lien on the mobile home to prevent it from being moved, the officers acted appropriately. Mr. [REDACTED] alleged that the Police had no business getting involved in this matter in the first place. Police Officers will always respond to calls for service from citizens who believe they are being wronged, whether or not it is on private or public property. Our review of the evidence and of the facts and circumstances surrounding the case show that Officer W. acted appropriately and within policy.

The CPOA finds Officer W.'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 Officer N.'s, Officer V.'s, Officer L.'s, and Officer W.'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. Susanne Brown *Eric H. Cruz* *Joanne Fine*

Dr. Carlotta A. Garcia *Dr. Lisa M. Orick-Martinez*

Rev. Dr. David Z. Ring III

Edward Harness, Esq., Executive Director

April 15, 2016

Via Certified Mail

7010 1670 0000 0921 5715

[REDACTED]
[REDACTED]
[REDACTED]

Re: CPC #257-13

Dear Mr. [REDACTED]:

The complaint you filed against Officer J. and the Albuquerque Police Department (APD) was received in our office on January 2, 2014 regarding an incident that occurred on December 25, 2013. A Civilian Police Oversight Agency (CPOA) Investigator and a contract independent investigator were assigned to investigate your Complaint. The Administrative Office of the CPOA thoroughly and impartially investigated your complaint. The CPOA made findings of whether the Albuquerque Police Department (APD) Officers involved violated Standard Operating Procedures (SOPs) based on a preponderance of the evidence. A preponderance of the evidence means that one side has a greater weight of evidence that is more credible and convincing than the other side. Another way of saying it is more than 50% of the credible evidence. If the credible evidence is 50-50, the proper finding is Not Sustained.

PO Box 1293

Albuquerque

New Mexico 87103

www.cabq.gov

Because officers are compelled to cooperate in the investigation, the Albuquerque Police Officers' Association's (APOA) Contract with the City of Albuquerque mandates that officers' statements not be made public. Below is a summary of the complaint, the CPOA's investigation and findings.

I. THE COMPLAINT

[REDACTED] alleged that complaint that on December 25, 2013, Officer J. illegally forced his way into Mr. [REDACTED]' friend's yard and damaged the gate.

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

The Acting Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator and the independent contract investigator, which included an interview with Mr. [REDACTED] a letter from [REDACTED] and [REDACTED], a review of the applicable Standard Operating Procedures (SOPS), the Citizen Police Complaint, the Albuquerque Police

April 15, 2016

Page 2

Department Report in the case, The Computer Assisted Dispatch (CADS) Reports, and interviews with Officer J., and Sergeant J..

A) The CPOA reviewed Standard Operating Procedure regarding Officer J.'s conduct, which states:

Officers may conduct warrantless searches in order to uphold individual civil rights, protect officers and others.

The police report states that Officer J. was dispatched to [REDACTED] for a welfare check on the caller's [REDACTED] grandson. The grandmother believed that the [REDACTED] father, Mr. [REDACTED], was possibly driving and had the [REDACTED] drive Mr. [REDACTED]. Officer J. arrived at the address and noticed a chain-link fence surrounding the residence. Officer J. pushed open the gate without damaging the gate. Mr. [REDACTED] came to the door and told Officer J. that his [REDACTED] son was with his mother and not at the residence. A female resident of the home, who did not wish to be identified, was upset that Officer J. had knocked on her door and accused Officer J. of damaging her gate.

Officer J. called his Sergeant, Sergeant J. to the scene to inspect the gate and to speak with the woman. Sergeant J. did not observe any damage to the fence or gate.

Officer J. was lawfully on the property, conducting a welfare check on a minor child.

The CPOA finds Officer J.'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 2-02-1, Damage to Civilian Property, regarding Officer J.'s conduct, which states:

Personnel will complete an offense/incident report detailing the exact damage and forward a copy of the report to Risk Management..

A female resident of the home, who did not wish to be identified, was upset that Officer J. had knocked on her door and accused Officer J. of damaging her gate. Once the woman accused Officer J. of damaging her fence and gate, Officer J. called his Sergeant to the scene. Sergeant J. inspected the gate and to spoke with the woman. Sergeant J. did not observe any damage to the fence or gate.

The CPOA finds Officer J.'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 J.'s Internal Affairs records.

You have the right to appeal this decision.

Letter to Mr. [REDACTED], CPC 257-13

April 15, 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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Dr. Carlotta A. Garcia *Dr. Lisa M. Orick-Martinez*
Rev. Dr. David Z. Ring III
Edward Harness, Esq., Executive Director

April 15, 2016
Via Certified Mail
7014 2120 0004 7659 5290

[REDACTED]
[REDACTED]
[REDACTED]

Re: CPC # 176-14

Dear Mr. and Mrs. [REDACTED]:

Our office received the complaint you filed on September 15, 2014 and October 18, 2014 against Officers of the Albuquerque Police Department (APD) regarding an incident that occurred on August 22, 2014. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint.

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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.

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. and Mrs. [REDACTED]'s complaints were based on Detective J.'s conduct starting on August 22, 2014, and continuing for several days. On August 22, 2014, allegations of child abuse were forwarded to APD by the school staff. Detective J. went to the school in order to initiate an investigation. Detective J., along with Children, Youth & Families Department (CYFD) interviewed some of the children. Based on the admissions by the children, Detective J. left and worked on obtaining a search warrant for the [REDACTED] residence. Detective J. initiated the process for a 48-hour custody hold on the children. When Mr. and Mrs. [REDACTED] went to pick

up their children from school, they were told they could not go home because of the pending search warrant and that their children were being taken into custody.

Mr. and Mrs. ██████ stated in their complaints that they were given no information as to why their children were being taken and why their home was being searched. They wrote when they were eventually told they could go home late at night, things were left a mess, and that unnecessary areas of their home were searched. Mr. and Mrs. ██████ stated that their children and dogs were taken for no reason, and that there were no marks to indicate abuse. They claimed Detective J. was intimidating and rude with their children, particularly their ██████-█████ daughter.

Mr. and Mrs. ██████ stated that they attended a meeting with CYFD and determined their case was confused with another ██████ family. Mr. ██████ believed police became involved due to that error. They wrote that Detective J. called on August 29, 2014, asking if Mr. ██████ wanted to make a statement. Mr. ██████ stated that he told Detective J. he did not want to make a statement without an attorney. Detective J. told him he would assume Mr. ██████ was guilty. Mrs. ██████ alleged that Detective J. tried to enter their house on August 29, 2014, while no one was home.

Mr. and Mrs. ██████ allege that a warrant was issued for Mr. ██████'s arrest without reason and without providing them warning. Mrs. ██████ wrote Detective J. showed up to the house on September 12, 2014 and tried to get her to open the door. Mrs. ██████ alleged that Detective J. had a Comcast employee knock on the door to try to get her to answer.

The CPOA Investigator interviewed Mr. and Mrs. ██████. They repeated much of what was in their written complaints. They claimed there was no justification for Detective J.'s actions because there were no marks on any of their children. Mr. and Mrs. ██████ claimed the school personnel lied about the allegations. They alleged that their children were coerced or bribed into lying. They alleged that the whole thing was discriminatory against Native Americans.

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

I reviewed the investigation conducted by the CPOA Investigator, which included review of the Complaint, SOPs, Computer-Aided Dispatch Report, police reports, Detective J.'s lapel videos and audio recordings, Detective H.'s lapel videos, and the CPOA Investigator's interviews of ██████, ██████, and Detective J.

(A) The Executive Director reviewed Standard Operating Procedure Order 2-33-4(A)(3) regarding Detective J.'s conduct, which states:

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

April 15, 2016

Page 3

the officer had reasonable grounds to believe the child: 3. Is in danger from his surroundings and removal from those surroundings is necessary.

Mr. and Mrs. █████ claimed there were no marks on their children to justify their children being taken into custody. They alleged that their children were taken without giving them information as to why, and without proper procedure. Mr. and Mrs. █████ claimed their family was merged with another family from Farmington under investigation and that resulted in police being involved.

The allegations of abuse were of a very serious nature. The lack of marks did not automatically mean the allegations had been proven untrue. The recorded interviews of the children showed there were disclosures that led both CYFD and Detective J. to believe a custody hold and investigation were necessary. There was some confusion apparently on the part of CYFD at a meeting which blended two families, but that had nothing to do with APD's criminal investigation.

I find Detective J.'s conduct to be **EXONERATED** regarding the allegation of a violation of this SOP, which means the incident that occurred was lawful or proper.

(B) The Executive Director reviewed Standard Operating Procedure Order 1-02-2(B)(2) regarding Detective J.'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. and Mrs. █████ felt their rights were violated because they were not permitted to return home pending a search warrant. They complained that officers looked through things that they should not have or that were unnecessary to look through. Mr. and Mrs. █████ claimed all the items the officers were looking for were contained in the garage, yet Mrs. █████ personal belongings in her bedroom were searched. They were kept from their home until late in the evening. When they finally were allowed to go home, things were in a mess, such as milk left on the counter, lights on, the TV was on and things strewn about. They also complained that an arrest warrant was placed on Mr. █████ without warning, such as a summons. They also claimed that according to their neighbors, Detective J. tried to enter their home on August 29th while no one was home.

The process of obtaining the search warrant was started in the afternoon. The search warrant specified any and all evidence to show residency, which could have been anywhere in the home. The search warrant also specified any and all whips, ropes, belts, back scratchers and/or other implements believed to have been used to strike or bind the children, so that also entitled officers to search all areas of the home. The process of writing and obtaining the authorizations for the search warrant takes time. The hours the search took place were

April 15, 2016

Page 4

considered before a nighttime search, which requires additional authorization. The lapel videos from the officers showed the condition of the home before the search was conducted. The milk was already on the counter, the lights and TV were on, and things were in disarray. The arrest warrant was appropriately signed off per SOP 2-33-6(C). Summonses are not issued for felony charges. When both Mr. and Mrs. ██████ were asked for neighbors' information about what the neighbors saw while they were not home, both Mr. and Mrs. ██████ became vague. Neither Mr. nor Mrs. ██████ provided contact information and just said they heard about it from neighbors. No one said Detective J. entered the house on that occasion.

I find Detective J.'s conduct to be **EXONERATED** regarding the allegation of a violation of this SOP, which means the incident that occurred was lawful or proper.

(C) The Executive Director reviewed Standard Operating Procedure Order 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. and Mrs. ██████ claimed that Detective J. pressured their ██████ daughter into saying things and that they intimidated her. They alleged that Detective J. was rude when he spoke to their daughter. Mr. and Mrs. ██████ claimed Detective J. asked Mr. ██████ for a statement over the phone. When Mr. ██████ declined to be interviewed, they claimed that Detective J. told him he assumed Mr. ██████ was guilty of the allegations against him. Mrs. ██████ also claimed Detective J. enlisted the help of a Comcast employee to try to trick her into opening the door, but she saw Detective J. standing behind and did not answer the door.

The audio and lapel videos showed that Detective J. was polite with all the children. Detective J. suspected the ██████ girl was covering for her parents and he asked her questions to get her to be honest. The recordings showed that Detective J. never bullied her into saying something or crossed lines. Detective J. recorded his phone conversation with Mr. ██████ and never told Mr. ██████ he assumed the charges were true or that Mr. ██████ was guilty because he did not provide a statement. Comcast was contacted to determine if an employee was in the area. The Comcast regional security manager looked, but could not find evidence of a Comcast dispatch for the area.

I find Detective J.'s conduct to be **EXONERATED** regarding the allegation of a violation of this SOP, which means the incident that occurred was lawful or proper.

(D) The Executive Director reviewed Standard Operating Procedure Order 1-03-2(A) regarding Detective J.'s conduct, which states:

Biased-based policing/profiling by any member of this Department is prohibited. Investigative detentions, field contacts, traffic stops, arrests, searches, property

April 15, 2016

Page 5

seizures and forfeiture efforts will be based on a standard of reasonable suspicion or probable cause in accordance with the Fourth Amendment of the U.S. Constitution.

Mr. and Mrs. [REDACTED] alleged that the whole situation was created due to a racial bias against Native Americans. Mr. and Mrs. [REDACTED] said there was no justification to take their children or animals away because there were no marks on the children. Mr. [REDACTED] expressed concern about where his children were being fostered, and both parents said that violated in place by the Indian Child Welfare Act. Mr. [REDACTED] claimed that Detective J. made a disparaging comment, but he did not remember what it was.

The allegations were serious and that was what prompted the investigation, not the [REDACTED]'s ethnicity. CYFD places the children in foster care, so if there are any issues with following the Indian Child Welfare Act, that responsibility would be with CYFD. Mr. [REDACTED] could not remember what negative remark Detective J. supposedly made. Detective J.' contact with Mr. [REDACTED] was recorded and there was no remark made.

I find Detective J.'s conduct to be **EXONERATED** regarding the allegation of a violation of this SOP, which means the incident that occurred was lawful or proper.

Additional Note:

Mr. [REDACTED] stated in his interview he did not have a complaint about Detective H. Mrs. [REDACTED]'s complaint was that Detective H. did not give them any information. There is no SOP that requires officers provide full information about an investigation to a suspect. The lapel videos showed Detective H. was professional and provided as much information as he could to the family about what was going on. Detective H. was not targeted as this was the only complaint Mrs. [REDACTED] had about Detective H. and he was not involved in other aspects of the investigation.

Your complaint and these findings will be placed in Detective J.'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 Mr. and Mrs. [REDACTED], CPC 176-14

April 15, 2016

Page 6

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

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Dr. Carlotta A. Garcia *Dr. Lisa M. Orick-Martinez*
Rev. Dr. David Z. Ring III
Edward Harness, Esq., Executive Director

April 15, 2016

[REDACTED]
Via email: [REDACTED]

Re: CPC #198-14

Dear Mr. [REDACTED]:

Our office received the complaint you filed on October 24, 2014 against Officer P., Officer W., and Detective M. of the Albuquerque Police Department (APD) regarding an incident that occurred on September 11, 2014. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint.

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] was arrested on September 11, 2014, by APD Officer P. Mr. [REDACTED] complained that prior to and after his arrest Officer P. used profanity with Mr. [REDACTED]. Mr. [REDACTED] alleged that when he was arrested, Officer P. took Mr. [REDACTED]'s wallet, which contained a computer flash drive and personal documents. Mr. [REDACTED] alleged that he never got the wallet and its contents returned to him.

Mr. [REDACTED] was taken to the Southeast Police Substation, where Officer W. assisted Officer P. with Mr. [REDACTED]. Mr. [REDACTED] was placed next to a seated Narcotics Unit Detective who was later identified as Detective M. Prior to Detective M. leaving the room, Mr. [REDACTED] alleged that Detective M. used profanity in a threatening manner towards Mr. [REDACTED]. Mr. [REDACTED] alleged that Officer W., while walking Mr. [REDACTED] to a police car, pulled Mr. [REDACTED]'s handcuffs up beyond the rear of Mr. [REDACTED]'s head, causing the handcuffs to cut into Mr. [REDACTED].

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April 15, 2016

Page 2

██████' wrists, and Mr. ██████' hands to turn purple. Mr. ██████ alleged that at the Prisoner Transport Unit (PTU), another officer photographed Mr. ██████' hands and the injuries to his wrists. Mr. ██████ alleged that the photos of his injuries were never released to him. Lastly, Mr. ██████ complained that Officer P. failed to appear at trial.

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

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable SOPs, the Complaint, the police report, the Computer-Aided Dispatch (CAD) report, and Officer P.'s lapel video recording. The CPOA also reviewed the CPOA Investigator's interviews with Mr. ██████, Officer B., Officer P., Officer W., Detective M., Detective W., and PTU Sergeant P.

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

Mr. ██████ complained that Officer P. acted unprofessionally with Mr. ██████ during this incident. Mr. ██████ claimed that Officer P. yelled at him to stop by using profanity. He also complained that Officer P. called him by derogatory names when Officer P.'s lapel camera was off.

Officer P. did record parts of the incident on video. The video that was available was reviewed and when the video was on, Officer P. acted professionally with Mr. ██████. However, Mr. ██████ alleged that it was when the video was off that he was treated unprofessionally. Mr. ██████ saw the videos and admitted that he gave Officer P. a hard time at points during the interaction.

Because Officer P. failed to record the incident in its entirety, there is no way to prove or disprove the allegation that Officer P. conducted himself, at times, unprofessionally when he was dealing with Mr. ██████.

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

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

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

Mr. ██████ specifically alleged that Officer P. told him to "get the f*** over here" when Officer P. was attempting to stop Mr. ██████. Although those words are not captured on the

April 15, 2016

Page 3

video; the first 30 seconds of the video is a buffer and for 30 seconds from Officer P. turning on the lapel camera, these 30 seconds contained no audio. Mr. ██████ alleged that Officer P. used that profanity before the video was turned on. Mr. ██████ alleged that when Officer P. had the video turned off, Officer P. directed derogatory comments toward Mr. ██████, calling Mr. ██████ a "Bitch."

Because Officer P. failed to record the incident in its entirety, there is no way to prove or disprove the allegation that Officer P. used profane language when he was dealing with Mr. ██████.

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

(C) The CPOA reviewed Standard Operating Procedure Order 2-52-3(A) regarding Officer P.'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; to gain control of a combative prisoner; prevent or terminate the commission of a crime; to intervene in a suicide or self-inflicted injury; to defend an officer or member of the public from the physical acts of another.

Mr. ██████ alleged in his written complaint that he was subdued by Officer P. and later at the police substation he was assaulted by Officer P. and Officer W.

The lapel video taken by Officer P. at the time of Mr. ██████' arrest showed that Mr. ██████ did not comply with any of Officer P.'s commands. Mr. ██████ resisted arrest. Mr. ██████ was not responsive to Officer P.'s directions, and Mr. ██████ physically resisted being handcuffed. The video revealed that the only action Officer P. took to control Mr. ██████ was to hold him until another officer arrived on scene and assisted in getting Mr. ██████ handcuffed. Any use of force used to subdue and hold Mr. ██████ until the other officer arrived was objectively reasonable.

Mr. ██████ said in his recorded interview that Officer P. did not "assault" him at the substation. He described his "assault" as being committed by Officer W. and not Officer P. Mr. ██████ alleged that Officer W. assaulted him by pulling up on the handcuffs Mr. ██████ was wearing so that his arms were pulled above his head, causing the handcuffs to cut into Mr. ██████' wrists. All parties interviewed agreed that Officer P. did not assault Mr. ██████.

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

(D) The CPOA reviewed Standard Operating Procedure Order 2-01-3(A) regarding Officer P.'s conduct, which states:

All personnel directed to appear in court, pretrials, or MVD hearings must appear and be prepared to testify.

Mr. ██████ complained that Officer P. did not appear at his scheduled trial as he was required to do. Officer P. had been subpoenaed to the trial but was sick on the day that the trial occurred. Officer P. had called in sick to his supervisor, but he failed to call the Court or Court Services to notify them that he was sick. Officer P. was not excused from making a Court appearance.

The CPOA finds the allegation of a violation of this SOP against Officer P. was **SUSTAINED**, which means the allegation is supported by sufficient evidence.

(E) The CPOA reviewed Standard Operating Procedure Order 1-39-2(B) regarding Officer P.'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 dispatched call for service, arrest warrant, search warrant service or traffic stop. Personnel will activate the recorder prior to arriving at the call or prior to citizen contact on non-dispatched events (within the safety parameters of 1-39-1B) and will record the entirety of citizen contact...

Mr. ██████ claimed in his complaint that Officer P. had a lapel camera that malfunctioned during the incident and therefore no footage from the incident was available.

Officer P. used his lapel video to record some of the incident, but did not record the incident in its entirety. An inquiry into Officer P.'s equipment log showed that he was issued a new lapel camera on or about October 30, 2014, because his old lapel camera had audio problems with the microphone. Although there is evidence to support that the camera may have malfunctioned, Officer P. indicated that it was possible that he turned the camera off at the police substation. Officer P. had turned the camera off when he spoke with his supervisor and other officers about the incident and he had turned it back on when he and Mr. ██████ arrived at the substation. Apparently, the on/off function of the camera was working that day, leading to the conclusion that Officer P. turned the camera on and off and he did not record the incident in its entirety as he was required to do.

The CPOA finds the allegation of a violation of this SOP against Officer P. was **SUSTAINED**, which means the allegation is supported by sufficient evidence.

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

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 drop boxes or lockers.

Mr. ██████ alleged that his wallet, which was actually a padded case with a zipper, was taken by Officer P. and that case was never turned in as part of Mr. ██████' property when he was booked into the Metropolitan Detention Center. Mr. ██████ stated that he tried to get the case back as it contained a state ID, personal papers, and his computer flash drive which he had personal writings on. Officer B. was interviewed and he indicated that he gave the case to Officer P. The lapel video showed that Officer B. did do that. The lapel video also showed Officer P. in possession of the case at the police substation. That case was never turned in to evidence or to the PTC where Mr. ██████ was booked after his arrest. Officer P. indicated that he misplaced the case and did not know where it was.

Furthermore, Mr. ██████ alleged that while he was at the PTC, Officer P. had pictures taken of Mr. ██████' wrists because Mr. ██████ had complained of injury. PTC Sergeant W. indicated that he took the pictures and put them on a disc and gave them to Officer P. Officer P. admitted that he did get a disc from the PTC that had the pictures of Mr. ██████ on it, but he did not pick up that disc until a month or so after the incident. Officer P. intended to tag the disc into evidence but he never did. Officer P. lost the disc and has no idea where it may be.

The CPOA finds the allegation of a violation of this SOP against Officer P. was **SUSTAINED**, which means the allegation is supported by sufficient evidence.

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

(A) The CPOA reviewed Standard Operating Procedure Order 2-52-3(A) regarding Officer W.'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; to gain control of a combative prisoner; prevent or terminate the commission of a crime; to intervene in a suicide or self-inflicted injury; to defend an officer or member of the public from the physical acts of another.

Mr. ██████ alleged that while he was at the police substation he was assaulted by Officer W. Mr. ██████ described his "assault" as being committed by Officer W. Mr. ██████ said that Officer W. assaulted him by pulling up on the handcuffs he was wearing so that his arms were pulled above his head, causing the handcuffs to cut into Mr. ██████' wrists.

Officer P. indicated that he thought Officer W. may have "put a little pressure" on the cuffs to control Mr. ██████, but in no way was it way up high and over Mr. ██████' head, as Mr. ██████ had alleged. Officer P. explained that Officer W. "did lift him up a little" but not enough to where it would have bothered Mr. ██████.

Officer W. denied ever lifting up on Mr. ██████'s handcuffs. Officer W. indicated that Mr. ██████ started leaning forward on his own, saying something to the effect of "let's just get this over with." Officer W. indicated that he did apply some pressure to the cuffs but only enough to keep control and to straighten Mr. ██████ back up from his forward leaning position. Officer W. indicated that he never lifted up on the cuffs or pulled them up over Mr. ██████'s head as Mr. ██████ had described. Officer W. explained that it was only a 15 to 20-foot walk to the car and that there was no force used on Mr. ██████, as Mr. ██████ had alleged.

Officer W. ran his lapel video the entire contact all the way to the PTC and he only turned it off when he left the PTC. Officer W.'s video had been deleted as it was only available for 127 days after upload. The audit trail showed that Officer W. did upload the video for this incident on the day the incident occurred. Mr. ██████ alleged that Officer W. used unnecessary force by pulling up on the handcuffs Mr. ██████ was wearing so that his arms were pulled above his head, causing the handcuffs to cut into Mr. ██████'s wrists.

Officer P. and Officer W. denied that happened. The disc that would have contained pictures to prove that Mr. ██████ was injured by the handcuffs was lost and never made it into evidence. Officer P. did not run his video the entire time and Officer W.'s video had been deleted by the time Officer W.'s identity was revealed. There is no independent evidence to prove or disprove the allegation.

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

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

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.

Although Officer W. was not originally dispatched to the call, he did log out on the call and ended up assisting Officer P. at the police substation where Mr. ██████ was alleged to have acted out. Officer W. recorded his contact with Mr. ██████ from the police substation to the PTC. Officer W. failed to tag his lapel video as evidence, which would have preserved the video for a longer period of time.

The CPOA finds the allegation of a violation of this SOP against Officer W. was **SUSTAINED**, which means the allegation is supported by sufficient evidence.

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

(A) The CPOA reviewed Standard Operating Procedure Order 1-04-1(F) regarding Detective 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. ██████ complained about Detective M.'s behavior during his recorded interview. Officer P.'s video showed Mr. ██████ being escorted into the police substation. The video showed Mr. ██████ being seated next to Detective M. Mr. ██████ asked Detective M. if he wore his mask outside. Detective M. said to Mr. ██████, "I didn't realize that me and you are friends." The video showed that as Detective M. gets up to leave, he told Mr. ██████ in a threatening manner, "I'll remember you. What's his name?" Officer P. gave Detective M. Mr. ██████' ID. Detective M. pointed at Mr. ██████ and said, "All right, ██████. We'll remember you, ██████. And you won't be talking shit to us. I guaran-f***ing-tee it. You too, and your flag shorts."

Detective M. admitted that he reacted to Mr. ██████ in an unprofessional manner and that he used profanity towards Mr. ██████. Detective M. had nothing to do with the arrest or processing of Mr. ██████. Mr. ██████ asked a question of Detective M. and Detective M. reacted in an unprofessional manner.

The CPOA finds the allegation of a violation of this SOP against Detective M. was **SUSTAINED**, which means the allegation is supported by sufficient evidence.

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

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

The lapel video showed that Detective M. used profane language and threatening gestures towards Mr. ██████. Detective M. admitted that he reacted to Mr. ██████ in an unprofessional manner and that he used profanity towards Mr. ██████.

The CPOA finds the allegation of a violation of this SOP against Detective M. was **SUSTAINED**, which means the allegation is supported by sufficient evidence.

Your complaint and these findings will be placed in Officer P., Officer W., and Detective M.'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.

Letter to Mr. [REDACTED], CPC 198-14

April 15, 2016

Page 8

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. Susanne Brown *Eric H. Cruz* *Joanne Fine*
Dr. Carlotta A. Garcia *Dr. Lisa M. Orick-Martinez*
Rev. Dr. David Z. Ring III
Edward Harness, Esq., Executive Director

April 15, 2016
Via Certified Mail
7014 2120 0004 7659 5337

[REDACTED]
[REDACTED]
[REDACTED]

Re: CPC # 202-14

Dear Mr. [REDACTED]:

Our office received the complaint you filed on November 1, 2014 against Officers of the Albuquerque Police Department (APD) regarding an incident that occurred on October 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.

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I. THE COMPLAINT

Mr. [REDACTED]'s complaint is based on Officer A.'s conduct during the encounter on October 30, 2014 between his wife, [REDACTED] and his grandmother, [REDACTED]. Ms. [REDACTED] called APD to report Mrs. [REDACTED] battered her. Ms. [REDACTED] reported to police she sought refuge at the neighbors' house.

Mr. [REDACTED] wrote in his complaint that Officer A. failed to listen to his wife's version of events when there was a conflict between Mrs. [REDACTED] and Ms. [REDACTED]. Mr. [REDACTED] claimed he had evidence to show Officer A. that Officer A. refused to consider. Mr. [REDACTED] wrote Officer A. failed to see that Ms. [REDACTED] lived in uninhabitable conditions. Mr. [REDACTED] stated he was Ms. [REDACTED]'s caretaker.

April 15, 2016

Page 2

The CPOA Investigator interviewed Mr. ██████. Mr. ██████ repeated much of what was in his written complaint. Mr. ██████ restated that Officer A. failed to listen to his wife's side of the situation. Instead Mr. ██████ claimed Officer A. listened to neighbors that were not there and had a bias against Mr. ██████ and his wife. Mr. ██████ stated it was improper for Officer A. to handcuff Mrs. ██████ immediately upon contacting her. Mr. ██████ believed Officer A. should have assessed his grandmother's mental health and ordered a psychological evaluation for his grandmother before arresting his wife. Mr. ██████ believed Officer A. should have asked Mr. ██████ or Mr. ██████'s mother for information about Ms. ██████'s background. Mr. ██████ claimed Officer A. filed a false police report because he did not get the facts. Mr. ██████ was not present during the situation and received the information from his wife about what happened. Mr. ██████ admitted he did not have power of attorney or other court ordered guardianship over his grandmother.

The CPOA Investigator interviewed Mrs. ██████, as well, since she was the one present, not Mr. ██████. Mrs. ██████ also complained Officer A. did not listen to her side of the story. Mrs. ██████ stated Officer A. did not do a proper investigation and wrongfully arrested her. Mrs. ██████ stated Officer A. did not knock or announce his presence and simply walked in the house. Mrs. ██████ stated it was wrong for Officer A. to handcuff her right away if she was only detained. Mrs. ██████ tried to tell Officer A. Ms. ██████'s history, but Officer A. did not consider the information she tried to provide. Mrs. ██████ stated Officer A. refused to call her husband or mother-in-law who had information to contribute. Mrs. ██████ stated Officer A. got an attitude with her and called her "smart mouthed."

II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING OFFICER A.'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 A.'s lapel video and the CPOA Investigator's interviews of Mr. ██████, Mrs. ██████ and Officer A.

(A) The CPOA reviewed Standard Operating Procedure Procedural Order 2-24-3(F)(1-5) regarding Officer A.'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). 3. Protect the crime scene and the evidence. Ensure that necessary evidence is collected. 4. Effect the arrest of the suspect. 5. Report the incident fully and accurately.

Mr. ██████ claimed Officer A. did not listen to his wife's version of events. Mr. ██████ claimed the police report did not have any of his wife's statement. Mr. ██████ stated Officer A. only listened to the neighbors who were not even present and biased against him and his wife. Mr. ██████ said Officer A. should have spoken to him and his mother who could have

provided history on Ms. ██████████'s mental health issues. Mr. ██████████ stated he had texts and phone calls from his wife that illustrated what happened. Officer A. did not do a proper investigation because he failed to recognize a mental health situation. Mrs. ██████████ stated she tried to tell Officer A. about Ms. ██████████'s history and that Ms. ██████████ filed false claims against her before. Mrs. ██████████ tried to get Officer A. to contact her husband and mother-in-law about Ms. ██████████ so Officer A. could understand Ms. ██████████'s history. Mrs. ██████████ told Officer A. that Ms. ██████████ tried to bite her. Mrs. ██████████ claimed Ms. ██████████ threw herself around to cause injury to herself. Mrs. ██████████ claimed Ms. ██████████ was the cause of the altercation and tried to goad Mrs. ██████████ into fighting. Mrs. ██████████ stated Officer A. did not listen to her and did not allow Mrs. ██████████ to provide proof of Ms. ██████████'s condition such as brain scans and blood work.

The video showed Officer A. spoke to Mrs. ██████████, Ms. ██████████, and the neighbors because that was where Ms. ██████████ fled to. The video showed Officer A. saw injuries and had additional injuries documented by a field investigator at the hospital. The video showed no additional family members arrived. Mrs. ██████████ confirmed no additional people came to the scene while Officer A. was present. The video showed Officer A. made the arrest based on his investigation and what was relevant to that night's occurrence. The report reflected the statements all parties made to Officer A.

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

(B) The CPOA reviewed Standard Operating Procedure General Order 1-02-2(B)(2) regarding Officer A.'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.

Mrs. ██████████ stated Officer A. did not knock on the door or announce his presence. Mrs. ██████████ at first said she was outside and then said she was inside with the inner door open and the screen door closed. Mrs. ██████████ stated Officer A. walked into the house. Mrs. ██████████ stated Officer A. immediately instructed her to put her hands behind her back and handcuffed her. Mrs. ██████████ stated Officer A. told her at that time she was not under arrest and only detained, which Mrs. ██████████ believed a person could not be handcuffed if only detained. Mr. ██████████ too claimed Officer A.'s actions were illegal. Mrs. ██████████ claimed she should not have been arrested given the circumstances of Ms. ██████████'s mental health and that Ms. ██████████ attacked her. Mr. ██████████ claimed Officer A. should have had a mental health assessment performed on his grandmother before arresting his wife. Mr. ██████████ felt if it was necessary Officer A. could have issued a summons later.

April 15, 2016

Page 4

The video showed Ms. ██████ made allegations and had visible injuries. The video showed the neighbors confirmed the existence of other injuries. Ms. ██████ had debris on her jacket and hair which substantiated Ms. ██████'s claim she hid in bushes to escape Mrs. ██████. A 911 call from Mr. ██████'s mother reported some of the allegations Mrs. ██████ had about what happened that night, but the information was coming to her from Mrs. ██████. Mr. ██████'s mother was not present herself. Officers are required by state statute 31-1-7 and SOP 3-12611 to make an arrest and assess which party is the primary aggressor in domestic violence situations. The video showed the inner door of the residence was open and Officer A. confirmed Mrs. ██████'s identity as he entered the home. Officers may use handcuffs whether the person is detained or arrested if the situation warrants it. Mrs. ██████ admitted in her interview she lied to Officer A. when she told him she had not hit Ms. ██████ and that Ms. ██████ threw herself around. Mrs. ██████ admitted the truth was she and Ms. ██████ battered each other. Officer A. based his arrest on the evidence presented to him at the time. Ms. ██████'s possible mental health concerns did not dismiss the evidence a domestic situation occurred.

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

(C) The CPOA reviewed Standard Operating Procedure General 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.

Mr. ██████ claimed Officer A. was aggressive and hostile because they did not listen to his wife. Mr. ██████ claimed Officer A. was a "typical power hungry bully". Mrs. ██████ stated Officer A. conveyed he did not believe her. Mrs. ██████ complained Officer A. told her she was "pretty smart mouthed" when she complained Officer A. was not following the conversation. Mrs. ██████ claimed Officer A. rolled his eyes and took the attitude she was "a poor little high girl", but agreed Officer A. never said anything like that.

The lapel video showed Officer A. was professional with all individuals. The lapel video showed Officer A. never accused Mrs. ██████ of being "smart mouthed." The lapel video showed Mrs. ██████ criticized the officer for not following the conversation, but what she was saying she had not said before. There is no visual of Officer A.'s face, but his tone did not indicate anything.

The CPOA finds Officer A.'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 A.'s Internal Affairs personnel file.

April 15, 2016

Page 5

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. Susanne Brown *Eric H. Cruz* *Joanne Fine*
Dr. Carlotta A. Garcia *Dr. Lisa M. Orick-Martinez*
Rev. Dr. David Z. Ring III
Edward Harness, Esq., Executive Director

April 15, 2016
Via Certified Mail
7014 2120 0004 7659 5054

[REDACTED]
[REDACTED]
[REDACTED]

Re: CPC #204-14

Dear Mr. [REDACTED]:

Our office received the complaint you filed on October 29, 2014 against Officer B. of the Albuquerque Police Department (APD) regarding three incidents that occurred in the past. The first incident that you complained of happened in 2008. The second incident you complained of happened on May 19, 2012. The third incident you complained of happened on October 25, 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

New Mexico 87103

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

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

I. THE COMPLAINT

Mr. [REDACTED] stated in his complaint that in 2008, Officer B. was engaged to a woman with whom Officer B. had a child. The woman was found dead in Officer B.'s home with a gunshot wound to the stomach. The weapon that was used in the shooting was Officer B.'s department-issued handgun. Mr. [REDACTED] complained that Officer B. was never charged with any crime related to the shooting death.

Sometime after that incident, Officer B. became engaged to Mr. ██████'s ex-wife. Mr. ██████ alleged that in May of 2012, while attending a soccer game at a local park where he was watching his son receive some soccer awards, Mr. ██████ and Officer B., who was off duty, were involved in a verbal altercation. Mr. ██████ alleged that during that incident Officer B. was holding a large beach umbrella that had a large steel spike on the end of it. Mr. ██████ alleged that Officer B. repeatedly jabbed this large steel spike into his son's back. When Mr. ██████ intervened and told Officer B. to never touch his son in that manner again, the verbal altercation ensued. Officer B. allegedly balled up his fists and closed the distance between Mr. ██████ and Officer B. Mr. ██████ feared that he would be hit by Officer B., so he left and reported the incident to the police. Mr. ██████ complained that no charges were ever filed on Officer B. for the events that occurred on that day. Mr. ██████ did obtain an Order of Protection against Officer B. on behalf of Mr. ██████'s minor son, based on what occurred during that altercation.

Mr. ██████ further wrote in his complaint that on October 25, 2014, after dropping off his child at a neutral location for child custody exchanges, he inadvertently found himself driving behind Officer B., Mr. ██████'s ex-wife, and their minor children. Mr. ██████ alleged that Officer B., who was off duty, suddenly and without warning, slammed on his brakes causing Mr. ██████ to almost hit Officer B.'s vehicle. Mr. ██████ immediately grabbed his cell phone camera and took a picture of Officer B.'s license plate. Mr. ██████ alleged that Officer B. then backed up and got on the right side of Mr. ██████'s vehicle. Mr. ██████ could see his son in the back seat crying and screaming for Mr. ██████ to help him. Mr. ██████ yelled at Officer B., called him a maniac, and told him that he was going to kill somebody with the way Officer B. was driving. Mr. ██████ alleged that Officer B. responded by saying that he didn't care. Officer B. then allegedly reversed his vehicle again, narrowly missing Mr. ██████'s vehicle. Mr. ██████ then left the area and phoned the police.

Mr. ██████ went on to allege that Sergeant C. responded to his home to take a report on the incident. Mr. ██████ wrote that he asked Sergeant C. if he knew Officer B. before he reported what happened during the incident to Sergeant C. Sergeant C. assured Mr. ██████ that he did not know Officer B. When Sergeant C. got ready to leave after taking the report, he handed Mr. ██████ a business card that indicated that Sergeant C. worked out of the same substation that Officer B. worked out of. Mr. ██████ alleged that Sergeant C. lied about knowing Officer B. and that Sergeant C. displayed a lack of integrity when he told Mr. ██████ that he did not know Officer B.

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

I reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable SOPs, the Complaint, interviews with the Complainant, Officer B., Sergeant C., and Sergeant H. The CPOA Investigator also reviewed past and current police reports and past Internal Affairs files. The CPOA Investigator also reviewed a surveillance video that captured most of the October 25, 2014, incident. The CPOA Investigator reviewed a cell phone video made by Officer B. during the October 25th incident. The CPOA Investigator

April 15, 2016

Page 3

also reviewed the 911 calls made to dispatch by Officer B.'s wife during the October 25th incident. The CPOA Investigator reviewed the calls made by ██████ to APD on October 25, 2014. The CPOA Investigator also reviewed a recording that was made in Court when the Temporary Restraining Order against Officer B. was lifted. The CPOA Investigator also reviewed Sergeant C.'s lapel camera videos of Sergeant C.'s contact with Mr. ██████.

A review of the 2008 incident complained of by Mr. ██████ showed that there was both a criminal investigation and an internal affairs investigation into the matter. The criminal investigation was conducted by the Bernalillo County Sheriff's Department. The Bernalillo County Sheriff's Department investigation determined that the 2008 incident was a suicide and that Officer B. had no criminal responsibility. The internal affairs investigation that was conducted by the Albuquerque Police Department at the time found that Officer B. had violated policy. Officer B. was disciplined in the matter. Because there were already a criminal investigation and an internal investigation into the matter, and because Officer B. was disciplined in the matter, no action was taken by the CPOA Investigator with regards to any further investigation, other than the review, into the 2008 incident.

(A) With regard to the May 19, 2012, allegation of misconduct, I, as Executive Director, reviewed Standard Operating Procedure Order 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.

The evidence that related to the 2012 incident at the soccer park was reviewed. That evidence included a review of the police report that was filed in the case, an interview with Mr. ██████, an interview with Officer B., and an interview with Sergeant H., who investigated the case at the time. The Temporary Restraining Order that was filed in that case was also reviewed.

Mr. ██████ had complained in his written complaint and his interview that Officer B., who was off duty at the time, had taunted Mr. ██████'s son with a large beach umbrella that had a large steel point on the end of it. The 2012 police report taken by Sergeant H., as well as a review of the Temporary Restraining Order that had been filed in that case showed that, in fact, it was not a large beach umbrella with a large steel point as Mr. ██████ had alleged in his complaint to the CPOA, but was instead a lawn chair. The report made by Sergeant H. in 2012 said that it was Mr. ██████ who knocked the lawn chair from Officer B.'s hand. Mr. ██████ admitted doing that and said that he did so because Officer B. was taunting his son with the chair.

Mr. ██████ also alleged that Officer B. bad-mouthed him, saying he was not a good father and he also called Mr. ██████ a drug dealer. Mr. ██████ never told Sergeant H. that he was in fear of being battered by Officer B. Officer B. told Sergeant H. that he was playing with the boy and Mr. ██████ got offended and hit the chair from Officer B.'s hand. Officer B. told Sergeant H. that Mr. ██████ had a long criminal history and was a drug user. Mr. ██████'s father was interviewed and he told Sergeant H. that both his son, Mr. ██████, and Officer B.,

could have handled the incident better than what they did. Mr. █████'s father witnessed Mr. █████ push the chair from Officer B.'s hand. Mr. █████'s father said that Officer B. did say that █████ █████ was not a good father, and that █████ was a drug dealer. Sergeant H. also interviewed █████ █████ Mr. █████'s ex-wife. Sergeant H. was interviewed by the CPOA Investigator. Sergeant H. said that based on her investigation at the time, Mr. █████ did not commit any intentional crime by slapping the chair from Officer B.'s hand, even though Ms. █████ said that she was hurt by the chair. Sergeant H. said that she contacted Officer B.'s immediate supervisor at the time and they discussed Officer B.'s actions. While they both felt that Officer B. could have handled the situation better, neither she, nor Officer B.'s supervisor, felt that Officer B.'s actions constituted a violation of Standard Operating Procedure and, therefore, no Internal Investigation into the matter was conducted. Mr. █████ never filed a Citizen Police Complaint on that incident.

Mr. █████'s complaint against Officer B. in the 2012 case contained false allegations. The incident did not occur as Mr. █████ described in his complaint to the CPOA, and for unknown reasons Mr. █████ changed the lawn chair to a "huge beach umbrella" with a "large steel spike at the end." None of that is true. Furthermore, a review of the police report and the interview conducted with Sergeant H. showed that the 2012 incident was investigated fully and that there was no SOP violation committed by Officer B.

I find Officer B.'s conduct to be **EXONERATED** regarding the allegation of a violation of this SOP, which means the incident that occurred was lawful or proper.

(B) With regard to the October 25, 2014, allegation of misconduct, I, as Executive Director, reviewed Standard Operating Procedure Order 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.

The evidence that was available regarding the October 25, 2014, incident was reviewed. That evidence included the police report, a review of the 911 calls that Ms. █████ made to 911 concerning Mr. █████'s actions on that date, a review of all the phone calls that Mr. █████ made to APD on that date, a review of video that Officer B. made on his cell phone, a review of Sergeant C.'s lapel videos, and a review of the recorded Domestic Violence Restraining Order Hearing wherein the Restraining Order against Officer B. was lifted. A surveillance video that captured most of the incident was also reviewed. Mr. █████ was interviewed, Officer B. was interviewed, and Sergeant C. was interviewed.

The surveillance video was most telling in that it showed that Officer B. was not driving dangerously. The video showed it was Mr. █████ who was tailgating Officer B.'s vehicle. Mr. █████ was only about a car length behind Officer B. in a 30 MPH zone. The video showed that Officer B. did not brake abruptly. In fact, Officer B. simply pulled over into an available turn lane. Mr. █████'s van did not almost slide sideways while allegedly trying to avoid hitting Officer B. The video showed that it was Mr. █████ who pulled alongside

April 15, 2016

Page 5

Officer B.'s vehicle, on the right side of Officer B.'s vehicle, and that Mr. █████ made a U-turn in front of Officer B. Officer B. never backed up as Mr. █████ alleged, and Officer B. never was on the right side of Mr. █████'s vehicle as Mr. █████ alleged. The video showed that the encounter was over and done when Mr. █████ made a U-turn and headed West on Lomas. Yet Mr. █████ as the video showed, chose to turn around and follow Officer B., Officer B.'s wife, and their children.

The 911 call made by Ms. █████ to APD to report Mr. █████ for following and harassing them showed that the children in the car were not screaming as Mr. █████ alleged. Furthermore, those recordings showed that Officer B. never said anything to Mr. █████ during the encounter as Mr. █████ had alleged in his complaint.

The Domestic Violence Restraining Order Hearing Officer found Mr. █████'s allegations as to what had occurred on that date as not believable. The Restraining Order was dismissed.

Mr. █████'s complaint against Officer B. for the 2014 incident also contained false allegations. The evidence referenced above showed that it was Mr. █████ who was driving aggressively, as he was tailgating Officer B. The video showed that Officer B. did not brake abruptly. Mr. █████ said in his complaint that he "fishtailed" in his van when he had to avoid hitting Officer B.'s vehicle. The video proved that did not happen. Mr. █████ alleged in his complaint that Officer B. reversed his vehicle right after that and that Officer B. "slammed the accelerator" coming towards his van and that Officer B. narrowly missed striking his van. Mr. █████ alleged that Officer B. then got on the right side of Mr. █████'s van and he could see his son in the back seat of Officer B.'s vehicle screaming for Mr. █████ to help him. Mr. █████ alleged that Officer B., when confronted, told Mr. █████ that he did not care and that Officer B. continued in reverse and placed his vehicle behind Mr. █████'s vehicle. The surveillance video, the 911 call placed by Ms. █████, and the cell phone video made by Officer B. all prove that Mr. █████'s allegations made in the written complaint are false. The incident did not happen as Mr. █████ alleged.

I find the allegation of a violation of this SOP against Officer B. was **UNFOUNDED**, which means the allegation is false or not based on valid facts.

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

With regard to the October 25, 2014, allegation of misconduct, I, as Executive Director, reviewed Standard Operating Procedure Order 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. █████ complained specifically that Sergeant C. lied to him when Sergeant C. said that he did not know Officer B. Mr. █████ alleged that Sergeant C. displayed a lack of integrity

April 15, 2016

Page 6

when he told Mr. [REDACTED] that he did not know Officer B. Mr. [REDACTED] said that since both Sergeant C. and Officer B. work out of the same substation, they must have known each other.

The CPOA Investigator determined that there are 96 officers working three different shifts assigned to the Southeast Substation. Sergeant C. and Officer B. work different shifts. Sergeant C., at the time of this incident, only knew Officer B. by face and not by name. Sergeant C.'s lapel video recording of his interaction with Mr. [REDACTED] confirmed that Sergeant C. did not know who Officer B. was. In fact, on the video, Sergeant C. had to ask Mr. [REDACTED] if he was sure that Officer B. was an Albuquerque Police Officer. Also, the video showed that Mr. [REDACTED] did not ask Sergeant C. if he knew Officer B. before telling Sergeant C. what happened during the incident, as Mr. [REDACTED] had alleged in his written complaint and interview. The lapel camera video showed that Mr. [REDACTED] only questioned Sergeant C. about knowing Officer B. at the end of the encounter, after Sergeant C. told Mr. [REDACTED] that Sergeant C. worked out of the Southeast Substation.

The lapel video recording showed that Sergeant C. conducted a proper investigation into the allegations that were made against Officer B. by Mr. [REDACTED]. Sergeant C. wrote a report on the incident as requested by Mr. [REDACTED]. Even after Mr. [REDACTED] returned to the police substation with a Restraining Order, it was Sergeant C. who lawfully and properly served the Restraining Order on Officer B.

The evidence referenced above showed that Sergeant C. did say that he did not know Officer B. even though he knew Officer B. by face. That conduct did not violate APD policies, procedures, or training.

I find Sergeant C.'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 are made part of Officer B.'s and Sergeant 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.

Letter to Mr. [REDACTED], CPC 204-14

April 15, 2016

Page 7

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. Susanne Brown *Eric H. Cruz* *Joanne Fine*
Dr. Carlotta A. Garcia *Dr. Lisa M. Orick-Martinez*
Rev. Dr. David Z. Ring III
Edward Harness, Esq., Executive Director

April 15, 2016
Via Certified Mail
7014 2120 0004 7659 5061

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

Re: CPC #207-14

Dear Mr. [REDACTED]

Our office received the complaint you filed on November 6, 2014 against Officer M. of the Albuquerque Police Department (APD) regarding two incidents that occurred in the past. The first incident you complained of happened on or about July 27, 2014. The second incident you complained of happened on November 4, 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.

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I. THE COMPLAINT

[REDACTED] who is a Security Supervisor at [REDACTED] in [REDACTED], wrote in his complaint that on November 4, 2014 they had a shoplifting incident that involved an unknown Hispanic male, a former associate, and a current associate. The unknown Hispanic male tried to steal a leather jacket, but was unsuccessful in doing so because he was stopped at the store entrance by two loss prevention associates, [REDACTED] and [REDACTED]. The Hispanic male resisted the loss prevention associates who attempted to detain him. The Hispanic male fled the scene in a car that was being driven by a former associate.

April 15, 2016

Page 2

Mr. ██████ complained that when Officer M. arrived to answer the store's call for assistance, Officer M. displayed unprofessional behavior. Mr. ██████ specifically complained that Officer M. did not take the incident seriously. Allegedly, Officer M. also made several comments to the Loss Prevention employee, ██████ that were inappropriate. Mr. ██████ felt as if Officer M. was belittling him. Officer M. allegedly asked Mr. ██████, "What would you like me to do about this incident? There is no report number, why would I make a report? It's just a bunch of paper pushing."

Officer M. left the office without providing Mr. ██████ a report number. Mr. ██████ said that store policy required that all incidents like these must be reported and documented by the police. Mr. ██████ also complained that Officer M. had made demeaning comments to Mr. ██████ months earlier, around July 27, 2014. During that incident Officer M. allegedly commented that ██████ had poor report writing skills.

Mr. ██████ wrote that he was not present for the November 4, 2014 incident, but that he filed the complaint based on what his employees, ██████ and ██████, had told him about the incident. Mr. ██████ stated that he was present for the July 27, 2014 incident. Mr. ██████ stated that that Officer M. comments about Mr. ██████'s report writing skills at that time.

I. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING OFFICER M.'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, interviews with the Complainant, ██████, ██████, Officer M., and Officer D.. The CPOA Investigator also reviewed the CADS report on the incident as well as the police officer's lapel video recordings of the incident.

A) With regard to the July 27, 2014 allegation of misconduct by Officer M., the CPOA reviewed Standard Operating Procedure Order 1-04-1 (F) 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.

Mr. ██████ complained that in July of 2014, Officer M. had responded to a felony shoplifting involving multiple suspects. Officer M. allegedly returned the following day to pick up a statement from a Loss Prevention person at the ██████ store. Mr. ██████ said that when Officer M. picked up that statement, Officer M. said that the Loss Prevention employee, Mr. ██████, really needed to work on being more timely with the statement and that the Loss Prevention person needed to work on his report writing skills.

Mr. ██████ said that Officer M. made that comment directly to Mr. ██████. The Loss Prevention person, ██████, who wrote out the written statement regarding the felony

shoplifting, said that Officer M. made the statement to a ██████ security guard, who in turn told Mr. ██████. Officer M. denied he ever made such a comment.

There is insufficient evidence to prove or disprove that Officer M. was discourteous or unprofessional toward anyone, regarding alleged comments about Mr. ██████' work product.

The CPOA finds Officer M.'s conduct to be **NOT SUSTAINED**, which means there is insufficient evidence to prove or disprove the allegation.

B) With regard to the November 4, 2014 allegation of misconduct by Officer M., the CPOA reviewed Standard Operating Procedure Order 1-04-1 (F) 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.

Mr. ██████ complained that on November 4, 2014, that Officer M. conducted himself unprofessionally and that Officer M. made several comments to Mr. ██████ that were "inappropriate." Those comments Officer M. allegedly made, gave Mr. ██████ the impression that Officer M. was belittling him. Mr. ██████ alleged that this was the second time that Officer M. had made demeaning comments towards Mr. ██████.

The information obtained in the investigation showed that Officer M. was polite and professional throughout the encounter. The lapel videos showed that Officer M. never made any demeaning comments towards ██████. This was confirmed by a statement from Mr. ██████'s co-worker, ██████.

The videos showed that Officer M. appeared to be somewhat confused by the story at the beginning of the incident until the story was explained in better detail. The entire contact with Mr. ██████ and Ms. ██████ was recorded on video. The videos showed that Officer M. behaved professionally throughout the encounter.

The CPOA finds this allegation of Officer M.'s alleged misconduct to be **UNFOUNDED**, which means that the investigation showed by clear and convincing evidence that the alleged misconduct did not occur.

C) The CPOA reviewed Standard Operating Procedure 1-04-4 O regarding Officer M.'s conduct which states in part:

In the performance of their duties, personnel shall maintain a neutral and detached attitude without indication disinterest or that a matter is petty or insignificant.

Mr. ██████ complained that Officer M. did not take the November 2014 incident seriously. As evidence to support that allegation, Mr. ██████ said that Officer M. made comments like,

“What do you want me to do about this incident?” and “There is no report number, why would we make a report? It’s just a bunch of paper pushing.”

The lapel videos showed that those allegations were untrue. When Officer M. arrived on scene, he asked Mr. ██████████, “What happened?” The lapel video showed that Officer M. had a genuine interest as to what had occurred during the shoplifting. Officer M. asked numerous investigative questions concerning the shoplifting. Officer M. reviewed the store’s surveillance video, and he read the written statement that ██████████ had prepared on the incident. Officer M. offered to interview the one associate who still worked for the store. Officer M. also told ██████████ that he could pull up a picture of the registered owner of the license plate that Mr. ██████████ had regarding the suspect in the shoplifting to see if the picture matched the suspect. Officer D., who was with Officer M., suggested that the store submit the video of the shoplifting to the Albuquerque Retail Assets Protection Association website to see if the offender could be identified by other merchants participating in the program. Those documented actions are not those of an officer who felt that the matter was petty or insignificant.

The lapel video evidence proved that Officer M. did not ask, “What do you want me to do about this incident?” Officer M. also did not say that there was no report number. Officer M. did not ask, “Why would we do a report?” It was Officer D. who made the “paper pushing” comment.

The CPOA finds this allegation of Officer M’s alleged misconduct to be **UNFOUNDED**, which means that the investigation showed by clear and convincing evidence that the alleged misconduct did not occur.

D) The CPOA reviewed Standard Operating Procedure 1-05-6 D regarding Officer M.’s conduct which states in part:

Personnel will write reports on any incident where a citizen/victim requests a report.

The lapel video evidence showed that ██████████ did ask for a report to be made on the November 2014 incident. Officer M. asked, “So do you need a report for your records?” Mr. ██████████ answered, “Yes.” Later Officer M. asked again, “So you just want a report?” Mr. ██████████ answered, “Yes.” Officer D. spoke up at that point and talked Mr. ██████████ out of having the report written at that time. Officer M., even after that said that he would not mind writing a report for Mr. ██████████. Officer M. never reported on the matter.

It was clear from the videos that Officer M. was certainly willing to write a report on the matter. However, the written report never materialized. Mr. ██████████ asked for a report and Officer M. was required under SOP to write one. He failed to do so.

The CPOA finds this allegation of Officer M’s conduct to be **SUSTAINED**, which means by a preponderance of the evidence the alleged misconduct of not writing a report when requested did occur.

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

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.

The investigation revealed that Mr. ██████ called the APD for assistance in trying to identify a person who had tried to steal a jacket from the ██████ store. Mr. ██████ had done some extensive work to try to identify the suspect and Mr. ██████ believed that the suspect, a former store employee, and a current store employee were all involved in the matter. Mr. ██████ also wanted a report made by APD to document what had occurred.

The lapel video evidence showed that Officer M. was willing to write a report on the incident until Officer D. stepped in and said that APD doesn't usually write reports where the victim doesn't know who the suspect is and where there are no charges to file. Officer D. said "That's just like paper pushing, you know, for no reason."

Whether a written report would have had any effect on the outcome of the shoplifting is unknown. Mr. ██████ called the APD for help in identifying a possible suspect and to get a police report on the matter and Officer D.'s actions resulted in none of that happening.

The CPOA finds this allegation of Officer D.'s conduct to be **SUSTAINED**, which means that a preponderance of the evidence showed that the alleged misconduct did occur.

B) The CPOA reviewed Standard Operating Procedure Order 1-04-4 (O) regarding Officer D.'s conduct, which states in part:

In the performance of their duties, personnel shall maintain a neutral and detached attitude without indication disinterest or that a matter is petty or insignificant.

The lapel videos showed that Officer D. and Officer M. showed a genuine interest in the shoplifting as it was being reported to them. Officer D. and Officer M. asked numerous investigative questions concerning the shoplifting. Store surveillance video was reviewed as well as the written statement that ██████ had prepared on the incident. Officer M. offered to interview the one associate who still worked for the store. Officer M. also told ██████ that he could pull up a picture of the registered owner of the license plate that Mr. ██████ had regarding the suspect in the shoplifting to see if the picture matched the suspect. Officer D. suggested that the store enter the video of the shoplifting to the ARAPA website to see if the offender could be identified by other merchants participating in the program. Those

April 15, 2016

Page 6

documented actions are not those of an officer who felt that the matter was petty or insignificant.

The CPOA finds this allegation of Officer D's alleged misconduct to be **UNFOUNDED**, which means that the investigation showed by clear and convincing evidence that the alleged misconduct did not occur.

- C) The CPOA reviewed Standard Operating Procedure Order 1-05-6 (D) regarding Officer D.'s conduct, which states in part:

Personnel will write reports on any incident where a citizen/victim requests a report.

Even though Officer D. was a secondary or back up officer in this case, he took on an active and convincing role as to whether or not a police report would be written on the matter. Officer D. said that the report would just be a lot of paper pushing for no reason.

Mr. [REDACTED] asked for a police report on the matter. Officer D. gave a number of reasons as to why the police would not do a report on such a matter. He should not have done that and a report should have been written.

The CPOA finds this allegation of Officer D.'s conduct to be **SUSTAINED**, which means by a preponderance of the evidence the alleged misconduct of not writing a report when requested did occur.

Your complaint and these findings are made part of Officer M.'s and 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>.


Letter to Mr. [REDACTED], CPC 207-14

April 15, 2016

Page 7

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. Susanne Brown *Eric H. Cruz* *Joanne Fine*
Dr. Carlotta A. Garcia *Dr. Lisa M. Orick-Martinez*
Rev. Dr. David Z. Ring III
Edward Harness, Esq., Executive Director

April 15, 2016
Via Certified Mail
7014 2120 0004 7659 5085

[REDACTED]
[REDACTED]
[REDACTED]

Re: CPC #210-14

Dear Ms. [REDACTED]:

Our office received the complaint you filed on November 17, 2014 against Officer S. of the Albuquerque Police Department (APD) regarding an incident that occurred on the same day. 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], an African American, complained that on November 17, 2014, while on her way to pick up her child from school, she was followed from her sister's home by Officer S. When she arrived at the school, she was approached by Officer S. who questioned her about why she was coming from the area that she was. When Ms. [REDACTED] told Officer S. that she was coming from her sister's house where she had been visiting, Officer S. asked for the specific address that Ms. [REDACTED] was coming from. Officer S. told Ms. [REDACTED] that she fit the description of someone who was suspected of violating the law. The officer refused to tell Ms. [REDACTED] what law that offender was suspected of violating. Ms. [REDACTED] alleged that the entire incident was a case of racial profiling. Ms. [REDACTED] said that African Americans are not prohibited from visiting any neighborhoods in Albuquerque. Ms. [REDACTED] later found

April 15, 2016

Page 2

out that her nephew, who is also African American, had been stopped by other police officers in the same area asking the same questions.

II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING OFFICER 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, interviews with the Complainant and Officer S. The CPOA Investigator also reviewed the CADS report on the incident as well as the police officer's lapel video recording of the contact with Ms. [REDACTED].

I, as Executive Director, reviewed Standard Operating Procedure Order 1-03-2(A) regarding Officer S.' conduct, which states:

Biased-based policing / profiling by any member of this Department is prohibited. Investigative detentions, field contacts, traffic stops, arrests, searches, property seizures and forfeiture efforts will be based on a standard of reasonable suspicion or probable cause in accordance with the Fourth Amendment of the U.S. Constitution.

Ms. [REDACTED] complained that she was stopped by Officer S. without reasonable suspicion. Ms. [REDACTED] felt that she was racially profiled by Officer S.

The investigation revealed that on the date and time that this incident took place, an Armed Robbery had occurred at the 7-11 store at Carlisle and Montgomery. The offender got away with a bag containing several thousand dollars. The offender was described as a black male wearing a ski mask and a blue hoodie. The offender left on foot headed towards some apartments near the store. Officer S. had been dispatched on the call as a backup officer and she drove around the other side of the apartments to see if she could locate the offender. As Officer S. drove onto Douglas MacArthur Street, the street on which the apartments are located, she noticed a vehicle back out of a driveway rather rapidly. The vehicle passed her going in the opposite direction. Officer S. noticed that the car was being driven by a black male wearing a hoodie, but Officer S. couldn't see the color of the hoodie. Officer S. turned around to follow the vehicle, and as she was doing so, she was trying to get more information on the offender.

The armed robbery was reported to the police at 2:41 p.m. Officer S. spotted the car on Douglas MacArthur 11-12 minutes after the call came in to APD. Officer S. followed the car to Bel-Air Elementary School where the car pulled in and stopped. The investigation revealed that the car was being driven by Ms. [REDACTED]'s brother and Ms. [REDACTED] was a passenger in the car. Officer S. contacted Ms. [REDACTED] and her brother at 2:57 p.m., just 16 minutes after the armed robbery. The lapel video showed, and Officer S. confirmed, that Ms. [REDACTED]'s brother was a black male wearing blue jeans, but the hoodie was grey in color and not blue. As soon as Officer S. saw that, she knew that Ms. [REDACTED] and her brother were not involved in the armed robbery and told them that they were free to go. The contact was brief; less than

Letter to Ms. [REDACTED], CPC 210-14

April 15, 2016

Page 3

three minutes. Neither Ms. [REDACTED] or her brother were asked to produce identification. They were questioned as to where they were coming from, told that there had been an incident in the area, and that Ms. [REDACTED]'s brother kind of matched the description of the offender. The video showed that Officer S. within just a minute or so into the contact told Ms. [REDACTED] and her brother that they were obviously not involved in the incident and they were free to go.

While Officer S. did not tell Ms. [REDACTED] the nature of the incident, that it was an armed robbery, Officer S. did provide Ms. [REDACTED] with sufficient detail to justify why they were being followed and contacted.

I find the allegation of a violation of this SOP against Officer S. was **UNFOUNDED**, which means the allegation is false or not based on valid facts.

Your complaint and these findings are made part of Officer 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,
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. Carlotta A. Garcia *Dr. Lisa M. Orick-Martinez*
Rev. Dr. David Z. Ring III
Edward Harness, Esq., Executive Director

April 15, 2016
Via Certified Mail
7014 2120 0004 7659 5092

[REDACTED]
[REDACTED]
[REDACTED]

Re: CPC #213-14

Dear Mr. [REDACTED]:

Our office received the complaint you filed on November 24, 2014 against Officer M. of the Albuquerque Police Department (APD) regarding an incident that occurred on August 24, 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

Mr. [REDACTED] wrote in his complaint that on August 24, 2015 his vehicle was burglarized in the parking lot of [REDACTED] NW. An officer came out and took a report. Later that day, Mr. [REDACTED] was approached by a female who told him that she saw who may have committed the burglary. She witnessed and man and a woman trying to get into cars by pulling on door handles at about 4:30 AM that morning. When Mr. [REDACTED] asked the female if she called the police, the woman told him that she did but no one ever showed up. The woman said that she watched the man and woman get into Mr. [REDACTED]'s truck and remove items and she called the police back at that time to report what she saw and where the offenders went. The woman said that the police arrived about 30 minutes after the first call. She said that she talked to the police officer who arrived but that he was a jerk and wouldn't write anything down and that he didn't even get out of his carto

April 15, 2016

Page 2

investigate. The officer, later identified as Officer M., allegedly just drove through the parking lot and said everything looked fine and he left. The female gave Mr. [REDACTED] the license plate to the suspect's vehicle and told Mr. [REDACTED] what apartment the offenders had gone into. Mr. [REDACTED] called the officer who took the report and the officer told him that he would call the Northwest Impact Team Sergeant and relay the new information to him, but that because it was a Sunday, the Impact Detectives probably would not come out to handle the case. Mr. [REDACTED] met with the reporting officer, Detective L., and gave Detective L. a written statement as to what the unidentified female told him. It wasn't until September 2, 2014 that another APD Detective followed up on the case and got a Search Warrant for the apartment where the offenders resided. Only a camera belonging to Mr. [REDACTED] was recovered. His guns, stolen in the burglary, never were recovered. Mr. [REDACTED] complained that the original officer should have conducted a better investigation and that APD should have responded immediately to the information provided and obtained a Search Warrant for the offender's apartment immediately, rather than waiting long as they did.

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, Albuquerque Police Department Reports in the case, The Computer Assisted Dispatch (CADS) Reports, an interview with Mr. [REDACTED], and interviews with Officer M., and Detective L. There was no lapel video available because [REDACTED] did not file his complaint until 92 days after the incident. By the time the investigation into the complaint was started, the lapel video had been deleted.

A) The CPOA reviewed Standard Operating Procedure 2-24-3 A (1) regarding Officer M.'s conduct, which states:

Field Services officers will conduct preliminary investigations on all felony and misdemeanor crimes and any other incidents of a suspicious nature.

Mr. [REDACTED] complained that Officer M. had an inadequate response to and conducted an insufficient preliminary investigation into an anonymous call for service that vehicles were being broken into in an apartment complex where his truck was parked. Mr. [REDACTED] believed, based on what he was told by an anonymous witness, that the police officers did not respond to an initial call for service and when they did come out after the second call, 20-30 minutes later, the officers didn't even get out of their patrol cars. He believed that the officers who responded to the call just drove through the parking lot, indicated that everything was fine and then left. Mr. [REDACTED] discovered his truck had been broken into and items were stolen.

The investigation showed that Officer M. was the primary officer on the call for service. The CADS report on the original call was numbered [REDACTED]. It showed that at 4:22 AM, a caller advised that she saw a male outside in the parking lot of the apartments pulling on door

April 15, 2016

Page 3

handles and looking into vehicles. According to the caller, the man had not broken into any vehicles at that time. The caller advised that the suspect possibly had some kind of badge pinned onto his shirt. The caller reported that she could not see the man very well but that she would call back if the situation changed. The call was coded a priority two call. Officer M. and another APD Officer were dispatched to the call at 4:32 AM. At 4:34 AM, the woman caller called back and advised that the people she originally reported were now getting into vehicles in the parking lot. The caller was whispering and it was very hard to understand the caller. Officer M. arrived at 5:06 AM. At 5:17 AM, Officer M. ran a license plate on a vehicle. That license plate was the license plate on Mr. [REDACTED]'s vehicle. Officer M. noted in the CADS at 5:21 AM, that he made contact with the anonymous caller. The caller gave vague information about the vehicles and the subjects. Officer M. wrote, "At this time negative vehicles were located that appeared to be burglarized. Everything appears to be 10-4 at this time." Officer M. cleared the call at 5:40 AM, meaning he left the scene 24 minutes after arriving.

The investigation revealed that when Officer M. arrived on scene they were flagged down by the female who wished to remain anonymous. The female was sitting in a car in the parking lot. Officer M. spoke to the female. The female told him that she had called and that it was "that vehicle over there." The female only motioned with her head as to which vehicle she was pointing to. She told Officer M. that the blue truck she had called about was "over there." The female refused to give Officer M. any further information and she drove away from the parking lot. The female did not offer any additional suspect information. Officer M. walked around the parking lot and checked all of the vehicles and he did not see any vehicles or trucks that appeared to have been burglarized. He saw no broken windows, no shattered glass, or anything like that. There was a single truck that looked like it might have been burglarized. The truck appeared to be a contractor type vehicle. The truck had papers throughout the cab but it could have just been messy and not burglarized. There were no signs of forced entry on any of the vehicles that the officer checked. Officer M. did run a plate through dispatch and it ended up that the plate that he ran did belong to the victim/complainant but the plate returned to a business and not to anyone living in the complex. The doors were locked on that truck and it did not appear that the truck had been burglarized. It was clear from the evidence that Officer M. conducted a sufficient preliminary investigation into the call for service.

Detective L. was interviewed. He took the original police report. The police report in this case is numbered [REDACTED]. The report indicated that Mr. Packingham discovered his burglarized truck at around 6:00 AM. The offenders had gained entry to the truck by prying the back sliding glass open. Detective L. processed the vehicle for latent prints but none were found. At 9:30 AM that same date, Detective L. was contacted by Mr. [REDACTED]. Mr. [REDACTED] told Detective L. that he had possible offender information that Mr. [REDACTED] had obtained from a female who wished to remain anonymous. The female told [REDACTED] that she had observed a female subject entering and exiting Mr. [REDACTED]'s vehicle through the rear sliding window with items in hand and that there was a male with the female. The anonymous witness said the female offender drives a four door Lincoln and that the female

April 15, 2016

Page 4

parks in the complex on a routine basis. The report was forwarded to NW Impact for review and follow up. A witness statement was obtained from Mr. [REDACTED].

The witness statement written by Mr. [REDACTED] indicated that Mr. [REDACTED] was flagged down by another resident of the apartment complex. That resident, a female, told Mr. [REDACTED] that she saw a female climb into his truck through the rear window and she saw the female steal items from [REDACTED]'s truck. There was a male subject standing by the dumpsters while the female was burglarizing his truck. The witness told Mr. [REDACTED] that he had seen the man and the woman go into Apartment [REDACTED] with the stolen items. The witness also provided Mr. [REDACTED] with a license plate to a vehicle that the witness has seen the offender driving. The statement was obtained some 6 hours after the incident was originally reported to the police.

Mr. [REDACTED] never provided the police with any specific information that would have lead the police to be able to speak with the female witness. Mr. [REDACTED] never provided the police with a name or phone number for the witness or any way to contact the witness. Mr. [REDACTED] never told the police that the witness was available or willing to talk to the police and in fact, Mr. [REDACTED] made it clear that the female wanted to remain anonymous.

The limited information that Mr. [REDACTED] did provide was passed on to the Northwest Impact Sergeant, Sergeant T. Sergeant T. was made aware that there was a female witness who wished to remain anonymous and that the female had witnessed the burglary. Sergeant T. directed Detective L. to send uniformed police officers to the apartment where the offenders and stolen property might be located if they could identify any of the people who lived in that apartment. Sergeant T. also asked Detective L. to get a witness statement form from the victim. Sergeant T. said that he would assign the case to one of his Detectives to follow up on.

Detective L. called police dispatch and had them set up a call for Field Services officers to go to apartment [REDACTED] of the complex to see if they could make contact with anyone in the apartment. That request for that call for service was at 11:02 AM, six hours or so after the burglary occurred. An Officer was dispatched to the apartment complex at 11:28 AM. Officer R. was the officer on that call. The comments directed Officer R. to do a knock and talk to try to ID the people in [REDACTED]. Officer R. arrived on scene at 11:55 AM and he made contact with the victim at 12:17. At 12:34 Officer R. indicated in his comments that he made contact with the victim of the burglary, Mr. [REDACTED], who provided to Officer R. the offender vehicle information. Officer R. indicated in his comments that he was unable to make contact with anyone in the apartment.

The Albuquerque Police Department had no way, at the time, to corroborate the information that was provided to Mr. [REDACTED] by the anonymous female. Furthermore, by the time the last officer went to the suspected offender's apartment, 8 hours had passed since the burglary occurred. There was no way to obtain a search warrant on uncorroborated information when 8 hours had passed since the burglary.

Letter to Mr. [REDACTED], CPC 213-14

April 15, 2016

Page 5

The investigation revealed that the preliminary investigation into the burglary of Mr. [REDACTED]'s truck was sufficient.

The CPOA finds Officer M.'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 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

Police Oversight Board *Beth Mohr, Chair* *Leonard Waites, Vice Chair*

Dr. Susanne Brown *Eric H. Cruz* *Joanne Fine*

Dr. Carlotta A. Garcia *Dr. Lisa M. Orick-Martinez*

Rev. Dr. David Z. Ring III

Edward Harness, Esq., Executive Director

April 15, 2016
Via Certified Mail
7014 2120 0004 7659 5108

[REDACTED]
[REDACTED]
[REDACTED]

Re: CPC # 215-14

Dear Ms. [REDACTED]:

Our office received the complaint you filed on November 30, 2014 against Officers of the Albuquerque Police Department (APD) regarding an incident that occurred on November 20, 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]'s complaint is based on Officer G.'s actions during a situation that occurred at her sons' school. Officer G. and Officer N. are the School Resource Officers at Ms. [REDACTED] sons' school. Ms. [REDACTED] wrote Officer G. refused to take a statement from her sons. She wrote Officer G. suspended her sons based on false information. Ms. [REDACTED] wrote Officer G. and Officer N. verbally abused her sons on a daily basis. Neither Ms. [REDACTED] nor her sons participated in the investigative process for further elaboration or clarification.

The CPOA Investigator attempted to interview Ms. [REDACTED]. Ms. [REDACTED] had set an appointment for her and her sons. Ms. [REDACTED] cancelled the first appointment and rescheduled. Ms. [REDACTED]

April 15, 2016

Page 2

failed to show up to the appointment and did not respond to subsequent attempts to contact her. The investigation was based on her limited written complaint.

II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING OFFICER G.'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, and the CPOA Investigator's interviews of Officer G. and Officer N.

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

Steps to be followed in conducting preliminary investigations: 2. Locate, identify, and interview witnesses, victims and suspects 5. Report the incident fully and accurately.

Ms. [REDACTED] wrote that Officer G. refused to take a statement from her sons. Ms. [REDACTED] wrote that Officer G. suspended her sons for five days based on false information.

Officer G. interviewed the victims in the case. According to the police report, when Officer G. escorted Mr. [REDACTED] to his office, Mr. [REDACTED] spit on the floor. Officer G. told Mr. [REDACTED] to clean it up. Mr. [REDACTED] dragged his foot through the spit and then spit again. Both brothers acted very nonchalant and superior about the whole situation. The brothers used profanity and never wanted to provide their side of what happened. Officer G. documented the incident as well as the lead up from the days prior. Suspension was decided upon by the school not the APD officers.

Ms. [REDACTED] and her sons refused to participate in the investigative process so there was no clarification as to how Officer G. allegedly refused to talk to her sons or what information was allegedly false. Based on the police report written at the time of the incident it was clear neither of Ms. [REDACTED]'s sons wished to provide a statement. The report detailed out the incident and the lead up from the days prior. Suspensions are the purview of the school. Officer G. could have arrested Ms. [REDACTED]'s sons, but chose to allow things to be handled by APS.

I find Officer G.'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.

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

April 15, 2016

Page 3

Ms. [REDACTED] wrote Officer G. verbally abused her sons on a daily basis. Ms. [REDACTED]'s sons had extensive disciplinary histories with the school. In general, Officer G. tried to let APS deal with the boys as their mother has a history of filing complaints against officers. Officer G. did not have daily interaction with the boys.

Ms. [REDACTED] offered no information about Officer G.'s behavior. Ms. [REDACTED] had no first-hand knowledge of the situation. Ms. [REDACTED] refused to participate in the investigative process. She provided no evidence to support the allegation, but there was not clear and convincing evidence it did not occur. There was no lapel from the specific date in question.

I find the allegation of a violation of this SOP against Officer G. was **NOT SUSTAINED**, which means the investigation was unable to determine whether the alleged misconduct occurred.

(C) The CPOA reviewed Standard Operating Procedure Order 1-39-2(B) regarding Officer G.'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 dispatched call for service, arrest warrant, search warrant service or traffic stop. . Personnel will activate the recorder prior to arriving at the call or prior to citizen contact on non-dispatched events (within the safety parameters of 1-39-1B) and will record the entirety of citizen contact. Uniformed civilian personnel issued digital recorders will also comply with this section. The recordings will be saved for no less than 120 days.

Officer G. wrote in his police report he initiated his camera at first contact. Officer G. attempted to download and wrote his lapel camera did not record the incident. Officer G. was assigned the Scorpion model of camera, which has been well documented to have problems. It is unknown if Officer G. recorded the incident in its entirety and the lack of video was due to equipment failure.

I find the allegation of a violation of this SOP against Officer G. was **NOT SUSTAINED**, which means the investigation was unable to determine if the alleged misconduct occurred.

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

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

April 15, 2016

Page 4

Ms. [REDACTED] wrote Officer N. verbally abused her sons on a daily basis. Ms. [REDACTED]'s sons have extensive disciplinary histories with the school. Officer N. also tried to APS address issues with the both boys. Officer N. did not have daily interaction with the boys.

Ms. [REDACTED] offered no information about Officer N.'s behavior. Ms. [REDACTED] had no first-hand knowledge of the situation. Ms. [REDACTED] refused to participate in the investigative process. She provided no evidence to support the allegation, but there was not clear and convincing evidence it did not occur.

I find the allegation of a violation of this SOP against Officer N. was **NOT SUSTAINED**, which means the investigation was unable to determine if the alleged misconduct occurred.

Your complaint and these findings will be placed in Officer G.'s and Officer N.'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. Susanne Brown *Eric H. Cruz* *Joanne Fine*
Dr. Carlotta A. Garcia *Dr. Lisa M. Orick-Martinez*
Rev. Dr. David Z. Ring III
Edward Harness, Esq., Executive Director

April 15, 2016
Via Certified Mail
7014 2120 0004 7659 5115

[REDACTED]
[REDACTED]
[REDACTED]

Re: CPC #216-14

Dear Mr. [REDACTED]:

Our office received the complaint you filed on December 3, 2014 against Detective H. of the Albuquerque Police Department (APD) regarding an incident that occurred on October 5, 2012. 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 in his complaint that on October 5, 2012, his son's school books were taken from him and never returned. Mr. [REDACTED] son and another young man had been arrested by the Gang Unit for Graffiti, Possession of Marijuana, and Possession of Drug Paraphernalia. Mr. [REDACTED] said that the boys were caught "red handed." Mr. [REDACTED] said that a Gang Unit Detective, Detective H., told Mr. [REDACTED] that the books had been placed in evidence to support the prosecution of the case. Mr. [REDACTED] objected to the taking of the books and wrote that by doing so, the Gang Unit Detective denied his child the tools necessary to live without resorting to crime. Mr. [REDACTED] complained that the taking of the

THE CIVILIAN POLICE OVERSIGHT AGENCY
(CPOA) OF
ALBUQUERQUE

books was a form of child abuse and child neglect. Mr. ██████████ alleged that the taking of the school books was unnecessary and that the Gang Unit Detective, Detective H., was just being vindictive in doing so.

I. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING DETECTIVE H.'S CONDUCT

The Executive Director reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable SOPs, the Complaint, interviews with the Mr. ██████████ and Detective H. The CPOA Investigator also reviewed the CADS report, the police report, and evidence logs from the APD Evidence Division.

The Executive Director reviewed Standard Operating Procedure Order 1-04-1(F) regarding Detective H.'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. ██████████ complained in his written complaint and in his interview that on October 5, 2012, his son's school books were taken from him and never returned. Mr. ██████████ objected to the taking of the books and said that by doing so, Detective H. denied his child the tools necessary to live without resorting to crime. Mr. ██████████ believed that taking of the books was a form of child abuse, child neglect, and that it was a larceny. Mr. ██████████ alleged that the act of taking the school books and placing them in evidence was a vindictive move by Detective H. Mr. ██████████ was interviewed and he said that the school books belonged to the Albuquerque Public Schools and not to his son. Mr. ██████████ said that the value of all the items seized was less than \$500.

Detective H. said that the books were seized as evidence because the books had been defaced with graffiti. The graffiti that was in the books was done in the same style and manner that was spray painted on the wall where Mr. ██████████'s son was caught spray painting. The books were seized because they supported Detective H.'s probable cause to charge Mr. ██████████'s son with the charges that were filed against him.

Mr. ██████████'s son was arrested on Friday, October 5, 2012. The following Wednesday, October 10, 2012, at 1:11 p.m., Detective H. authorized the APD Evidence Division to release all items that were taken as evidence to ██████████'s son. The APD Evidence log showed that all of the evidence that could be released in the case was released to ██████████ on October 12, 2012, at 11:00 a.m. Mr. ██████████ presented his ██████████ School Identification to Evidence when the property was released. The CPOA Investigator obtained copies of the Evidence Log and of the ID that was presented when the evidence was released.

The books and other items that were seized by Detective H. were lawfully seized pursuant to an arrest. The books contained graffiti that matched the graffiti that Mr. ██████████'s son had

April 15, 2016

Page 3

spray painted on a public wall. The books were evidence that support the criminal case against Mr. ██████████'s son. According to all of the evidence obtained by the CPOA Investigator, Mr. ██████████'s son picked up all of the evidence seven days after his arrest. There is no evidence to support the allegation that the books were seized by Detective ██████████ out of malice.

I find the allegation of a violation of this SOP against Detective H. was **UNFOUNDED**, which means the allegation is false or not based on valid facts.

Your complaint and these findings will be placed in Detective H.'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,
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Edward Harness, Esq.
Executive Director
(505) 924-3770

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



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Dr. Carlotta A. Garcia *Dr. Lisa M. Orick-Martinez*
Rev. Dr. David Z. Ring III
Edward Harness, Esq., Executive Director

April 15, 2016
Via Certified Mail
7014 2120 0004 7659 5122

[REDACTED]
[REDACTED]
[REDACTED]

Re: CPC # 218-14

Dear Ms. [REDACTED]:

Our office received the complaint you filed on December 5, 2014 against Officers of the Albuquerque Police Department (APD) regarding an incident that occurred on October 15, 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] wrote Officer M. arrived at her house in response to her son's call to police. Ms. [REDACTED] wrote a man that she knew went by the name "[REDACTED]" showed up to her house with a gun on his hip. [REDACTED] was at her house to collect a bag of clothes for a friend. The bag had been left there by the boyfriend of her friend, [REDACTED]. The boyfriend had left because he and Ms. [REDACTED] got into an argument, but forgot to take his clothes.

Ms. [REDACTED] claimed Officer M. should not have accused Ms. [REDACTED] of doing drugs. Ms. [REDACTED] claimed Officer M. accused her of buying drugs from [REDACTED], which was not true. Ms. [REDACTED] stated that she and Officer M. got into an argument because Officer M. made

April 15, 2016

Page 2

false accusations against her. Ms. ██████████ wrote Officer M. called CYFD on her and provided CYFD with false information of her buying and using drugs.

Ms. ██████████ stated that Officer M. went to her aunt's house, ██████████. Ms. ██████████ wrote Officer M. told Ms. ██████████ to open the door when he went to her house. Officer M. told Ms. ██████████ that Ms. ██████████ did not have a warrant and that he just wanted to speak to her. Ms. ██████████ told Ms. ██████████ this information, but Ms. ██████████ claimed Officer M. was lying because Ms. ██████████ did have a warrant and Officer M. just wanted to arrest her because of their argument.

Ms. ██████████ wrote she was filing the complaint in order to get her children back from CYFD. Ms. ██████████ complained she has taken drug tests because of Officer M.'s false information. Ms. ██████████ wrote she does not do drugs around her children.

The CPOA Investigator attempted to interview Ms. ██████████. Ms. ██████████ provided a phone number, but the phone message on the number provided said there was no voice mail and therefore could not leave a message. A certified letter was sent to Ms. ██████████ asking for her participation, but Ms. ██████████ never picked up the letter. The investigation was completed based upon her written complaint.

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

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

(A) The CPOA reviewed Standard Operating Procedure Order 1-04-1(F) 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. ██████████ claimed Officer M. accused her of doing drugs. Ms. ██████████ stated that she and Officer M. got into an argument because Officer M. made false accusations against her. Ms. ██████████ wrote Officer M. lied to her aunt about her not having a warrant when she did because Officer M. wanted to arrest her. Ms. ██████████ wrote she did not do drugs around her children and deserved her children back.

The lapel videos showed Ms. ██████████ opened and then shut the door when officers responded to her call for help. The lapel videos showed Ms. ██████████ was very intoxicated. Ms. ██████████ told Officer M. men showed up and threatened her and her family with guns. Officer M.'s video showed Ms. ██████████ knew all of the men who showed up at her house were into heroin; one was a drug dealer and the men were expecting drugs from Arizona. Ms.

April 15, 2016

Page 3

[REDACTED] made some other statements about drugs, but she was very difficult to understand because she was crying and her words were slurred. Officer D.'s video and Officer S.' video both showed Ms. [REDACTED] reacted angrily when they asked her why she shut the door on officers. Officer D.'s lapel video showed Ms. [REDACTED] swore at him, became sarcastic, confrontational with Officer D. Officer S.' video showed Ms. [REDACTED] was very crass and talked about officers getting killed. Both videos showed neither Officer D. nor Officer S. had done anything to provoke Ms. [REDACTED]'s reaction. Officer M.'s video showed Officer M. told Ms. [REDACTED] he would return. When Officer D. returned, Ms. [REDACTED] had left the house before officers completed their investigation.

Officer M.'s video from the following day with CYFD showed the CYFD caseworker advised officers that Ms. [REDACTED] had an open CYFD case with another caseworker involving drugs and lack of proper care. Officer M.'s video showed individuals were home, but refused to come to the door to talk to officers or CYFD so the children were placed on a 48 hour hold. Officer M.'s video showed when he talked to Ms. [REDACTED]'s aunt that Ms. [REDACTED]'s aunt said Ms. [REDACTED] would not open the door because she feared arrest. Officer M.'s video showed he told Ms. [REDACTED] and Ms. [REDACTED]'s aunt he was unaware of a warrant and did not care about that; he was focused on her resolving the issues with CYFD for her children's sake.

Ms. [REDACTED] did not participate in the investigative process so the finding was based upon a review the lapel videos and interviews with the officers involved. The lapel videos showed that by clear and convincing evidence that the alleged misconduct did not occur.

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>.

Letter to Ms. [REDACTED], CPC 218-14

April 15, 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. Susanne Brown *Eric H. Cruz* *Joanne Fine*
Dr. Carlotta A. Garcia *Dr. Lisa M. Orick-Martinez*
Rev. Dr. David Z. Ring III
Edward Harness, Esq., Executive Director

April 15, 2016
Via Certified Mail
7014 2120 0004 7659 5139

[REDACTED]
[REDACTED]
[REDACTED]

Re: CPC # 221-14

Dear Ms. [REDACTED]:

Our office received the complaint you filed on December 10, 2014 against Officers of the Albuquerque Police Department (APD) regarding an incident that occurred on August 8, 2012. 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]'s written complaint alleged that the SWAT team illegally searched the residence around midnight on August 8, 2012. Ms. [REDACTED] alleged that officers entered the address without permission or cause. Ms. [REDACTED] claimed that the officers did not notify the occupant of the search or entry. She stated when the officers were questioned, the officers stated they had a warrant issued by the Downers Grove Police Department, but they did not have a warrant number or copy of the warrant.

The CPOA Investigator attempted to interview Ms. [REDACTED]. Ms. [REDACTED] refused to respond to the CPOA Investigator's phone messages or email. The CPOA Investigator interviewed [REDACTED]

April 15, 2016

Page 2

█████, who Ms. ██████ stated was a witness. Mr. ██████ stated he did not remember exact dates because the incident was so long ago. Mr. ██████ stated that officers came twice the same day. The first time officers came in the afternoon looking for ██████. Mr. ██████ stated he was home alone and Ms. ██████ was out of town. The officers knocked on the door and Mr. ██████ originally was not going to let officers in because Mr. ██████ was in possession of marijuana. Mr. ██████ stated that he went into the backyard to smoke a cigarette and the next thing he knew officers came through the front door. Mr. ██████ stated that the officers let themselves into the house because the door was unlocked. Mr. ██████ claimed there were about seven or eight officers and none of them had a warrant.

Mr. ██████ stated that once the officers were in the house, they started looking through things such as dresser drawers. The officers were looking through all the closets. The officers said they were looking for stolen merchandise and ██████. Mr. ██████ claimed after about 20 minutes into their searching, the officers told him he could leave the house. Mr. ██████ stated he left the house while the officers were still present. Mr. ██████ believed the officers remained for another 30 to 45 minutes.

At some point after he had left, Mr. ██████ claimed that a dog had been kicked. Mr. ██████ knew this occurred because when Mr. ██████ returned, there was blood everywhere and one of the dogs was bleeding from its nose. Mr. ██████ did not see it happen and did not know who did it. Mr. ██████ stated that the officers did not let Ms. ██████ know that they were there. Mr. ██████ stated that Ms. ██████ only knew because he called her from the phone at the bus stop.

When officers returned later that night there were only two officers. He estimated it was 8:00 or 9:00 at night when the two officers returned. Those officers asked if ██████ was home and Mr. ██████ told the officers that Mr. ██████ was not home. Mr. ██████ claimed the officers again just let themselves in, since Mr. ██████ had been leaving the door unlocked. Mr. ██████ did not have a key and was leaving the house unlocked while he took care of the place while Ms. ██████ was gone. The officers searched the house again for property and for Mr. ██████. Mr. ██████ stated that neither officer had a piece of paper to indicate they had a warrant. No one gave him any information to justify their presence. Mr. ██████ stated the witness Ms. ██████ mentioned in her complaint, ██████, was not actually present.

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

I reviewed the investigation conducted by the CPOA Investigator, which included review of the Complaint, SOPs, Computer-Aided Dispatch Report and the CPOA Investigator's interviews of ██████, Officer S. and Officer D.

(A) The Acting Executive Director reviewed Standard Operating Procedure Order 1-02-2(B)(2) regarding Officer 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

April 15, 2016

Page 3

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.

Ms. ██████'s written complaint from an incident in 2012 stated that a large group of officers came at midnight. Ms. ██████ wrote nothing about a second officer encounter. Mr. ██████, a witness Ms. ██████ listed on her complaint, stated he was the only one present and that Ms. ██████ was out of town. Mr. ██████ stated that a large group of officers came in the afternoon and only two officers came in the evening. Mr. ██████ stated that both times officers came they entered the apartment without permission and thoroughly searched the premises for Mr. ██████ and stolen property. Mr. ██████ claimed he was not at the front door when the officers walked in on their own because the door was unlocked. Mr. ██████ stated the officers never had a warrant with them.

Officer S. was dispatched to Ms. ██████'s residence in the afternoon. The call was based on information from an Illinois police agency that a fugitive, Mr. ██████ from Illinois, was hiding out at the address provided. According to Officer S., Mr. ██████ opened the door and invited them in, and informed Officer S. that Mr. ██████ fled out the back window. The only CAD that could be located for this address was the call in the afternoon where Officer S. was dispatched. The CAD showed the basic warrant information in the notes. The CAD showed Officer S. was not at the apartment for over an hour as Mr. ██████ claimed. The total length of the call was about an hour and twenty minutes, which consisted of identifying which apartment, going to the apartment and searching the surrounding area for Mr. ██████. The information received from Mr. ██████ and Ms. ██████'s written complaint does not match the evidence available. Mr. ██████ admitted he was in possession of marijuana, which likely explained Officer S.'s observation that ██████ was under the influence of a substance. The documentation from Illinois showed there was an extraditable valid warrant for Mr. ██████. The documentation from Illinois showed Ms. ██████'s address was the likely location to find Mr. ██████. There is no verifiable documentation to support the citizens' version of events. The citizens' versions were contradictory.

I find the allegation of a violation of this SOP against Officer S. was **UNFOUNDED**, which means the allegation is false or not based on valid facts.

(B) I, as Executive Director, reviewed Standard Operating Procedure Order 1-04-1(F) regarding Officer 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. ██████ claimed the group of officers that came in the afternoon kicked the dog in the face, causing it to bleed. Mr. ██████ claimed this occurred when he was told to leave the house. Ms. ██████'s complaint said nothing about her dog being kicked and injured.

April 15, 2016

Page 4

There is no evidence to support that a group of officers went to the apartment in the afternoon, as only two went. There is no evidence to support that a dog was kicked and injured by officers.

I find Officer S.' conduct to be **EXONERATED** regarding the allegation of a violation of this SOP, which means the incident that occurred was lawful or proper.

III. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING OFFICER D.'s CONDUCT

(A) I, as Executive Director, reviewed Standard Operating Procedure Order 1-02-2(B)(2) regarding Officer D.'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.

Ms. [REDACTED]'s written complaint from an incident in 2012 claimed that a large group of officers came at midnight. Ms. [REDACTED] wrote nothing about a second officer encounter. Mr. [REDACTED], a witness Ms. [REDACTED] listed on her complaint, stated he was the only one present and that Ms. [REDACTED] was out of town. Mr. [REDACTED] stated that a large group of officers came in the afternoon and only two officers came in the evening. Mr. [REDACTED] stated that both times officers came they entered the apartment without permission and thoroughly searched the premises for Mr. [REDACTED] and stolen property. Mr. [REDACTED] claimed he was not at the front door when the officers walked in on their own because the door was unlocked. Mr. [REDACTED] stated the officers never had a warrant with them.

Officer D. only recalled being dispatched to the area with Officer S. in the afternoon. The call was based on information from an Illinois police agency that a fugitive, Mr. [REDACTED] from Illinois, was hiding out at the address provided. Officer D. did not remember going to the apartment at all. The only CAD that could be located for this address was the call in the afternoon where Officer D. was dispatched. The CAD showed the basic warrant information in the notes. The CAD showed Officer D. was likely at the apartment, but not for over an hour as Mr. [REDACTED] claimed. The complaint was filed about two-and-a-half years after the incident and Officer D. served in a backup capacity, so Officer D. having less memory of the events is reasonable. The total length of the call was about an hour and twenty minutes, which consisted of identifying which apartment, going to the apartment and searching the surrounding area for Mr. [REDACTED]. The information received from Mr. [REDACTED] and Ms. [REDACTED]'s written complaint does not match the evidence available. Mr. [REDACTED] admitted he was in possession of marijuana, which likely explained Officer S.' observation. Documentation from Illinois showed there was an extraditable valid warrant for Mr. [REDACTED]. The documentation from Illinois showed Ms. [REDACTED]'s address was the likely location to find Mr. [REDACTED]. If Mr. [REDACTED] had been located, a NCIC verification of the warrant would

April 15, 2016

Page 5

have occurred, as officers generally do not carry paper warrants with them. There is no verifiable documentation to support the citizens' version of events. The citizens' versions were contradictory.

I find the allegation of a violation of this SOP against Officer D. was **UNFOUNDED**, which means the allegation is false or not based on valid facts.

(B) The Executive Director 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.

Mr. [REDACTED] claimed the group of officers that came in the afternoon kicked the dog in the face, causing it to bleed. Mr. [REDACTED] claimed this occurred when he was told to leave the house. Ms. [REDACTED]'s complaint said nothing about her dog being kicked and injured.

There is no evidence to support that a group of officers went to the apartment in the afternoon, as only two went. There is no evidence to support that a dog was kicked and injured by officers.

I find the allegation of a violation of this SOP against Officer D. was **UNFOUNDED**, which means the allegation is false or not based on valid facts.

Your complaint and these findings will be placed in Officer S.' and Officer D.'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>.

Letter to Ms. [REDACTED], CPC 221-14

April 15, 2016

Page 6

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. Susanne Brown *Eric H. Cruz* *Joanne Fine*
Dr. Carlotta A. Garcia *Dr. Lisa M. Orick-Martinez*
Rev. Dr. David Z. Ring III
Edward Harness, Esq., Executive Director

April 15, 2016
Via Certified Mail
7014 2120 0004 7659 5146

[REDACTED]
[REDACTED]
[REDACTED]

Re: CPC # 222-14

Dear Ms. [REDACTED]:

Our office received the complaint you filed on December 15, 2014 against Officers of the Albuquerque Police Department (APD) regarding an incident that occurred on October 8, 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

New Mexico 87103

www.cabq.gov

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 she was sleeping when Officers M. and T. entered her apartment. Ms. [REDACTED] wrote nothing had been going on and she was fine. Ms. [REDACTED] wrote she staggered into Officer M. accidentally. Ms. [REDACTED] wrote the next thing she knew was that she was face down on the floor in handcuffs. Ms. [REDACTED] stated she was bleeding from her face. Ms. [REDACTED] wrote she was in and out of consciousness and could have bled to death because she is "anemic".

The CPOA Investigator interviewed Ms. [REDACTED]. Ms. [REDACTED] repeated that nothing had been going on and the officers entered without invitation. Ms. [REDACTED] denied calling to the officers. Ms. [REDACTED] denied an altercation occurred between her and Ms. [REDACTED]. Ms. [REDACTED] denied she wanted officers to make Ms. [REDACTED] leave. Ms. [REDACTED] denied she said a different name than

April 15, 2016

Page 2

her own. Ms. [REDACTED] denied she confronted Officer M. or shoved him. The next thing she knew she was face down in blood.

II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING OFFICER M.'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, The Use of Force Investigation conducted by APD, the field investigator photos, Officer M.'s lapel videos, Officer T.'s lapel videos, Sergeant Y.'s lapel videos and the CPOA Investigator's interviews of [REDACTED], [REDACTED], Officer M. and Officer T.

(A) The CPOA reviewed Standard Operating Procedural Order 1-02-2(B)(2) regarding Officer M.'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.

Ms. [REDACTED] claimed she did not ask for assistance or ask that the officers enter the apartment. Ms. [REDACTED] claimed she was sleeping when officers entered her bedroom. Ms. [REDACTED] also denied she made allegations against Ms. [REDACTED] or that she wanted Ms. [REDACTED] kicked out of the apartment. Ms. [REDACTED] denied she used an incorrect name when the officers asked. Ms. [REDACTED] claimed the officers walked in without permission. Ms. [REDACTED] agreed she may have told officers there had been an altercation where she had been struck by Ms. [REDACTED]. Both Ms. [REDACTED] and Ms. [REDACTED] admitted they were intoxicated.

Officer T.'s video showed there was shouting and loud music coming from the apartment. Officer M.'s video showed neighbors said there was a lady screaming and indicated Ms. [REDACTED]'s apartment. Both videos showed that Officer T. knocked on the door and it swung open, but neither officer entered initially. The videos showed Ms. [REDACTED] denied officers entry into the apartment. However, once the music was turned down Ms. [REDACTED]'s voice could be heard and she pleaded for officers to come in. Based on Ms. [REDACTED]'s request for help, officers had a right to enter. The various charges were up to Officer T., but Ms. [REDACTED] later pushed Officer M. which explained the Battery on an Police Officer charge. Both Ms. [REDACTED] and Ms. [REDACTED] were intoxicated and their memory could have been affected.

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 not violate APD policies, procedures or training.

(B) The CPOA reviewed Standard Operating Procedural Order 2-52*3(A) regarding Officer M.'s conduct, which states:

they were

April 15, 2016

Page 3

Officers may use force when objectively reasonable based on a totality of the circumstances. The objectives for which force may be appropriate include: To gain control of a combative prisoner and to defend an officer or member of the public from the physical acts of another.

Ms. ██████ claimed she must have gotten up too fast and accidentally staggered into Officer M. Ms. ██████ claimed when she touched Officer M. he misread the situation, which caused Officer M. to overreact. Ms. ██████ identified the wrong officer as the one having used force against Ms. ██████. Ms. ██████ claimed Ms. ██████ must have stumbled into the officer because she saw no hand movement on the part of Ms. ██████. Ms. ██████ stated the officer overreacted.

The video showed the use of the takedown maneuver was reasonable to prevent imminent bodily harm to Officer M. and possibly others. Per policy when a confrontation escalates suddenly, an officer may use any means or device necessary to defend himself as long as the force was reasonable. Ms. ██████ shoved Officer M. without provocation. Officer M. used no additional force on Ms. ██████. A full administrative review and use of force reporting form was completed by the supervisor.

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 not violate APD policies, procedures or training.

(C) The CPOA reviewed Standard Operating Procedural Order 2-52-6(D)(2)(b) regarding Officer M.'s conduct, which states:

In situations where the combative subject is forced into a face-down position, when safe to do so officers are expected to: Position the subject on their side or sit them up as circumstances allow so as not to induce reduced airflow or diaphragm function.

Ms. ██████ believed she lost consciousness and was face down in a pool of blood. Ms. ██████ stated Ms. ██████ had a medical condition that made Ms. ██████ bleeding even more serious. Ms. ██████ said the officers took a long time to pick Ms. ██████ up from the floor.

The videos showed once Ms. ██████ was restrained the officers left her on the floor face down. The videos showed officers did not administer first aid. Occasionally one of the officers would shake her to see if she would respond. The videos showed Ms. ██████ was uncooperative with paramedics when they arrived. Officer M. at a minimum should have rolled her to the side and been more attentive to her condition.

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

III. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING OFFICER T.'S CONDUCT

(A) The CPOA reviewed Standard Operating Procedural Order 1-02-2(B)(2) regarding Officer 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: 2. Make only those arrests, searches, and seizures which they know or should know are legal and in accordance with departmental procedures.

Ms. █████ claimed she did not ask for assistance or ask that the officers enter the apartment. Ms. █████ claimed she was sleeping when officers entered her bedroom. Ms. █████ also denied she made allegations against Ms. █████ or that she wanted Ms. █████ kicked out of the apartment. Ms. █████ denied she used an incorrect name when the officers asked. Ms. █████ claimed the officers walked in without permission. Ms. █████ agreed she may have told officers there had been an altercation where she had been struck by Ms. █████. Both Ms. █████ and Ms. █████ admitted they were intoxicated.

Officer T.'s video showed there was shouting and loud music coming from the apartment. Officer M.'s video showed neighbors said there was a lady screaming and indicated Ms. █████'s apartment. Both videos showed that Officer T. knocked on the door and it swung open, but neither officer entered. The videos showed Ms. █████ denied officers entry into the apartment. However, once the music was turned down Ms. █████'s voice could be heard and she was pleading for officers to come in. Based on Ms. █████'s request for help officers had a right to enter. Officer T.'s video showed Ms. █████ gave two different first names when asked. Officer T.'s video showed Ms. █████ claimed Ms. █████ was abusive, but provided no specifics. The videos showed Ms. █████ accused Ms. █████ specifically hitting her on the side of the head. Officer T. saw evidence of injury on Ms. █████. Both Ms. █████ and Ms. █████ were intoxicated and their memory could have been affected.

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

(B) The CPOA reviewed Standard Operating Procedural Order 2-52-6(D)(2)(b) regarding Officer T.'s conduct, which states:

In situations where the combative subject is forced into a face-down position, when safe to do so officers are expected to: Position the subject on their side or sit them up as circumstances allow so as not to induce reduced airflow or diaphragm function.

April 15, 2016

Page 5

Ms. █████ believed she lost consciousness and was face down in a pool of blood. Ms. █████ stated Ms. █████ had a medical condition that made Ms. █████ bleeding even more serious. Ms. █████ said the officers took a long time to pick Ms. █████ up from the floor.

The videos showed once Ms. █████ was restrained the officers left her on the floor face down. The videos showed officers did not administer first aid. Officer M. shook her one time to see if she would respond. Officer M. bent down another time to look at her. The videos showed Ms. █████ was uncooperative with paramedics when they arrived. Officer T. did not roll her to the side as he thought he had. Officer T. at a minimum should have rolled her to the side and been more attentive to her condition.

The CPOA Officer T.'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 M.'s and Officer T.'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*
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Dr. Carlotta A. Garcia *Dr. Lisa M. Orick-Martinez*
Rev. Dr. David Z. Ring III
Edward Harness, Esq., Executive Director

April 15, 2016
Via Certified Mail
7014 2120 0004 7659 5153

[REDACTED]
[REDACTED]
[REDACTED]

Re: CPC #223-14

Dear Mrs. [REDACTED]:

Our office received the complaint you filed on December 16, 2014 against Officer G., Officer L., and Sergeant G. of the Albuquerque Police Department (APD) regarding an incident that occurred on November 22, 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.

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I. THE COMPLAINT

[REDACTED] wrote that on November 22, 2014 at about 11:08 AM at the intersection of Wyoming and Osuna she and her family were stopped at a red light when they were rear ended by APD Officer G. Officer G. allegedly called for other officers to respond before calling for an ambulance. The responding officer, Officer L., was from the same substation that Officer G. is from. Albuquerque Police Department Sergeant G. also responded to the scene. A witness to the accident named [REDACTED] was also there. Ms. [REDACTED] and her husband were concerned about APD investigating the crash and felt that it was a conflict of interest for APD to do so.

Ms. ██████████ complained that Officer L. never got an official statement from Mr. ██████████ or her husband who was driving the car at the time of the crash. She also complained that Officer L. put into his report several inaccurate statements. Ms. ██████████ alleged the first inaccurate statement was that the ██████████'s refused medical treatment. Ms. ██████████ said that they never refused treatment but chose to transport their child to the hospital on their own. She complained that Officer L. wrote in the report that her husband stated that he never saw the police car until it struck them from behind. She said that statement was false and that her husband explained to Officer L. that he saw Officer G. driving erratically prior to the crash. She also complained that Officer L. never documented in the report what the witness, Mr. ██████████ had to say about the incident. Ms. ██████████ also complained that Officer G. wrote out a statement about the accident stating that he slammed on his brakes prior to the crash and if that were true, she and her husband would have heard squealing brakes prior to the crash.

Ms. ██████████ complained that Sergeant G. was unprofessional and argumentative in his behavior with her husband and the Sergeant allegedly told them not to worry about anything because the City has "deep pockets."

Ms. ██████████ summed up her complaint by stating that she felt that the police report did not paint an accurate picture of the accident scene. She was very disappointed in how the accident was handled and at how they were treated. She felt that an outside agency should have been called to investigate the matter and she wants the officers disciplined for trying to cover up certain facts.

II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING OFFICER G.'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, the original police report filed by Officer L., a review of Sergeant G.'s lapel video, a review of the recorded radio traffic from the call, interviews with the Complainant and her husband, and interviews with Officer G., Officer L., and Sergeant G..

A) The CPOA reviewed Standard Operating Procedure Order 1-19-10 (C) regarding Officer G.'s conduct, which states:

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. ██████████ and a witness stated that they saw Officer G. weaving in and out of traffic at a higher than normal rate of speed just prior to the crash. Officer G. stated that he was on his way to the Northeast Substation located at Osuna and Wyoming to assist a female officer who had called out for assistance with an unruly prisoner. Officer G. said that he accelerated, but

April 15, 2016

Page 3

not to the point of exceeding the speed limit, to get in front of traffic and to change lanes so he could make the turn onto Osuna from Wyoming. He said that he looked toward the substation, then glanced down at his computer to check the status of the assistance call. When he looked back up, the traffic in front of him had come to a stop at the light but it was too late to avoid a collision with the [REDACTED] family. Officer G. said that the anti-lock brake system activated in his car before the crash and that was why there were no skid marks or squealing tires that Ms. [REDACTED] had complained of. Officer G. admitted fault in the accident.

Mr. [REDACTED] complained that Officer G. allegedly called for other officers to respond before calling for an ambulance. The recorded radio transmissions showed that allegation is not true. Officer G. called out that he had been involved in an accident and he requested Rescue to respond to the scene not because there were any reported injuries but because of the [REDACTED] baby that was in the back seat of the car that he rear ended. The radio transmissions showed that Officer G. did not call for Officer L. to respond to the scene but that Officer L. was dispatched to the scene.

The CPOA finds with regards to the allegation made by Ms. [REDACTED] about Officer G's driving conduct, that the allegation was **SUSTAINED**. A preponderance of the evidence showed that the alleged misconduct did occur.

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

A) The CPOA reviewed Standard Operating Procedure Order 2-23-4 (F) regarding Officer L.'s conduct, which states:

Steps to be followed in conducting preliminary investigations:

- 2) ***Locate, identify, and interview witnesses...***
- 5) ***Report the incident fully and accurately.***

Ms. [REDACTED] complained that Officer L. never got an official statement from the witness, Mr. [REDACTED] or her husband who was driving the car at the time of the crash. She also complained that Officer L. wrote several inaccurate statements into the report. The first inaccurate statement was that the [REDACTED]'s refused medical treatment. She said that they never refused treatment but chose to transport their child to the hospital on their own. She complained that Officer L. wrote in the report that her husband stated that he never saw the police car until it struck them from behind. She said that statement was false and that her husband explained to Officer L. that he saw Officer G. prior to the crash driving erratically. She also complained that Officer L. never documented in the report what the witness, Mr. [REDACTED] had to say about the incident. Ms. [REDACTED] stated that she felt that the police report did not paint an accurate picture of the accident scene and that APD should not have investigated the crash because it was a conflict of interest for them to do so.

April 15, 2016

Page 4

It was unclear what Ms. [REDACTED] meant by and "official statement" but written statements from people involved in minor traffic accidents are not required under Albuquerque Police Department Standard Operating Procedures. Officer L. did speak with both drivers and each driver gave to him their version of how the accident occurred. Officer L. also interviewed Mr. [REDACTED] who told Officer L. that he believed that Officer G. was speeding and changing lanes prior to the crash. Officer L. said that he wrote his report just after clearing the scene of the accident and he wrote the report from his memory of what both drivers had told him. He said that since the accident investigation was fresh in his mind at the time of the writing of the report that he believes that statement that he attributed to Mr. [REDACTED] was correct. Officer L. said that he inadvertently left out what Mr. [REDACTED] had told him, but he listed Mr. [REDACTED]'s contact information so that the insurance companies or the City of Albuquerque could follow up with all parties to get recorded statements from all parties involved. Officer L. said that Mr. [REDACTED] only confirmed what the physical evidence at the scene showed which was Officer G. was at fault in the accident and the [REDACTED] family was hit from behind. The lack of entering what Mr. [REDACTED] said into the report did not change those facts.

Officer L. said, and Ms. [REDACTED] admitted, that at the scene of the accident she signed a form from the rescue personnel on scene that stated that they did not want to be transported to the hospital for treatment by the Ambulance. That form is a Patient Refusal Form and it usually advises people to seek treatment on their own even though they had been evaluated at the scene by EMS personnel. The refusal was a signed document that stated that the patient refused to be transported for further medical care. Officer L. said that when a person signs that refusal form, it usually means that they do not want any further treatment at the scene, nor do they desire to be transported for further medical treatment. That was why he wrote in his report that the [REDACTED] family refused medical treatment.

The written police report was reviewed by the CPOA Investigator and by Sergeant G. who was actually at the scene of the crash. The police report was compared to the lapel video submitted by Sergeant G. and the report accurately fully and accurately reflected the accident investigation that was conducted by Officer L.

There is no APD policy that requires that an outside agency be called in to investigate a minor crash involving an APD vehicle. The only time an outside agency would be called out is if the police vehicle accident results in death or great bodily harm.

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

IV. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING SERGEANT G.'S CONDUCT

A) The CPOA reviewed Standard Operating Procedure Order 1-04-1 (F) regarding Sergeant G.'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] complained that Sergeant G. was unprofessional and argumentative in his behavior with her husband and the Sergeant allegedly told them not to worry about anything because the City has "deep pockets." Mr. and Mrs. [REDACTED] found that statement to be offensive. Ms. [REDACTED] also said that the Sergeant argued over the definition of reckless driving. Lastly, she complained that Sergeant G. wrote his name and a 242-COPS number on a piece of paper instead of the number for the substation the Sergeant works out of. She felt that action was deceptive.

There was a lapel video recording of Sergeant G. and his interactions with [REDACTED] and the witness, Mr. [REDACTED]. That lapel video recording showed that Sergeant G. acted professionally throughout the recording. He did not appear to be argumentative and was respectful when dealing with the witness and with Mr. [REDACTED]. The video showed that Sergeant G. was empathetic and he kept reassuring Mr. [REDACTED] and the witness that the City of Albuquerque would take care of the damages and that nothing would be covered up. While Ms. [REDACTED] and her husband felt that the "deep pockets" comment was not professional, it was clear from the recording that Sergeant G. was just trying to reassure Mr. [REDACTED] that everything would be taken care of.

Sergeant G. denied that he argued with Mr. [REDACTED] as to the definition of reckless driving. He said that he was not argumentative. He said that he was asked about reckless or careless driving and he explained to Mr. [REDACTED] the elements of the law that are required to charge a person with careless driving. Sergeant G. felt those elements were not present based on the evidence at the scene of the crash.

Sergeant G. also denied that he was being deceptive by his not providing the substation number to Mr. [REDACTED]. Sergeant G. said that he did not have any business cards with him at the time of the accident but that he did give Mr. [REDACTED] a piece of paper with his name and the 242-COPS number when he was asked to provide it. Sergeant G. provided the 242-COPS number instead of the substation number because Sergeant G. has odd days off and has often not received messages at the substation. By calling 242-COPS a message can be sent by the telephone operator to Sergeant G. over his in car computer which he will be sure to receive.

Sergeant G. reviewed and approved the accident report. He found the accident report to be sufficient in detail and said that it accurately reflected what occurred at the scene. There was

April 15, 2016

Page 6

no evidence found during the CPOA Investigation of this complaint that any of the APD officers at the scene covered up any of the facts of the incident.

The CPOA finds with regards to the allegation made by Ms. [REDACTED] about Sergeant G.'s conduct that the allegation was **EXONERATED**. The investigation determined 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 Officer G.'s, Officer L.'s, and Sergeant G.'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. Susanne Brown *Eric H. Cruz* *Joanne Fine*

Dr. Carlotta A. Garcia *Dr. Lisa M. Orick-Martinez*

Rev. Dr. David Z. Ring III

Edward Harness, Esq., Executive Director

April 15, 2016
Via Certified Mail
7014 2120 0004 7659 5030

[REDACTED]
[REDACTED]
[REDACTED]

Re: CPC # 224-14

Dear Mr. [REDACTED]:

Our office received the complaint you filed on December 17, 2014 against Officers of the Albuquerque Police Department (APD) regarding an incident that occurred starting on December 10, 2014 and subsequent days. 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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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] wrote Sergeant M ignored his concerns about Officers M and B regularly wasting time at a coffee shop for about two hours on shift. Sergeant M asked Mr. [REDACTED] if he had a "hard on" for police officers to be so concerned. Mr. [REDACTED] wrote it was obvious Sergeant M was not concerned about how his officers spent their time. Mr. [REDACTED] wrote the next day Officer M sarcastically greeted him in the coffee shop. Mr. [REDACTED] wrote he heard Officers M and B complain about his complaint to two other APD officers and to the coffee shop manager. Starting on December 11, 2014 and for the next several days Mr. [REDACTED] wrote he received prank calls on his cell phone, but the number usually came up as

belonging to the coffee shop. Mr. ██████ wrote he confirmed no one from the coffee shop called him and he was the victim of call spoofing.

The CPOA Investigator interviewed Mr. ██████. Mr. ██████ stated he regularly visited the Flying Star and saw Officers M and B often waste about two hours of their shift at the coffee shop. Mr. ██████ said this had been going on for years. Mr. ██████ stated Officers M and B gave him dirty looks. Mr. ██████ complained to Sergeant M. Mr. ██████ stated Sergeant M was dismissive and made some inappropriate statements. Mr. ██████ stated after his complaint to the sergeant that Officer M complained to several people about him and was sarcastic with him. Mr. ██████ stated after his encounter with Officer M he started receiving numerous prank calls that usually showed up as the Flying Star's number. Mr. ██████ believed Sergeant M gave his name and phone number to the officers and the officers, especially Officer M, were doing the harassing calls. Mr. ██████ stated he went to the Northwest substation to get Officers M and B's full information. Mr. ██████ stated Sergeant G refused to provide the information, creating a confrontation. Mr. ██████ went to the school where Officers M and B worked to get the information. Mr. ██████ claimed Officer M lied over the radio about his activities to other officers. Mr. ██████ stated Officer B refused to provide the information, prolonging the confrontation. Officer M's lies resulted in the principal requesting a no trespass order be issued to him for the school.

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

(A) The CPOA reviewed Standard Operating General Order 1-04-4B regarding Officer M's conduct, which states:

Personnel shall not engage in any activity or personal business that may cause them to neglect or be inattentive to duty.

Mr. ██████ claimed Officer M spent two hours daily at the coffee shop while on duty.

Officer M denied taking over two hours and said only their approved lunchtime was taken. Sergeant M never heard complaints about Officer M's time. The coffee shop manager believed there were times when Officer M may have been longer than an hour, but he really did not pay attention or have specific dates. Mr. ██████ claimed a daily neglect of duty, but did not have evidence to support the allegation.

The CPOA finds Officer M's conduct to be **NOT SUSTAINED** where the investigation was unable to determine whether the alleged misconduct occurred.

(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.

April 15, 2016

Page 3

Mr. ██████ stated Officer M became sarcastic with him and spoke poorly about him to other individuals after Mr. ██████ complained about Officer M. Mr. ██████ received harassing phone calls that he knew Officer M instigated. Mr. ██████ claimed Officer M lied to others about Mr. ██████' activities at the school, which resulted in him receiving an undeserved no trespass order.

There is no video of Officer M's interaction with Mr. ██████ at the coffee shop because it was too short. Officer M and Officer B did not feel Officer M's tone was sarcastic or that Officer M went out of his way to talk to Mr. ██████. The coffee shop manager recalled Officer M mentioned he would not be coming into the business anymore because of a complaint from Mr. ██████. The coffee shop manager confirmed Mr. ██████ received calls showing up on the caller ID as his business, but no one was on the phone. Mr. ██████' call history did not show any information for these calls, but T-Mobile explained spoofed calls would not show on the call history. Mr. ██████ provided no evidence demonstrating Officer M had anything to do with the calls, but was suspect of the timing in how everything occurred. Independent research and other APD detectives did not have a way to investigate the source of a spoofed call. The lapel video showed Mr. ██████ went to the school in an agitated state. There were other methods to get the information and Mr. ██████ did not need to go to the school. The video showed the school contact by Officer M did not violate policy, but there was not enough evidence to determine the other issues.

The CPOA finds Officer M's conduct to be **NOT SUSTAINED** where the investigation was unable to determine whether the alleged misconduct occurred.

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

(A) The CPOA reviewed Standard Operating General Order 1-04-4B regarding Officer B's conduct, which states:

Personnel shall not engage in any activity or personal business that may cause them to neglect or be inattentive to duty.

Mr. ██████ claimed Officer B spent two hours daily at the coffee shop while on duty.

Officer B denied taking over two hours and said only their approved lunchtime was taken. Sergeant M never heard complaints about Officer B's time. The coffee shop manager believed there were times when Officer B may have been longer than an hour, but he really did not pay attention or have specific dates. Mr. ██████ claimed a daily neglect of duty, but did not have evidence to support the allegation.

The CPOA finds Officer B's conduct to be **NOT SUSTAINED** where the investigation was unable to determine whether the alleged misconduct occurred.

(B) The CPOA reviewed Standard Operating General Order 1-04-1F 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. ██████████ stated Officer B was complicit with the harassing phone calls instigated by Officer M. Mr. ██████████ stated Officer B prolonged the confrontation at the school because he would not provide Officer M's information.

Officer B denied knowledge or involvement concerning prank phone calls. The coffee shop manager confirmed Mr. ██████████ received calls showing up on the caller ID as his business, but no one was on the phone. Mr. ██████████' call history did not show any information for these calls, but T-Mobile explained spoofed calls would not show on the call history. Mr. ██████████ provided no evidence demonstrating Officer B had anything to do with the calls, but was suspect of the timing in how everything occurred. Independent research and other APD detectives did not have a way to investigate the source of a spoofed call. The lapel video showed Mr. ██████████ went to the school in an agitated state. There were other methods to get the information and Mr. ██████████ did not need to go to the school. The video showed Mr. ██████████ was demanding and impatient about receiving the officers' information. The video showed the school contact by Officer B did not violate policy, but there was not enough evidence to determine the other issues.

The CPOA finds Officer B's conduct to be **NOT SUSTAINED** where the investigation was unable to determine whether the alleged misconduct occurred.

IV. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING SERGEANT M'S CONDUCT

(A) The CPOA reviewed Standard Operating General Order 1-04-4O regarding Sergeant M's conduct, which states:

In the performance of their duties, personnel shall maintain a neutral and detached attitude without indicating disinterest or that a matter is petty or insignificant.

Mr. ██████████ claimed Sergeant M was dismissive of his complaints and concerns about the two Cibola officers' use of time.

The phone conversation was not recorded and would not be required at the time. Mr. ██████████ and Sergeant M differed on how the conversation went.

The CPOA finds Sergeant M's conduct to be **NOT SUSTAINED** where the investigation was unable to determine whether the alleged misconduct occurred.

(B) The CPOA reviewed Standard Operating General Order 1-04-6H regarding Sergeant M's conduct, which states:

Personnel shall treat the official business of the department as confidential. Information regarding official business shall be disseminated only to those for whom it is intended, in accordance with established department procedures.

Mr. ██████ knew Sergeant M gave his name and cell phone number to the officers to facilitate the spoofing and harassment. Mr. ██████ knew it had to be Sergeant M because Mr. ██████ left his number for Sergeant M to call him; the other officers never had it.

Mr. ██████ assumed Sergeant M provided his phone number, but had no evidence to support his assumption. Sergeant M denied providing any phone number or last name. The officers denied Sergeant M provided any contact information or even his name other than "█████." Mr. ██████ knew he was the victim of spoofing. There is nothing showing on Mr. ██████' call history about these phone calls, however T-Mobile explained if a call were spoofed it would not show on the call history. Independent research and other APD detectives did not have a way to investigate the source of a spoofed call.

The CPOA finds Sergeant M's conduct to be **NOT SUSTAINED** where the investigation was unable to determine whether the alleged misconduct occurred.

V. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING SERGEANT G'S CONDUCT

(A) The CPOA reviewed Standard Operating General Order 1-04-1F regarding Sergeant G'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. ██████ stated Sergeant G refused to provide information about other officers when he asked for their names and man numbers. Mr. ██████ stated Sergeant G created a confrontation by refusing to provide the information, which led to him unjustifiably receiving a no trespass order at ██████ School.

There was no recording of Sergeant G's conversation with Mr. ██████ because Sergeant G had the camera in his charger. It was not a dispatched call for service and Sergeant G did not have the opportunity to retrieve his camera during the escalation. A front administrative staff person, Mr. H, agreed Mr. ██████ was aggressive and visibly angry. Mr. H tried to explain to Mr. ██████ the information he sought was not immediately available and recalled Sergeant G told Mr. ██████ he would get the information. According to Mr. H, Sergeant G asked Mr. ██████ to wait and started to get the information. Mr. ██████ was very agitated

April 15, 2016

Page 6

and impatient. Mr. [REDACTED] said there would be a fight and stormed out towards the school. The description from Mr. [REDACTED] was very different from that of Sergeant G and Mr. H.

Your complaint and these findings will be placed in the officers' 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. Susanne Brown *Eric H. Cruz* *Joanne Fine*

Dr. Carlotta A. Garcia *Dr. Lisa M. Orick-Martinez*

Rev. Dr. David Z. Ring III

Edward Harness, Esq., Executive Director

April 15, 2016
Via Certified Mail
7014 2120 0004 7659 5160

[REDACTED]
[REDACTED]
[REDACTED]

Re: CPC #225-14

Dear Mr. [REDACTED]:

Our office received the complaint you filed on December 17, 2014 against Officer M. of the Albuquerque Police Department (APD) regarding an incident that occurred on December 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

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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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 December 9, 2014 one of his apartment managers, [REDACTED], placed \$6,639.00 in cash in a safe at [REDACTED] SE, Apartment [REDACTED]. The money was from collected rent from his renters. Apartment [REDACTED] was used by Mr. [REDACTED]'s other apartment manager, [REDACTED]. Mr. [REDACTED] witnessed the money being put into the safe. On December 10, 2014 at about 7:30 am, Mr. [REDACTED] went to Apartment [REDACTED] to collect the cash that was in the safe. Both apartment managers were not present when Mr. [REDACTED] opened the safe. When Mr. [REDACTED] opened the safe, there was no money in it. Mr. [REDACTED] called both managers back to the apartment. When Mr. [REDACTED] asked [REDACTED] where the money was, [REDACTED] got very angry, so much so that Mr. [REDACTED] convinced Mr. [REDACTED] to go with Mr. [REDACTED] to another property so [REDACTED] could cool down.

April 15, 2016

Page 2

█████ called the police in the meantime. Officer M. responded to the call and he contacted Mr. ██████ by phone and asked him to come back to the property. Mr. ██████ couldn't understand why Officer M. wanted him to go back to the scene when he and ██████ were handling the situation.

Mr. ██████ complained that Officer M. asked him if he took the money. When Mr. ██████ wrote that he denied that he took the money, and Officer M. did not believe him. Mr. ██████ complained that Officer M. never took a written statement from him nor did he take any notes during the investigation. Mr. ██████ said that he fired ██████ on the spot in front of the officer and gave Sean 24 hours to vacate his apartment. Officer M. told Mr. ██████ that he could not force ██████ to vacate unless he followed the tenant eviction process. Mr. ██████ said that he asked Officer M. to have the theft investigated further by having the safe processed for fingerprints to see who may have accessed the safe. Officer M. refused to do that. When he asked Officer M. to search ██████'s apartment for the money Officer M. refused to do that also and he also refused to write out paperwork to get a search warrant.

Mr. ██████ complained that Officer M. was not interested in anything that Mr. ██████ had to say and had concluded that ██████ was innocent. Officer M. allegedly refused to allow Mr. ██████ to remove items from ██████'s apartment because the Officer believed that ██████'s apartment was a residence and not an office.

I. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING OFFICER M.'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, the original police report filed by Officer M., a review of Officer M.'s lapel video recording, a review of the Computer Assisted Dispatch (CAD) report, an interview with the Complainant, and interviews with Officer M. and Mr. ██████.

A) The CPOA reviewed Standard Operating Procedure Order 1-04-4(O) regarding Officer M.'s conduct, which states:

In the performance of their duties, personnel shall maintain a neutral and detached attitude without indicating that a matter is petty or insignificant.

Mr. ██████ complained that Officer M. was not interested in anything that Mr. ██████ had to say and that Officer M. had concluded that Mr. ██████'s apartment manager was innocent before Officer M. even investigated the theft. As evidence of that allegation, Mr. ██████ said that Officer M. never took his statement and Officer M. just seemed like he did not care about the incident.

Officer M. recorded the entire incident on lapel camera video. That video was reviewed and it showed that Officer M. was very concerned about the theft. The video showed that Officer M. spoke solely and directly with Mr. ██████ for a little over 15 minutes. Officer M. appeared to be very interested in Mr. ██████'s story and he listened to everything Mr. ██████

had to say. A written statement was not required by Standard Operating Procedure and Mr. ██████'s verbal statement was recorded in its entirety on video.

The Computer Assisted Dispatch (CAD) report showed that Officer M. was on scene from 9:39 AM to 11:48 AM. The lapel video showed that Officer M. was conducting his investigation into the theft almost that entire time. Officer M.'s police report also was very detailed as to whom he spoke with, what they told him, and his observations of the evidence.

Though Mr. ██████'s and Officer M.'s views differed on what could have happened to the missing money, all of the evidence gathered during the CPOA investigation showed that Officer M. acted professionally and responsibly throughout the incident.

The CPOA finds with regards to the allegation made by Mr. ██████ about Officer M.'s conduct that the allegation was **EXONERATED**. The investigation determined by a preponderance of the evidence that the alleged conduct did occur but it did not violate APD policies, procedures, or training.

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

Steps to be followed in conducting preliminary investigations:

3. Protect the crime scene and the evidence. Ensure that necessary evidence is collected.

Mr. ██████ complained that Officer M. failed to conduct a proper preliminary investigation. Specifically he complained that Officer M. refused to have the theft investigated further by having the safe processed for fingerprints to see who may have accessed the safe. Officer M. also refused to search the apartment manager's apartment for the money. Officer M. also refused to write out paperwork to get a search warrant.

The lapel video in this case, and the report, as well as statements taken from everyone involved, showed that the money was placed in the safe the night before by Mr. ██████'s two apartment managers. The money drop was witnessed by one of Mr. ██████'s apartment manager's teenage child. Several other people including the apartment manager's girlfriend, a female friend, another male roommate, as well as other people, including Mr. ██████, had access to the apartment where the safe was. Any one of those people could have left fingerprints on the safe and the presence of those fingerprints would not have proved who took the missing money. Furthermore, only Mr. ██████ had the combination to the safe. There were no signs of forced entry to the apartment and there were no signs of forced entry or tampering with the safe. Mr. ██████ went into the safe and discovered the money was missing. Instead of staying at the apartment and calling the police, Mr. ██████ left before the arrival of the police and so did the other apartment manager. If either Mr. ██████ or the other apartment manager had the money in their possession when they left the residence, the probable cause necessary to obtain a search warrant for the apartment ended when they left

April 15, 2016

Page 4

the property. Information from both apartment managers indicated that it was likely that Mr. [REDACTED] took the money and then claimed that it was missing so that Mr. [REDACTED] could terminate the apartment manager that he had been having problems with.

There was insufficient probable cause available to Officer M. to obtain a Search Warrant for the apartment to see if the money was there.

The lapel video showed that Officer M. interviewed all parties at the scene, not just the managers and Mr. [REDACTED] as Mr. [REDACTED] alleged. Officer M. conducted a thorough and sufficient preliminary investigation into the theft of the money.

The CPOA finds with regards to the allegation made by Mr. [REDACTED] about Officer M.'s conduct that the allegation was **EXONERATED**. The investigation determined 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 Officer M.'s Internal Affairs record.

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. Susanne Brown *Eric H. Cruz* *Joanne Fine*
Dr. Carlotta A. Garcia *Dr. Lisa M. Orick-Martinez*
Rev. Dr. David Z. Ring III
Edward Harness, Esq., Executive Director

April 15, 2016
Via Certified Mail
7014 2120 0004 7659 5177

[REDACTED]
[REDACTED]
[REDACTED]

Re: CPC #228-14

Dear Ms. [REDACTED]:

Our office received the complaint you filed on December 23, 2014 against Officer W. and Officer L. of the Albuquerque Police Department (APD) regarding an incident that occurred on July 24, 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 that when she was arrested on July 24, 2014 she was injured while being handcuffed, and was invasively and improperly searched.

Ms. [REDACTED] wrote that when Officer W. handcuffed her, her hands were broken and her hands immediately became visibly bruised and swollen. Ms. [REDACTED] also wrote that when a female officer, Officer L. searched her, she was sexually assaulted by the officer. The sexual assault that allegedly occurred consisted of the female officer touching Ms. [REDACTED] in her genital area; wiping her hand vigorously and roughly around Ms. [REDACTED]'s vaginal area. It was also alleged that the female officer's hands went inside of Ms. [REDACTED]'s shirt and bra and that Ms. [REDACTED]'s

breasts were touched and grasped by the female officer. Ms. █████ considered her treatment by the APD officers as torture.

I. 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 SOPs, the Citizen Police Complaint, the original police report filed by Officer W., a review of the Computer Assisted Dispatch (CAD) report, a review of Ms. █████'s Metropolitan Detention Center records, and interviews with Officer W., Officer C., Officer L., and Officer Z.. Ms. █████ did not provide a telephone contact number on her complaint. Ms. █████ provided a mailing address in █████, NM. She also provided an e-mail address where she could be reached. Ms. █████ did not respond to the CPOA Investigator's requests for an interview. The investigation was conducted based on the allegations contained in Ms. █████'s written complaint.

A) The CPOA reviewed Standard Operating Procedure Order 2-19-3 B (2) regarding Officer W.'s conduct, which states:

B. Handcuffing of Prisoners

2. Handcuffs and leg shackles will be double locked when in use.

Ms. █████ complained about her arrest five months after it occurred. Ms. █████ complained that as soon as she was handcuffed by Officer W. that her hands were broken. Ms. █████ claimed that her hands were quickly and visibly bruised and that the handcuffs cut into her wrists leaving bruises. Ms. █████ claimed that it took her broken hands about a month to recover.

The police report indicated that when Officer W. handcuffed Ms. █████, he made sure that the handcuffs were double locked and properly spaced. Officer W. told the CPOA Investigator that he made sure that the handcuffs were not put on too tight; that the handcuffs were properly spaced and double locked to prevent them from getting tighter. All four officers who participated in this case were interviewed and none of the officers recalled Ms. █████ complaining about the handcuffs.

Officer C., who assisted in the arrest, saw Ms. █████ handcuffed and he said that she was properly handcuffed. Officer C. saw no injuries to Ms. █████'s hands and Ms. █████ never complained at the scene or anytime thereafter about the handcuffs being too tight or that Ms. █████'s wrists had been injured by the handcuffs. Officer L. said that she conducted the searches of Ms. █████ and she did not see any injuries on Ms. █████'s wrists, nor did Ms. █████ ever complain to her or any of the other officers that her wrists were injured. Officer Z. who was also at the scene of the arrest said that he never heard Ms. █████ complain that her wrists were hurting, that the handcuffs were too tight, or that she was injured in any way.

April 15, 2016

Page 3

The Bernalillo County Metropolitan Detention Center was contacted about Ms. [REDACTED]. The records there showed that Ms. [REDACTED] spent about three weeks in detention in MDC after being arrested on the outstanding misdemeanor warrant. During the approximately three weeks that Ms. [REDACTED] was in jail, she never complained to the medical staff that her hands were broken and she was never seen or treated for any injuries to her wrists. The only thing Ms. [REDACTED] was seen for by the medical staff at MDC, was a Mental Health Evaluation.

There is credible no evidence to support Ms. [REDACTED]'s allegation that she was injured when she was handcuffed.

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

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

All recordings listed above and/or where an arrest was made will be tagged into evidence, and will be listed on the report as being tagged.

Officer W. was required by SOP to tag his lapel video of his contact and arrest with Ms. [REDACTED] into evidence. Officer W. failed to do that and because he failed to do that the lapel video recording of the encounter was eventually deleted. The lapel video that was recorded was deleted 120 days after the arrest.

The CPOA finds with regards to the allegation made by Ms. [REDACTED] about Officer W.'s conduct that the allegation was **SUSTAINED**, as the investigation determined by a preponderance of the evidence that the alleged misconduct did occur.

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

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

B. 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.*

Ms. [REDACTED] complained that when female Officer L. searched her, Officer L. sexually assaulted Ms. [REDACTED]. The sexual assault that allegedly occurred consisted of Officer L. touching Ms. [REDACTED] in her genital area. Officer L. allegedly wiped her hand vigorously and roughly around

April 15, 2016

Page 4

Ms. [REDACTED]'s vaginal area. Ms. [REDACTED] further alleged that Officer L.'s hands went inside of Ms. [REDACTED]'s shirt and bra and that Ms. [REDACTED]'s breasts were touched and grasped by Officer L.

The investigation showed that Officer L. conducted two searches of Ms. [REDACTED] incident to the lawful arrest. Officer W. witnessed both searches.

The initial search of Ms. [REDACTED] occurred in the back seat of the police car. Officer L. had been requested to assist at the scene of the arrest because Ms. [REDACTED] refused to be searched by a male police officer. All of the officers interviewed described Ms. [REDACTED] as being angry and agitated. Officer W. and Officer C. noted that Ms. [REDACTED]'s behavior was unusual as Ms. [REDACTED] was described as being agitated but also speaking in ramblings with broken thought patterns. Officer C. and Officer W. as well as the Manager of the [REDACTED] store where the incident occurred all suspected that Ms. [REDACTED] was under the influence of some type of stimulant or drug at the time of the incident.

Officer L. and Officer W. said that because of Ms. [REDACTED]'s agitated state that the initial search was conducted while Ms. [REDACTED] was seated in the back seat of the police car. However, based on how Ms. [REDACTED] was seated, the initial search was not thorough enough to determine if Ms. [REDACTED] was armed or carrying any contraband.

Officer L. said that the initial search consisted of a pat down of the outer garments of the upper torso down to the waist area. Officer L. said that she ran her fingers around the top of Ms. [REDACTED]'s underwear line as in the past Officer L. has found needles and drugs concealed in the top of the underwear. The waist band of the underwear can easily be folded over to conceal drugs and drug paraphernalia. Officer L. and Officer W. said that Officer L. never reached under Ms. [REDACTED]'s shirt as Ms. [REDACTED] alleged.

The second search of Ms. [REDACTED] occurred outside the car. Officer L. said that she searched Ms. [REDACTED] as she had been taught in the police academy. She checked the outside of the garments, and then grabbing the middle part of the bra, over the clothes she pulled the bra forward and shook it. No contraband fell out. Officer L. then ran her hands under the cup area of the bra, outside the shirt, then along the side straps of the bra, and then over the shoulder straps.

Officer L. ran her hands down the outside and the inside of the pant legs on each leg. She said that she used the side of her hand to feel between the leg line and the genital area, all areas where weapons and narcotics have been discovered in the past. Officer L. said that for some people, being searched in that manner is uncomfortable and seen as invasive, but the search is designed to detect weapons or contraband that may be hidden in discreet places that officers may be disinclined to touch.

Officer L. denied that she sexually assaulted Ms. [REDACTED]. Officer L. said that she never grasped Ms. [REDACTED]'s breasts, that she did not wipe her hand vigorously back and forth against Ms. [REDACTED]'s vagina, and that she did not place her hands under Ms. [REDACTED]'s shirt as Ms. [REDACTED] had

April 15, 2016

Page 5

alleged. Officer L. said that she searched Ms. [REDACTED] in compliance with her training and that there was nothing sexual about it.

Officer W. said that he witnessed both searches and the searches were conducted in a "textbook" manner. They were conducted the way that officers are trained to conduct such searches. Officer W. also said that there was nothing sexual about the searches. Officer L. did not grasp Ms. [REDACTED]'s breasts under Ms. [REDACTED]'s shirt. Officer W. said that Officer L. did not rub her hand back and forth vigorously against Ms. [REDACTED]'s vaginal area.

The CPOA finds with regards to the allegation made by Ms. [REDACTED] about Officer L.'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 Officer W.'s and 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>.

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 Harless, Esq.
Executive Director
(505) 924-3770

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



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Rev. Dr. David Z. Ring III

Edward Harness, Esq., Executive Director

April 15, 2016

Via Certified Mail

7014 2120 0004 7659 5184

[REDACTED]
[REDACTED]
[REDACTED]

Re: CPC # 229-14

Dear Ms. [REDACTED]:

Our office received the complaint you filed on December 23, 2014 against Officers of the Albuquerque Police Department (APD) regarding an incident that occurred on September 29, 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]'s complaint is based on Officer H.'s actions during the accident investigation on September 29, 2014. Officer H. was dispatched to an accident with injuries involving three cars. Officer H. spoke to all parties and Ms. [REDACTED] had no complaints about Officer H.'s conduct at the scene. However, Ms. [REDACTED] was upset about the accident investigation and statements in the police report once she received it.

Ms. [REDACTED] alleged that Officer H. did not investigate the accident because he attributed driver inattention only to her. Ms. [REDACTED] alleged that Officer H. was inaccurate when he characterized her injuries as scratches. Ms. [REDACTED] wrote that she had chemical burns from the airbag. Officer H. should have known chemical burns were a typical type of injury from

April 15, 2016

Page 2

airbags. Ms. [REDACTED] stated that Officer H. told her that he documented driver inattention on her part because she was dazed from the airbag striking her. Ms. [REDACTED] complained that Officer H. did not do any sobriety tests, yet conclusively said in the report that no alcohol was involved. Ms. [REDACTED] also alleged that Officer H.'s description of the directions each car was traveling was inaccurate. Ms. [REDACTED] complained that Officer H. did not perform an adequate investigation.

The CPOA Investigator interviewed Ms. [REDACTED]. Ms. [REDACTED] repeated many of the same complaints in her interview. Ms. [REDACTED] agreed she told Officer H. all she knew was that she went through the intersection and the airbag went off in her face. Ms. [REDACTED] stated she did not know how severely the other individuals were injured. Ms. [REDACTED] stated she was bleeding from her face, even hours later. Ms. [REDACTED] stated that Officer H. downplayed the severity of her injury in the report. Ms. [REDACTED] stated that Officer H. treated her differently because in the narrative portion her statement was so short in comparison to the other drivers. Ms. [REDACTED] complained about the imprecision of language on the report when Officer H. wrote about alcohol use and direction of travel. Ms. [REDACTED] stated the various wordings she had complaint over were not just semantics, but deliberate. She felt she was treated differently.

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

I reviewed the investigation conducted by the CPOA Investigator, which included review of the Complaint, SOPs, Computer-Aided Dispatch Report, Albuquerque Police Report, Albuquerque Fire Department Medical Report, Officer H.'s lapel video, and the CPOA Investigator's interviews of [REDACTED] and Officer H.

(A) I, as Executive Director, reviewed Standard Operating Procedure Order 2-24-3(F)(1) and (5) regarding Officer H.'s conduct, which states:

Steps to be followed in conducting preliminary investigations: 1. Observe all conditions, events, and remarks. 5. Report the incident fully and accurately.

Ms. [REDACTED] alleged that Officer H. did not do a proper investigation because he attributed driver inattention to her and no contributing factor to the other driver. Ms. [REDACTED] believed the other driver had a responsibility to look for traffic as well. The other driver acknowledged seeing her car and hit her anyway. Ms. [REDACTED] talked to Officer H. later and she believed Officer H. told her the notation of driver inattention was because she was dazed after being hit with the airbag. Ms. [REDACTED] stated there were several inaccuracies and imprecise language used on the report. Ms. [REDACTED] stated she and the other driver were traveling perpendicular directions, not going straight from opposite directions. Ms. [REDACTED] said it was not accurate to say definitively alcohol had not been used when Officer H. did not do any sobriety tests. Ms. [REDACTED] also said Officer H. did not document her injuries correctly by calling them scratches when she had chemical burns. Ms. [REDACTED] said she was bleeding a significant amount from her injuries.

April 15, 2016

Page 3

The lapel video showed Officer H. asked all parties what happened. Each told their version of events. The lapel video showed Ms. [REDACTED] said she was traveling north and the next thing she knew, the airbag went off in her face. The lapel video showed the male driver described how he tried to avoid Ms. [REDACTED]. The other driver had the right-of-way and Ms. [REDACTED] had the traffic control device. The lapel video showed Ms. [REDACTED] was not bleeding profusely with gauze on her face as she stated in her interview. The AFD medical report showed no treatment was required and mentioned no injuries. The various areas on the report Ms. [REDACTED] criticized for wording are outside of the officer's control because they are drop down or check box selections and the officer chooses the closest applicable option. The report was accurate to the information presented to the officer at the time.

I find Officer H.'s conduct to be **EXONERATED** regarding the allegation of a violation of this SOP, which means the incident that occurred was lawful or proper.

(B) I, as Executive Director, reviewed Standard Operating Procedure Order 1-04-4(N) regarding Officer H.'s conduct, which states:

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

Ms. [REDACTED] felt the issues she had with Officer H.'s report were more than semantics, but deliberate different treatment. Ms. [REDACTED] claimed calling her injury a scratch diminished her injury versus calling the other driver's injury an abrasion. Ms. [REDACTED] complained that Officer H. only documented two sentences for her in the narrative, but put three or four for the other driver. Ms. [REDACTED] thought the entire situation was odd and biased against her.

The video showed Officer H. treated all three drivers in the same manner. The video showed Ms. [REDACTED] said very little about the accident. All Ms. [REDACTED] remembered was driving and then the airbag striking her. The video showed the other driver said more than Ms. [REDACTED]. The video showed there was no indication of a bias or personal feeling that influenced how the situation was handled.

I find the allegation of a violation of this SOP against Officer H. was **UNFOUNDED**, which means the allegation is false or not based on valid facts.

Your complaint and these findings will be placed in Officer H.'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.

Letter to Ms. [REDACTED], CPC 229-14

April 15, 2016

Page 4

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



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Dr. Carlotta A. Garcia *Dr. Lisa M. Orick-Martinez*

Rev. Dr. David Z. Ring III

Edward Harness, Esq., Executive Director

April 15, 2016

Via Certified Mail

7014 2120 0004 7659 2435

[REDACTED]
[REDACTED]
[REDACTED]

Re: CPC # 232-14

Dear Mr. [REDACTED]:

Our office received the complaint you filed on December 29, 2014 against an Officer of the Albuquerque Police Department (APD) regarding an incident that occurred on July 5, 2014 and several additional days. 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 Officer M violated his rights and would not take action on restraining order violations. Mr. [REDACTED] wrote Officer M said he was a bad person and that his friend should not associate with him. Mr. [REDACTED] wrote Officer M had a personal vendetta against him. Mr. [REDACTED] wrote Officer M committed perjury on two separate police reports. Mr. [REDACTED] wrote Officer M told the neighbors to harass him by recording him.

The CPOA Investigator interviewed Mr. [REDACTED]. Mr. [REDACTED] stated he told Officer M that a neighbor, Mr. [REDACTED] threatened his life, but Officer M wrote the wrong person in the police report. Mr. [REDACTED] stated Officer M did not take the threat seriously. Mr.

██████████ stated Officer M accused him of being a problem and mistakenly accused him of threatening a neighbor when it was someone else. Mr. ██████████ stated on a different day that Officer M refused to investigate a situation and refused to review his video evidence. Mr. ██████████ stated Officer M told the neighbors to harass him. Mr. ██████████ stated Officer M spoke poorly of him and did not like him.

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

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

Steps to be followed in conducting preliminary investigations: 1. Observe all conditions, events, and remarks. 5. Report the incident fully and accurately.

Mr. ██████████'s claims spanned over different dates. Mr. ██████████ claimed Officer M did not document things correctly on the July 5th report and improperly charged him. Mr. ██████████ claimed Officer M did not document Mr. ██████████ threats to his life or investigate the threats against him. Mr. ██████████ also stated Officer M incorrectly documented that Mr. ██████████ threatened a different neighbor, Mr. ██████████, in her report. Mr. ██████████ stated the reality was his friend and neighbor, Mr. ██████████, threatened Mr. ██████████. Mr. ██████████ also claimed Officer M's report on July 5th was inconsistent because the statements she documented differed from the statements Mr. ██████████ and Mrs. ██████████, a related neighbor to Mr. ██████████, provided during a restraining order hearing. Mr. ██████████ stated on August 1st Officer M refused to review his video evidence and did not conduct a proper investigation into the claims he had against Mr. ██████████, Mrs. ██████████, and Mr. ██████████. Instead, Officer M offered theories without reviewing his evidence. Mr. ██████████ stated Officer M's report was inaccurate on August 1st because she referred to a supplemental report when one was never written. Mr. ██████████, after he reviewed the officer's lapel videos, believed Officer M should have investigated Mr. ██████████ for filing a false report that resulted in charges against him.

The July 5th lapel videos showed Mr. ██████████ accused both Mr. ██████████ and Mr. ██████████ of threatening his life, but Mr. ██████████ mentioned it in passing and told Officer M the threat did not occur that day. In his interview, Mr. ██████████ stated he did not receive a direct threat from Mr. ██████████ and learned about the threat from Mr. ██████████. The lapel videos showed Mr. ██████████ later told officers that Mr. ██████████ had been threatened. When Officer M pointed out the discrepancy from earlier, then Mr. ██████████ said they both of them had been threatened. The lapel videos showed that in general Mr. ██████████'s statements to the officers were difficult to follow. The lapel videos confirmed Officer M investigated the threats as she questioned Mr. ██████████ and Mr. ██████████, but without further evidence, there was little action to take. The lapel videos showed the neighbors alleged Mr. ██████████ threatened Mr. ██████████ so Officer M's report accurately reflected their statements on that point. Mr. ██████████ provided a transcript of his restraining order hearing. Mr. ██████████ did not specifically state what statements he claimed were inconsistent in the report, but in reviewing

the transcript, the report, and the lapel videos there were no major identified variances. Mr. ██████████ assumed any variance was due to Officer M as opposed to the individuals making different statements. The lapel videos showed, from Officer M's perspective, that the charges were based on what Officer M observed and not just Mr. ██████████'s statements so there would be no necessary investigation into false reporting by Mr. ██████████ against Mr. ██████████. Responding officers to Mr. ██████████'s call on August 1st investigated Mr. ██████████'s claims including reviewing video Mr. ██████████ showed them. The original officers informed Officer M of the video's content. Officer M did not need to review the video a second time. Officer M completed the investigative portion the other officer could not complete earlier because the accused individuals were not available. The videos showed all the neighbors accused each other of the same sorts of things. Given the way Mr. ██████████ presented the information about the threats, the omission of the one person's name did not rise to the level of a policy violation. Officer M did not know what happened to the other officer's supplemental report, but her mentioning it in her report narrative did not rise to the level of a policy violation.

The CPOA finds Officer M's conduct to be **EXONERATED**, which means the investigation determined the alleged conduct did not violate APD policies, procedures, or training.

(B) The CPOA reviewed Standard Operating General Order 1-04-4N regarding Officer M's conduct, which states:

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

Mr. ██████████ stated Officer M was dismissive about his safety and did not take threats against him seriously. Mr. ██████████ stated Officer M accused him of being the problem in the neighborhood and made negative remarks about him on November 2nd. Mr. ██████████ wrote in his complaint, Officer M threatened Mr. ██████████. Mr. ██████████ also wrote that Officer M had a personal vendetta against him. Mr. ██████████ wrote December 5th was the latest issue which prompted him to write the complaint when Officer M refused to enforce a restraining order violation.

The lapel videos showed Officer M talked to various parties who identified Mr. ██████████ as the crux of the problem in the neighborhood. The lapel videos showed Mr. ██████████ frequently took an attitude with Officer M. The lapel videos showed Officer M did not make insulting remarks about Mr. ██████████ but encouraged Mr. ██████████ to consider his associations due to the problems in the neighborhood. Mr. ██████████ indicated he heard the negative comments first hand, but later admitted he only heard the negative comments from Mr. ██████████. Mr. ██████████ recanted his claim that Officer M threatened Mr. ██████████. Mr. ██████████ also recanted the allegation that Officer M had a personal vendetta against him, but still believed she did not like him. The potential violation of the restraining order was investigated and did not involve Mr. ██████████ as the potential violation was between Mr. ██████████ and the ██████████ household.

April 15, 2016

Page 4

The CPOA finds Officer M's conduct to be **UNFOUNDED**, which means the alleged misconduct did not occur.

Additional Note: Mr. [REDACTED] mentioned the date of December 5, 2014 in his complaint, but the investigation showed Mr. [REDACTED] did not have contact with Officer M on that date. The core of his complaint centered on events from July 5, 2014 and August 1, 2014. Mr. [REDACTED] had previously filed a complaint of perjury involving those dates, which was assigned CPC# 191-14. CPC 191-14 was inactivated, as the Independent Review Office did not have jurisdiction to investigate perjury.

Your complaint and these findings will be placed in the officer'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. Susanne Brown *Eric H. Cruz* *Joanne Fine*

Dr. Carlotta A. Garcia *Dr. Lisa M. Orick-Martinez*

Rev. Dr. David Z. Ring III

Edward Harness, Esq., Executive Director

April 15, 2015

Via Certified Mail

7014 2120 0004 7659 7409

[REDACTED]
[REDACTED]
[REDACTED]

Re: CPC # 142-15

Dear Mr. [REDACTED]:

Our office received the complaint you filed on July 30, 2015 against Officers of the Albuquerque Police Department (APD) regarding an incident that occurred on July 30, 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] wrote that he called police to report identity theft committed by an individual he knew who lived in Farmington, NM. Mr. [REDACTED] wrote that Officer L. was very loud and would not allow him to file a report about "voluntary manslaughter" committed by this same individual. Mr. [REDACTED] wrote that Officer L. told him he could not report it because it took place in Farmington in June of 2012 and because he "didn't die." Mr. [REDACTED] wrote that Officer L. was aggressive for no reason and talked to him in a loud manner. Mr. [REDACTED] wrote that Officer L. focused on him being disabled and asked if he was on drugs or took his medications correctly. Mr. [REDACTED] wrote that Officer L. said under his breath that he looks worse. Mr. [REDACTED] wrote the Albuquerque Police Department discriminated against protected minorities.

The CPOA Investigator attempted to interview Mr. ██████. Messages were left on both the phone number he provided in this complaint and a different phone number from other complaints Mr. ██████ has filed. An email was also sent without response. The investigation was completed based off of his written complaint, as Mr. ██████ did not participate in the investigative process.

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

(A) The CPOA reviewed Standard Operating General Order 1-04-1F regarding Officer L'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. ██████ did not participate in the investigative process. Mr. ██████ wrote Officer L was very loud and aggressive. Mr. ██████ wrote Officer L would not allow him to file reports against an individual for attempting to steal his identity and "attempted voluntary manslaughter." Mr. ██████ wrote Officer L said, "Seriously he looks worse."

The lapel video showed Officer L. was not loud or aggressive with Mr. ██████. The lapel video showed it was several minutes before Officer L. even spoke. Mr. ██████ spoke of identity theft, but admitted to the officers that the situation had already been resolved through his bank and did not suffer any monetary loss or damage to his credit. The lapel video showed Mr. ██████ complained that the same individual attempted to strangle him and committed manslaughter. The lapel video showed Mr. ██████ was far more concerned with the "manslaughter" than the identity issue. Mr. ██████ became upset because he said the situation was serious because it was murder. The lapel video showed Mr. ██████ stated this incident occurred in Farmington, NM in 2012. Officer L. explained to Mr. ██████ that the situation was not manslaughter or murder because he was alive, the incident occurred outside of APD's jurisdiction and the time to report such an event was likely expired. The lapel video showed Officer L. did not say anything about Mr. ██████ appearance. The lapel video showed Officer L. was professional with Mr. ██████.

The CPOA finds Officer L.'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 1-03-3A3 regarding Officer L'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.

Letter to Mr. [REDACTED], CPC 142-15

April 15, 2016

Page 3

Mr. [REDACTED] wrote that Officer L. focused on the fact he was disabled and asked if he was on drugs or took his drugs correctly. Mr. [REDACTED] wrote that Albuquerque police discriminated against protected minorities.

The lapel video showed Mr. [REDACTED] was the first to bring up that he was disabled due to mental issues. Officer L. asked him about medication and expressed they were concerned. Officer L. asked if he was taking his medication properly and if he needed rescue. Given the statements Mr. [REDACTED] made and that Mr. [REDACTED] first brought up the topic, it was appropriate that Officer L. inquire about his medications. The lapel video showed there was no refusal of service due to his mental health. A report was not taken about the battery because it was not in APD's jurisdiction and about three years ago.

The CPOA finds Officer L.'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 the officer'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



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Rev. Dr. David Z. Ring III

Edward Harness, Esq., Executive Director

April 15, 2016

Via Certified Mail

7014 2120 0004 7659 5467

[REDACTED]
[REDACTED]
[REDACTED]

Re: CPC # 150-15

Dear Mrs. [REDACTED]:

Our office received the complaint you filed on August 17, 2015 against Officers of the Albuquerque Police Department (APD) regarding an incident that occurred on August 15, 2015 and August 16, 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

Mrs. [REDACTED] wrote she and her husband got into an altercation when her husband tried to take belongings that were not his. Mrs. [REDACTED] wrote her husband falsely accused her of battering him even though he should not have been at the home and evidence did not support her husband's claim. Mrs. [REDACTED] wrote her husband should not have been left at the home when she was arrested. As a result, he stole numerous items and vehicles. Mrs. [REDACTED] wrote she called police when she returned home about the stolen items belonging to both her and her parents. Officer P said because Mrs. [REDACTED] and her husband were legally married, Officer P could do nothing about her stolen items.

Mrs. ██████ stated in her interview that Officer V wrongfully arrested her because her husband lied to officers. Mrs. ██████ stated her husband should not have even been at the house because of a no-contact order. Mrs. ██████ claimed her husband moved out in May. Mrs. ██████ stated she told Officer V not to allow her husband to remain at the house because he would steal items, which her husband did. When she returned home, she called police to report the theft. Mrs. ██████ stated Officer P did not arrest her husband for the theft of items.

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

(A) The CPOA reviewed Standard Operating General Order 1-02-2B2 regarding Officer V'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: 2. Make only those arrests, searches, and seizures, which they know or should know, are legal and in accordance with departmental procedures.

Mrs. ██████ complained that she was arrested based on false allegations from her husband. Mrs. ██████ was arrested for simply trying to stop her husband from stealing her personal belongings. Mrs. ██████ claimed Officer V lied when he told her she was being arrested based on four witnesses telling him she hit her husband. Mrs. ██████ complained her husband should not have even been at the house because of a no-contact order.

The lapel videos showed Mrs. ██████ specifically denied any physical violence when asked more than once. The lapel videos showed Mr. ██████ made specific allegations against Mrs. ██████. The lapel videos showed when officers arrived Mrs. ██████ was considerably more agitated and excitable than Mr. ██████ was. The lapel videos showed the witnesses reported Mrs. ██████'s aggressiveness, but did not see specific strikes. Only when Officer V placed Mrs. ██████ under arrest did she make any allegations against her husband. The lapel videos showed Officer B informed Mrs. ██████ witnesses saw violence, but she did not know the specifics because she did not conduct the interviews. The lapel videos showed Mrs. ██████ talked about a no-contact order, but never offered to show paperwork. Mrs. ██████ admitted she did not have a restraining order. The lapel videos showed Mr. ██████ claimed he was granted a modification and had legal right to be at the residence. It was clear Mr. ██████ still had residency at the home. The arrest was based on probable cause. Officers did not have the right to remove Mr. ██████ or prevent him from returning to the home since Mrs. ██████ was going to jail.

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

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

(A) The CPOA reviewed Standard Operating Field Services Order 3-14-2C1 regarding Officer P's conduct, which states:

The officer should advise the parties to seek legal advice and permit the courts to determine their respective rights to the property.

Mrs. ██████ complained that Officer P did not take a police report about the stolen items. Mrs. ██████ stated Officer P would not press charges for theft against her husband who was not entitled to any of the property he removed.

New Mexico is a community property state and it would be up to Mrs. ██████ to demonstrate in court what she claimed was "separate property" during dissolution of marriage or legal separation. The lapel videos showed Mrs. ██████ claimed her husband had no residency at the home yet Mr. ██████ claimed it was his residence and he still had property there. The lapel videos showed Mrs. ██████ claimed there was a no-contact order and her husband did not belong at the house. However, Mr. ██████ claimed he received a modification of conditions of release. Neither party showed court paperwork to support their position. Officers do not enforce no-contact orders and there was no restraining order, which would have been enforceable. Mrs. ██████'s remedy would be to file a court motion about Mr. ██████'s violation of the no-contact order. Mrs. ██████ made the same theft allegations against Mr. ██████ on May 10, 2015 as well as on August 15, 2015. This was a civil dispute over property between a husband and wife and not a criminal matter where officers would file charges so a larceny report and/or arrest would not occur.

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

Additional Note: Mrs. ██████ complained about her purse being searched and the officer not giving her purse back in its entirety. The officer she identified was no longer employed so the specific issue could not be addressed, but in general, property going to the jail has to be searched for contraband. Additionally, property taken to the jail should be at a minimum, which generally would be a wallet and cell phone for use when released.

Your complaint and these findings will be placed in the officers' 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.

Letter to Mrs. [REDACTED], CPC 150-15

April 15, 2016

Page 4

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