

# CITY OF ALBUQUERQUE



## CIVILIAN POLICE OVERSIGHT AGENCY

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

## POLICE OVERSIGHT BOARD AGENDA

Thursday, May 18, 2017 – 5:00 PM

Vincent E. Griego Chambers

- I. Welcome and call to order.
- II. Pledge of Allegiance – *Dr. Lisa Orick-Martinez*
- III. Mission Statement – *Dr. Carlotta Garcia*  

*“Advancing Constitutional policing and  
accountability for APD and the Albuquerque  
Community.”*
- IV. Approval of the Agenda
- V. Public Comments
- VI. Review and Approval of Minutes
- VII. Discussion: Lead by Ed Harness/Carlotta A. Garcia
  - a. Summary of the Monitor’s Report #5 [Harness]
    1. Overall
    2. Monitors Review of CPOA/POB work
    3. Monitors Review of APD Cooperation with CPOA/POB
  - b. CIRT Cases Review Process in Concert with APD
    1. Rolling 30 days does not work for the POB
  - c. APD Policy Process will now include 30 day review by whole POB
  - d. Chief’s Letters Update – *Major Tyler*
  - e. Flow Chart Update – *Major Tyler*
- VIII. Consent Agenda Cases:
  - a. Administratively Closed Cases  
190-16    009-17            091-17            095-17            103-17  
104-17
  - b. Cases investigated  
158-16    179-16            188-16            001-17
  - c. CIRT Cases  
C-050-16            C-052-16            C-007-17  
C-073-16 K-9 investigation

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- IX. OIS I-118-16**
  
- X. POB's Review of Garrity Materials**
  
- XI. Reports from Subcommittees**
  - a. Community Outreach Subcommittee – *Dr. Ring***
  - b. Policy and Procedure Review Subcommittee – *Susanne Brown***
  - c. Case review Subcommittee – *Leonard Waites***
    - 1. Appeals – None**
  
- XII. Reports from City Staff**
  - a. APD**
  - b. City Council**
    - 1. Subcommittee Meeting Space**
    - 2. POB Replacement Member Update**
  - c. Mayor's Office**
  - d. City Attorney**
  - e. CPOA – *Edward Harness, Executive Director***
  
- XIII. Meeting with Counsel re: Pending Litigation or Personnel Issues:  
Closed Discussion and Possible Action re: Pending Litigation or Personnel  
Issues**
  - a. Matters subject to the attorney-client privilege pertaining to  
threatened or pending litigation in which the public body is or may  
become a participant pursuant to NMSA 1978, Section 10-15-1(H)(7);  
and**
  - b. Limited personnel matters pursuant to NMSA 1978, Section 10-15-  
1(H)(2)**
  
- XIV. Other Business**
  
- XV. Adjournment- *Next Regularly scheduled POB meeting will be on June 8,  
2017 at 5 p.m. in the Vincent E. Griego Chambers.***

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

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Edward Harness, Executive Director

May 19, 2017  
Via Certified Mail

**Re: CPC #158-16**

Dear Mrs

Our office received the complaints you filed on August 23, August 31, September 12, and September 26, 2016 against then Cadet S., who is now Officer S. and for purposes of this letter herein referred to as Cadet S., Officer W. and Sergeant (Sgt.) C. of the Albuquerque Police Department (APD) regarding an incident that occurred on July 1, 2016. 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.

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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

Mrs. \_\_\_\_\_ said that on July 1, 2016 at approximately 0001 hours, her husband, \_\_\_\_\_ was involved in a car accident at the intersection of I-40 and Juan Tabo, with a young female driver, identified as Ms. \_\_\_\_\_. Mrs. \_\_\_\_\_ complained that APD Cadet S.'s reports were inaccurate and undetailed and included several mistakes; among them statements that Mr. \_\_\_\_\_ was evaluated by medical personnel, when she said he was not, that Mr. \_\_\_\_\_ was going straight when he was actually turning left, that no witnesses were on scene, yet they were, and not including the names of other officers on scene. She

complained Cadet S. failed to issue citations to Ms. \_\_\_\_\_ for causing the accident and for not having insurance and as a result there will not be a record of this accident, or a record showing Ms. \_\_\_\_\_ was responsible for this accident. She also complained Cadet S. failed to issue a citation to one of Ms. \_\_\_\_\_'s passengers, who kicked and hit the front passenger's door of Mr. \_\_\_\_\_'s truck, causing damage to the vehicle. Mrs. \_\_\_\_\_ complained Cadet S. did not conduct Field Sobriety Tests (FSTs) on Ms. \_\_\_\_\_ or her passengers to determine if they were driving under the influence (DUI). Mrs. \_\_\_\_\_ complained that neither Cadet S. nor his Field Training Officer (FTO) Officer W. conducted an investigation into whether, or not, Ms. \_\_\_\_\_ was texting while driving. Mrs. \_\_\_\_\_ complained that during Cadet S.'s telephone conversation with Mr. \_\_\_\_\_, Cadet S. said something to the effect that APD officers leave it up to the insurance companies to 'hash it out', and if that is true then they have no recourse against Ms. \_\_\_\_\_ because she didn't have insurance at the time of the accident. Mrs. \_\_\_\_\_ complained that Officer W. and Sgt. C., who was Cadet S.'s supervisor, failed to do their jobs because they signed off on Cadet S.'s inaccurate report.

## **II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING CADET S.'S CONDUCT**

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable SOPs, the Complaint, and interviews with Mrs. \_\_\_\_\_ Mr. \_\_\_\_\_, Cadet S., Officer W., Sgt. C. and witness Mr. B., as well as the accident reports, supplemental reports, CADS report and lapel video.

A) The CPOA reviewed APD SOP 2-60-4(A)(5)(b, d & f), which state:

### ***2-60-4 PRELIMINARY AND FOLLOW-UP CRIMINAL INVESTIGATIONS***

#### ***A. PROCEDURES – Preliminary Investigations***

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

- b. Locate, identify, and interview witnesses, victims and suspect(s).***
- d. Ensure the necessary evidence is collected.***
- f. Report the incident fully and accurately.***

Mrs. \_\_\_\_\_ complained that Cadet S. failed to interview her husband, \_\_\_\_\_, one of the drivers involved in the accident, and he failed to interview one of the witnesses to the accident. She complained that Cadet S. failed to conduct FSTs on the other driver, Ms. \_\_\_\_\_, or her passengers to ensure they weren't intoxicated at the time of the crash. She also complained that Cadet S.'s original accident report was inaccurate, undetailed and contained numerous mistakes.

The interviews with \_\_\_\_\_, \_\_\_\_\_, Cadet S., Officer W., Sgt. C. and witness, Mr. B., were reviewed, as were the accident reports, the supplemental reports and the CADS report. The evidence showed that upon his arrival, Cadet S. contacted Ms. \_\_\_\_\_ and

her passengers first and obtained their information before he attempted to contact Mr. . The evidence showed that by the time Cadet S. tried to make contact with Mr. , Mr. had already left the scene. Prior to leaving the scene, Mr. told Officer W. he gave all of his information to another officer. Additionally, by the time Cadet S. finished with Ms. ; and her passengers the witnesses were no longer on scene; however he made contact with a second witness, Mr. J., via telephone and obtained his statement. (NOTE: Contact with Mr. J. was attempted but no response was received; therefore he was not interviewed.)

The evidence revealed that during Cadet S.'s interview with Ms. she did not display any behaviors or show any signs or smells about her that led him to believe she had been drinking or under the influence of any substance; therefore he did not have probable cause to conduct FSTs on her or her passengers. The evidence showed officers cannot randomly conduct FSTs on drivers simply because the drivers are involved in and/or are the at-fault driver in a vehicle crash. Additionally, the amount of damage in a vehicle crash is not a determining factor in whether, or not, someone is given an FST.

The evidence showed there were some inaccuracies and mistakes on the initial report written by Cadet S.; however, this report was given to the 's prematurely and without the approval of Officer W., or Sgt. C., or another supervisor. Cadet S.'s second report corrected most of the mistakes and inaccuracies found in the initial report and was reviewed and approved by Sgt. C.. This final report and additional supplemental reports which were written by Cadet S. included information and suggestions given him by Lt. V., Sgt. C., Mr. and a witness, Mr. J., and ultimately listed Ms. as the at-fault driver. The investigation revealed it is not uncommon for initial accident reports to contain errors because officers write the reports based on the information they have at the time the report is written. At times officers obtain additional information from other officers on scene and/or from involved parties and witnesses and add this information and make necessary corrections when it's received.

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

B) The CPOA reviewed APD SOP 3-13-3(B)(4)(a), which states:

***3-13-3 OFFICER'S DUTIES AND CONDUCT PROCEDURES***

***B. Enforcing Laws, Ordinances, and Police Regulations***

***4. During the performance of their law enforcement duties, officers shall also abide by the following guidelines:***

***When sworn employees are faced with a situation where they can exercise discretion, they must evaluate the circumstances, consider the available resources, and rely on their training,***

*department policies and procedures, statutory law, and supervisory orders in making what they believe and understand to be an appropriate decision, given the specific circumstances.*

Mrs. complained that Cadet S. failed to issue citations to Ms. for causing the accident and for not having insurance. Mrs. also complained that Cadet S. failed to issue a citation to one of Ms. 's passengers for kicking and hitting the right front door of Mr. 's vehicle, causing damage to the vehicle.

The evidence revealed that Cadet S. did not issue citations to Ms. or her passengers and that he, and all APD officers, are authorized to use their discretion in determining whether, or not to issue citations. The investigation revealed that, typically, Cadet S. does not issue citations for accidents when nothing egregious has occurred. Regarding issuing a citation to one of Ms. 's passengers, the investigation showed that Cadet S. did not see any damage to the right front passenger door of Mr. 's truck, nor did he or any other officers witness the alleged incident; therefore he did not have probable cause to issue a citation to anyone as it was a misdemeanor that took place outside the view of an officer.

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

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

A) The CPOA reviewed APD SOP 2-60-4(A)(5)(d), which states:

#### ***2-60-4 PRELIMINARY AND FOLLOW-UP CRIMINAL INVESTIGATIONS***

##### ***C. PROCEDURES – Preliminary Investigations***

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

***e. Ensure the necessary evidence is collected.***

Mrs. complained that Officer W. failed to conduct FSTs on Ms. or her passengers to ensure they weren't intoxicated at the time of the crash. Additionally, Mrs. complained that Officer W. failed to conduct a thorough investigation when he didn't look through the cell phone found inside Ms. 's car to see whether, or not, she was texting and driving, which may have been a contributing factor to the crash.

The interviews with , Cadet S., Officer W., Sgt. C. and witness, Mr. B., were reviewed, as were the accident reports, the supplemental reports, the CADS report and lapel video. The evidence showed that Officer W. observed Ms. 's person and behavior and did not have a reasonable suspicion i.e. observe any signs of

intoxication, or driving under the influence, and/or probable cause to conduct FSTs on Ms. \_\_\_\_\_ or her passengers. Officers cannot randomly conduct FSTs on drivers simply because the drivers are involved in and/or are the at-fault driver in a vehicle crash. Additionally, the amount of damage in a vehicle crash is not a determining factor in whether, or not, someone is given an FST.

Regarding checking the cell phone located inside Ms. \_\_\_\_\_'s vehicle to determine whether, or not Ms. \_\_\_\_\_ was texting and driving prior to the crash, the evidence showed that Officer W. did not have probable cause, or authorization via a search warrant or verbal consent to search the cell phone.

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

B) The CPOA reviewed APD SOP 3-14-4(A)(15) which states:

***3-14-4 SUPERVISORY LEADERSHIP PROCEDURES***

***A. All supervisors, regardless of the level of supervision, will:***

***15. Review, and forward as appropriate any reports or documents prepared by subordinates.***

Mrs. \_\_\_\_\_ complained that Officer W., who was Cadet S.'s FTO at the time of the crash, failed to do his job because he signed off on Cadet S.'s accident report, which was inaccurate and undetailed and included several mistakes.

The evidence showed that the original accident report written by Cadet S., and which the \_\_\_\_\_'s initially received, contained mistakes and inaccuracies; however, it had not been reviewed nor approved by Officer W. and should not have been released to the \_\_\_\_\_s as it was not considered an official report. The evidence showed that the final, edited report, which corrected most of the mistakes made in the original report, was not reviewed nor approved by Officer W. as Cadet S. was no longer his recruit.

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

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

A) The CPOA reviewed APD SOP 3-14-4(A)(15) which states:

***3-14-5 SUPERVISORY LEADERSHIP PROCEDURES***

***B. All supervisors, regardless of the level of supervision, will:***

***15. Review, and forward as appropriate any reports or documents prepared by subordinates.***

Mrs. [redacted] complained that Sgt. C., who was Cadet S.'s supervisor, failed to do his job because he signed off on Cadet S.'s accident report, which was inaccurate and undetailed and included several mistakes.

The interviews with [redacted], Cadet S., Officer W., Sgt. C. and witness, Mr. B., were reviewed, as were the accident reports, the supplemental reports and the CADS report. The evidence showed that the original accident report written by Cadet S., and which the [redacted]'s initially received, contained mistakes and inaccuracies; however, it had not been reviewed nor approved by Sgt. C. and should not have been released to the Baucom's as it was not considered an official report. The evidence showed that the final, edited report, which corrected most of the mistakes made in the original report, was approved by Sgt. C., as required, and in accordance with APD Standard Operating Procedures (SOPs).

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

Your complaint and these findings are made part of Cadet S.'s, Officer W.'s and Sgt. C.'s Internal Affairs records.

You have the right to appeal this decision.

1. If you are not satisfied with the findings of the CPOA, please request an appeal in a signed writing to the undersigned within 30 days of receipt of this letter. Include your CPC number.

The POB may grant a Request for Reconsideration only upon the complainant offering proof that:

- A) The APD policy or APD policies that were considered by the POB were the wrong policies or they were used in the wrong way; or,
- B) The APD policy or APD policies considered by the POB were chosen randomly or they do not address the issues in your complaint; or,




- C) The findings of the POB had no explanation that would lead to the conclusion made by the POB; or,
- D) The findings by the POB were not supported by evidence that was available to the POB at the time of the investigation.

2. If you are not satisfied with the final disciplinary decision of the Chief of Police, you can request a review of the complaint by the city's Chief Administrative Officer. Your request must be in writing and within 30 days of receipt of this letter. Include your CPC number.

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

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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Edward Harness, Executive Director

May 19, 2017  
Via Certified Mail

**Re: CPC #179-16**

Dear Ms.

Our office received the complaint you filed against various Albuquerque Police Department officers and Crime Scene Specialists on August 8, 2016 regarding an incident that occurred on September 5, 2013. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint on November 3, 2016. The CPOA made findings of whether the Albuquerque Police Department (APD) Officer or Crime Scene Specialist (CSS) 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.

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

### **I. THE COMPLAINT**

On September 5, 2013, the Albuquerque Police Department was called to \_\_\_\_\_ NW, in reference to a woman named \_\_\_\_\_ who had reportedly shot herself in the head. Ms. \_\_\_\_\_ was still alive when the police arrived and she was transported to the hospital where she eventually succumbed to her wound 7 days later. Ms. \_\_\_\_\_'s mother, \_\_\_\_\_ did not believe that the wound her daughter suffered was self-inflicted.

3 years later, in August of 2016, Ms. \_\_\_\_\_ filed a complaint asking that an investigation be opened and that the actions of several APD officers involved in the investigation be reviewed. Ms. \_\_\_\_\_ alleged that the reports that she had contained

contradicting information. She alleged that APD failed to administer a gunshot residue analysis test, and that because APD failed to collect necessary evidence, the OMI was unable to make a determination as to the cause of death. Ms. [REDACTED] also alleged that her daughter's boyfriend, an Albuquerque Fire Department member, shot her daughter and the APD just covered up for the boyfriend. She alleged there was "a lot of proof" substantiating her claim.

Ms. [REDACTED] wants APD to admit that they did not investigate her daughter's death. She also wants APD to retract their claim that this was a suicide.

Ms. [REDACTED] originally complained about APD Sergeant W., APD Homicide Sergeant T. and APD Public Information Officer M.. When interviewed, Ms. [REDACTED]'s complaint against Sergeant W. was that when he spoke with her in the days following the incident, Sergeant W. never told her that he was sorry for her loss. There is no APD Standard Operating Procedure that requires an APD Supervisor or officer to express their condolences to someone who had been involved in a traumatic experience. Furthermore, the investigation showed that when Ms. [REDACTED] spoke with Sergeant W. over the phone, her daughter had not yet passed away.

Ms. [REDACTED] complained about Homicide Sergeant T., but in her interview she said that she had Sergeant T. confused with someone else and that she had no complaint against Sergeant T..

Ms. [REDACTED] complained about Public Information Officer (PIO) M.. She alleged that Officer M. was a real "b [REDACTED]" when she met with Officer M. and Sergeant T.. Ms. [REDACTED] alleged that Officer M. acted like the incident was her daughter's fault. Ms. [REDACTED] was angry when she heard that Officer M. told the media in January of 2014 that APD was sticking to its finding that this was a suicide. She said that Officer M. should have told the family first before releasing that to the media.

The investigation showed that PIO M. was not present in the meeting with Sergeant T.. The meeting took place at the Family Advocacy Center and the only Sergeant T. and Detective G. were present in that meeting. The evidence showed that Ms. [REDACTED] had never met PIO M. and PIO M. was not in the meeting even though Ms. [REDACTED] believed that she was. PIO M. was contacted by the media in January of 2014 because they were doing a follow up on a story that they wrote earlier on the case. PIO M. was aware that the APD had received the Autopsy report on [REDACTED] in December of 2013. That report ruled the manner of death a suicide. PIO M. reported the public finding to the media. There was no SOP violation.

Because there was no SOP violation committed by the APD Personnel whom [REDACTED] complained against, the focus of the investigation turned to the Crime Scene Specialists who responded to the scene and a review of the investigation conducted by them and the follow up investigation conducted by Detective G. of the APD. One of the CSS personnel had since retired, CSS M1., and so our office had no jurisdiction to interview her

regarding her actions on the date of the incident. CSS M2, was still employed by the APD and he was interviewed by the CPOA Investigator.

**II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING CRIME SCENE SPECIALIST M2'S CONDUCT**

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable Standard Operating Procedures (SOPS), the Complaint, the Computer Assisted Dispatch (CAD) report, all police reports, the Autopsy Report and other documents and interviews with Ms. \_\_\_\_\_ and CSS M2..

A) The CPOA reviewed Standard Operating Procedure 2-60-4 A5 regarding APD CSSM2's conduct, which states:

*Steps to be followed in conducting preliminary investigations may include but are not limited to:*

- a. Observe all conditions, events, and remarks*
- b. Locate, identify and interview witnesses, victims, and suspects.*
- c. Protect the crime scene and the evidence.*
- d. Ensure that the necessary evidence is collected.*
  
- f. Report the incident fully and accurately.*

While there were some non-procedural issues discovered during the CPOA Investigation, an overall review of the reports and the evidence show that APD did conduct a sufficient preliminary investigation and a sufficient follow up investigation to support their findings that this was a suicide.

Ms. \_\_\_\_\_ believes and the evidence suggests that her daughter, \_\_\_\_\_ and \_\_\_\_\_'s boyfriend, \_\_\_\_\_, were engaged in a game of Russian Roulette when \_\_\_\_\_ was shot. Ms. \_\_\_\_\_ believes that her daughter did not shoot herself. \_\_\_\_\_ believes that \_\_\_\_\_ pulled the trigger. She said that APD botched the investigation and because of that, it will be difficult for anyone to prove that \_\_\_\_\_ pulled the trigger. A review of the evidence in the case shows that there is a high probability that \_\_\_\_\_ was not in the room when the trigger was pulled. Ms. \_\_\_\_\_ puts great reliance on the gun being on the bed and being found underneath her daughter's body. Ms. \_\_\_\_\_ theorized that \_\_\_\_\_ pulled the trigger and as her daughter fell backwards, \_\_\_\_\_ went to catch her and that was the only way the gun could have ended up on the bed beneath the body. However, it is just as plausible and the evidence suggests that \_\_\_\_\_ was actually seated on the bed, not the edge of the bed, when the shot was fired. The blood spatter, the bullet trajectory, and all of the evidence at the scene suggest that the gun could have very likely fallen from her hand and any efforts made by \_\_\_\_\_ to assist \_\_\_\_\_ after the shot was fired could have moved her over the gun.

There is further evidence that \_\_\_\_\_ was not near \_\_\_\_\_ when she pulled the trigger. A .357 magnum round fired into a person's head at point blank range as the autopsy

showed, results in catastrophic and explosive damage. There would be, and there was in this case, significant amounts of bone fragments, blood spatter, and human tissue found at the scene. It was on the ceiling, on the gun, and on the walls. Had Mr. \_\_\_\_\_ pulled the trigger at such a close range as indicated in the autopsy, he would have had a significant amount of blood, bone fragments and human tissue all over him. The Crime Scene Specialist noted none. The officers on scene noted none. That evidence alone suggests that Ms. \_\_\_\_\_ shot herself while playing a lethal game of chance.

The investigation showed that CSS M2 observed all conditions at the scene. He was able to locate, identify, and observe \_\_\_\_\_ He protected the crime scene and the evidence and he took numerous photos (137) of the scene. He also properly processed and collected the firearm. Lastly, he reported the incident fully and correctly.

The CPOA Investigation revealed the following:

According to the police reports in this case, on 09/5/13 at about 12:22 AM, officers responded to \_\_\_\_\_ in reference to a man named \_\_\_\_\_ who had called 911 to report that his girlfriend, \_\_\_\_\_ had shot herself in the head with a pistol. Two officers responded and arrived almost at the same time that medical personnel arrived. Ms. \_\_\_\_\_ was in the master bedroom and she was still alive. Medical personnel immediately transported Ms. \_\_\_\_\_ to the hospital. One of the officers did not see Ms. \_\_\_\_\_ being taken out but was told that she had a gunshot wound to the head.

One officer remained with \_\_\_\_\_ and the original reporting officer went and contacted a child, the daughter of Ms. \_\_\_\_\_, who was asleep in a nearby bedroom. The child reported that she had gone to bed about 9:30 and the child said that she had not heard any loud noises nor was she awakened from her sleep. Mr. \_\_\_\_\_, who works for the AFD, requested a union representative at his home. That request was met. A chaplain was also called to the scene.

The original reporting officer stated in his report that Mr. \_\_\_\_\_ told him that his girlfriend had been suffering from work related stress. He said that she had seen a psychiatrist but didn't know if she was on any medication. Mr. \_\_\_\_\_ said that he and Ms. \_\_\_\_\_ had gone out earlier in the day and they drank alcohol. When they got home they drank more alcohol. Mr. \_\_\_\_\_ said that he went to get more drinks and when he left the bedroom, Ms. \_\_\_\_\_ said something like, "I will win big or I will win big." When the officer asked Mr. \_\_\_\_\_ what he thought she meant by that, Mr. \_\_\_\_\_ said that they had been playing the lottery. Mr. \_\_\_\_\_ said that he thought that could be a threat to harm herself but he did not take it seriously. As Mr. \_\_\_\_\_ left the room, he heard a gunshot. Mr. \_\_\_\_\_ said that he went back into the bedroom and found Ms. \_\_\_\_\_ lying in a pool of blood. He called emergency services and he tried helping her. He did tell the dispatcher that the gun was underneath Mc. \_\_\_\_\_

The child's father came and picked her up. Mr. \_\_\_\_\_ left to the hospital to check on Ms. \_\_\_\_\_. The original reporting officer never entered the bedroom where Ms. \_\_\_\_\_

had been. Field Investigators, now Crime Scene Specialists came to the scene and processed it for evidence. Officers held the scene until they were told that the CSS's felt that there was no suspicious activity and they were told to clear the scene. The original reporting officer tagged his audio recording into evidence.

The second officer on the scene reported that he and Sergeant W. responded to the call and they were let into the home through the garage by Mr. . AFD arrived at the same time as the officer and Sergeant W.. They were lead to the bedroom where Ms. was laying on the bed, on her back, with an injury to her forehead. AFD started administering aid. The second officer cleared the residence and he found the 10 year old child asleep in her bedroom. The reporting officer arrived around that time and he had Mr. go into the girl's bedroom. AFD advised that Ms. was alive and they would be transporting her to UNMH. The second officer followed the ambulance to UNMH where hospital personnel worked on Ms. . Field Investigators later arrived at UNMH and Ms. was taken to surgery.

Sergeant W. reported that when they went into the house and back to the master bedroom, he saw he saw Ms. laying across the bed, face up. There was a lot of blood pooling around her head and it was apparent that she had a gunshot wound to the forehead. AFD moved Ms. to the floor and it was then that Sergeant W. saw a revolver on the bed. was transported to the hospital. Sergeant W. saw several unfired bullets on the bed. As the FI (CSS) processed the scene, Sergeant W. observed that there was only one spent casing in the revolver and all of the other chambers in the gun were empty.

There was a young girl asleep in another bedroom of the house (daughter) and Sergeant W. was able to contact the girl's father who came to the scene and picked her up. At 2:45 AM, Sergeant W. was contacted by the FI who told him that they had completed their evidence collection and the scene could be released.

CSSM2 reported that he was dispatched to the residence in reference to an attempted suicide. When he arrived he spoke with both officers on the scene and had been told that had been transported to the hospital for treatment. One of the officers told him that and her boyfriend had been drinking earlier in the evening and playing the lottery. allegedly told the boyfriend something to the effect of "I might win the lottery or win the real lottery." Mr. evidently meant that was playing Russian Roulette with the firearm. CSSM2 reported that as was out of the bedroom he heard the gun go off and when he went back to the bedroom he found on the bed. CSSM2 was told that had been treated by a psychiatrist for depression and she had previously talked about Russian roulette before. CSSM2 reported that he was told that had a gunshot wound to the forehead. He was also told that EMS personnel had moved from the bed to the floor and as they were moving the body out for treatment, blood had dripped on the floor and blood had also been deposited on the door frame.

CSSM2 reported that the bed was along the west wall with a nightstand on either side of the bed. There was a gun safe on the south wall. There was a dresser on the east wall. There was a

bathroom in the NE corner of the bedroom. There was a Smith and Wesson .357 revolver on top of the bed along the north side and there were eight cartridges strewn on the bed. Officers told CSSM2 that the firearm had not been touched. CSSM2 found a single casing in the gun and the rest of the chambers were empty. There were pieces of bone fragments and hair about the bed and on the floor. CSSM2 noted that there was no sign of a struggle and there was nothing suspicious found at the scene. Brain matter or skin with hair attached was found on the floor north of the bed. Multiple pieces of brain matter were found on the wall and ceiling of the north and west wall. From that evidence, CSSM2 deduced that Ms. [REDACTED] was most likely sitting in the bed with her head at a downward angle when she fired the gun. CSSM2 photographed the scene, and he processed and collected the evidence. CSSM2 also checked Mr. [REDACTED] and he found no blood or injuries on Mr. [REDACTED]. CSSM2 then went to UNMH.

Medical staff advised CSSM2 that [REDACTED] was being taken into surgery. He was able to see the CAT Scan and he observed that the bullet entered the forehead, travelled through the brain and exited the rear of the head. CSSM2 noted that there was a large wound to [REDACTED]'s forehead, with clear stippling, and soot marks that went deep into the wound. [REDACTED] was photographed and CSSM2 noted that she did not have any other injuries.

Back at the crime lab, CSSM2 photographed the gun. He noted that the gun had blood all over it and it had blood in the barrel and all the cylinders. Brain matter and a clump of unknown substance was present on the left side of the cylinder and the rear sight. CSSM2 tagged a CD that had 137 images on it.

On September 9, 2013, another CSS went to the hospital and collected bullet fragments that were removed from [REDACTED]'s head during surgery. She placed those fragments in evidence.

Homicide Sergeant T. reported that on September 9, 2013 she was asked to investigate the death of Ms. [REDACTED] because her mother was alleging that this case was a homicide and that [REDACTED] had threatened [REDACTED] with physical violence in the past even though no police reports were made. Sergeant T. got the reports from Sergeant W. and Sergeant W. indicated that he spoke with [REDACTED]'s mother, [REDACTED], twice since the incident and she was alleging this was a homicide. On September 17, 2013 Sergeant T. looked for the officer's video and or recordings. On or about September 25, 2013, Sergeant T. contacted [REDACTED] by phone. [REDACTED] told Sergeant T. that there was no way that [REDACTED] would have committed suicide because women don't shoot themselves in the face. [REDACTED] alleged that [REDACTED] threatened her daughter with violence in the past. [REDACTED] said that she did not have a good relationship with [REDACTED] and because [REDACTED] was a fire fighter, the homicide was covered up. Sergeant T. told [REDACTED] that APD homicide would review the case.

Sergeant T. called the OMI and spoke with an OMI field investigator and she was told by the OMI FI that the preliminary autopsy indicated that the death was caused by a self-inflicted gunshot wound. The final report would not be done for 8-12 weeks.

Sergeant T. reviewed the recordings and crime scene photos herself. She also reviewed the 911 call. On or about October 1, 2013, a reporter from the Journal contacted Sergeant T. and on October 7, 2013 that reporter published an article on the death. Sgt. T. reviewed that article.

On October 8, 2013 Sgt. T. assigned the case to Detective G.. Sgt. T. and Detective G. met with Criminalistics Sergeant J. and a Field Investigator Sergeant and the 4 reviewed all of the available evidence. After reviewing the photos, the reports and all of the physical evidence, the four reached a consensus that all of the evidence was consistent with \_\_\_ having shot herself, however, Sergeant T. requested a forensic interview of \_\_\_'s daughter. That forensic interview was conducted and the end result was the child did slept through the event and did not see or hear anything.

On October 16, 2013, Sgt. T. and Detective G. met with \_\_\_\_\_

Detective G. conducted an investigation into the allegations and concerns brought forth by \_\_\_\_\_ but in the end, all of the evidence supported that \_\_\_\_\_ shot herself. Sergeant T. reviewed the investigation and concurred with the findings.

#### Detective G.'s Investigation

As part of the CPOA investigation into this complaint, Detective G.'s report was reviewed. The investigation was quite lengthy. The following is a summary of that investigation.

Detective G. reviewed the officer's lapel videos and the crime scene photos. She reviewed the police reports. She noted that \_\_\_\_\_ wanted the investigation conducted and did not believe that her daughter's death was from suicide.

Detective G. reported that she and Sergeant T. met with Criminalistics Sergeant J. and a Field Investigator Sergeant at the crime lab and they reviewed the available evidence. The scene did not appear suspicious from the evidence reviewed and the evidence was consistent with \_\_\_\_\_ having shot herself.

Detective G. also picked up a belt tape recording that was made by the responding officer the night of the incident. She had that recording transcribed and it captured questioning of \_\_\_\_\_ by the responding officer. The transcription of that conversation was reviewed by the CPOA Investigator.

\_\_\_\_\_ told the officer that \_\_\_\_\_ shot herself in the head. The two had been drinking that day and they had "been moving guns around." \_\_\_\_\_ said that \_\_\_\_\_ had a history of depression and that she had harmed herself in the past. \_\_\_\_\_ stated that \_\_\_\_\_ put one bullet in the "chamber" of the gun and stated that she was "going to win the lottery or win the lottery." \_\_\_\_\_ told the officer that he believed this to mean that they were either going to win the real lottery or she would "freaking run a cylinder until you get the great sleep or whatever." Detective G. concluded that \_\_\_\_\_ was playing a game of Russian Roulette



when she shot herself. That is a game of chance where an individual places a round of ammunition in the cylinder of a revolver, spins the cylinder until it stops, places the gun against their head, and pulls the trigger.

That happened on September 5, 2013. \_\_\_\_\_ died on September 12, 2013. An autopsy was conducted and the autopsy, which was also reviewed by the CPOA Investigator, revealed a gunshot wound to the right forehead. The soot deposition from the fired round of ammunition indicated that the gun was in contact with the forehead when the trigger was pulled.

Detective G. checked two restaurants where \_\_\_\_\_ and \_\_\_\_\_ had been reportedly drinking at earlier in the day. Neither location had cameras so no video evidence was collected from those locations. There were no disturbances reported at either location on that day either.

\_\_\_\_\_’s daughter was forensically interviewed on October 11, 2013. Details of the interview were included in the report. A summary of the interview is documented in the report. \_\_\_\_\_’s daughter said that she knew that her mom had a gunshot wound to the head. She stated that he didn’t hear anything. She stated she “liked” her mother but that her mother was angry a lot. She said that \_\_\_\_\_ and her mother loved each other a lot and they kissed, hugged, and hung out. She said that it was \_\_\_\_\_ who woke her up to tell her that her mom had been shot and the police were there. She said that \_\_\_\_\_ did not visit the hospital much. She said that her grandmother (the complainant) told her that she and \_\_\_\_\_ never really liked each other. She said that \_\_\_\_\_ didn’t like her grandmother. She said that she was fine with \_\_\_\_\_ and her mother being together. She said that she knew that the police had ruled her mother’s death a suicide and that it wasn’t right to just let a murder go. She said that either her mom killed herself or \_\_\_\_\_ killed her. She said that women don’t shoot themselves in the face. She said that her grandmother (the complainant) told her that that she thought \_\_\_\_\_ killed her mom. She said that her mother and \_\_\_\_\_ had a lot of guns but she believed that only \_\_\_\_\_ knew the passcode to where the guns were stored. She said that she thought that \_\_\_\_\_ and her mom were “probably looking at guns”.

Detective G. documented the interview that she and Sgt. T. had with the complainant at the Family Advocacy Center. She said that \_\_\_\_\_ told them that her daughter would have never shot herself in the face because she was very vain. She said that her daughter did not own a handgun and a shotgun. She said that her daughter was a “loanshark” and that her daughter began losing friends and her home in 2012 when she was with \_\_\_\_\_. She said that \_\_\_\_\_ was addicted to pills and that \_\_\_\_\_ and her daughter both had problems with alcohol. She said that \_\_\_\_\_ When \_\_\_\_\_ was a child she had been diagnosed with bi-polar disorder, intermittent rage disorder, and borderline personality disorder. She stated that her daughter had been threatened by \_\_\_\_\_ with a knife in the past but \_\_\_\_\_ never reported the incident. The complainant gave Detective G. the names and numbers of people who she thought could provide the police with more information about the incident.

Detective G. contacted one of those witnesses who is \_\_\_\_\_’s grandmother. The grandmother reported that she last saw \_\_\_\_\_ in late August 2013. \_\_\_\_\_ was in good

spirits but she had lost her job the week before and was worried about getting another job. She said that [REDACTED] had no mental health issues and was very against suicide and that was always optimistic. She said that [REDACTED] had sought help from a therapist in the past but only for about a year. [REDACTED] had confided in her grandmother about [REDACTED] depression. She said that she did not know how [REDACTED] felt about [REDACTED] but he was very good to [REDACTED] daughter. She said that [REDACTED] and [REDACTED] planned to spend the rest of their lives together.

The grandmother went on to say that she did not know if [REDACTED] had access to guns but that [REDACTED] had told her that she liked deer hunting and was going to get a deer or elk license.

Detective G. then met with and interviewed a friend of [REDACTED] who had left comments on [REDACTED] obituary page. The friend said that she had known [REDACTED] for 17 years but had not seen [REDACTED] for about five years. She said that she spoke to [REDACTED] 2-3 times a month. She said that [REDACTED] seemed happy when they spoke. She said that several years ago, [REDACTED] told her about an incident where [REDACTED] had held a sword to [REDACTED] i's neck but [REDACTED] never reported that to the police. In more recent conversations, the friend reported that [REDACTED] said good things about [REDACTED]. The friend stated that she never met [REDACTED].

Detective G. requested interviews with [REDACTED] but he refused. He got an attorney and the attorney had [REDACTED] take a polygraph test. The results of the polygraph were provided by the Attorney to Detective G.. The report showed that [REDACTED] was truthful in his answers. He denied discharging the weapon that injured [REDACTED].

Detective G. reviewed the autopsy report and it indicated that there was blunt injury and multiple small contusions on [REDACTED] arms and legs. She called the doctor who conducted the autopsy and asked him about those injuries. The doctor reported that they were superficial injuries and were consistent with medical personnel moving [REDACTED] around.

Detective G. asked [REDACTED] s Attorney why there was a loaded shotgun on the bed and supposedly told his attorney that he had purchased a shotgun for [REDACTED] a few years ago but he never saw the shotgun on the bed until after the police arrived.

Detective G. concluded from her investigation that [REDACTED] death was a suicide.

I find that the investigation, both the preliminary and follow up investigation into this matter by APD was sufficient to support their conclusion that this unfortunate incident was a suicide.

**The CPOA finds CSSM2's conduct to be UNFOUNDED, as the investigation determined by clear and convincing evidence that the alleged misconduct did not occur.**

Ms. [REDACTED] alleged that the reports that she had contained contradicting information. She was unable to point out what that contradicting information was. She did point out that someone noted it was a two story home and it is not. She alleged that APD failed to administer a gunshot residue analysis test. The investigation showed that APD has not done Gunshot Residue Analysis for many years. The tests are unreliable and the APD Crime Lab

doesn't analyze the tests anymore. The State Crime Lab also does not conduct those tests. Even the FBI doesn't do the tests anymore. The FBI stopped doing the tests in 2006.

Gunshot Residue particles are delicate and invisible to the eye. The particles can be transferred from surface to surface by contact, air movement, abrasion, and washing. Numerous studies for the presence of Gunshot Residue particles in police cars, police stations, police equipment, and occupational environments have found that sources of contamination are abundant. Furthermore, there is no way scientifically to prove in a situation like this that even if gunshot residue was found on [redacted] that he fired the gun. He admitted to touching and handling the gun and entered the room just after the fatal shot had been fired. Particles would have been abundant in the air at the time he would have entered the room. In essence, a positive test for gunshot residue on [redacted] / would not have proved anything.

Ms. [redacted] alleged that because APD failed to collect necessary evidence, the OMI was unable to make a determination as to the cause of death. That is not true. The OMI was able to determine the manner of death as suicide. Ms. [redacted] also alleged that her daughter's boyfriend, an Albuquerque Fire Department member, shot her daughter and the APD just covered up for the boyfriend. She alleged there was "a lot of proof" substantiating her claim. The investigation conducted by the CPOA Investigator found no proof that APD covered up anything in this case.

Ms. [redacted] wants APD to admit that they did not investigate her daughter's death. APD did investigate the death. Ms. [redacted] wants APD to retract their claim that this was a suicide. The OMI determined this was a suicide.

Even though the finding is unfounded, the CPOA Investigator felt that a policy change is in order especially with regards to the training of Crime Scene Specialists. The CPOA has by way of this investigation recommended the following to the APD and the Chief of Police.

### Recommendation

- 1) **Should APD decide to continue the Violent Crimes call out procedures, then the procedure should be changed to allow supervisors with major crime scene investigation experience to call out the Violent Crimes Unit directly after consultation with the Crime Scene Specialist and the Crime Scene Specialist Supervisor.**
- 2) **If APD is going to allow Crime Scene Specialists to evaluate a crime scene to see if a Violent Crimes Unit call out is necessary, then before allowing a Crime Scene Specialist to make that decision, the Crime Scene Specialist shall have a minimum of the following training:**
  - a) **40 hours of Basic Crime Scene Investigation**
  - b) **40 hours of Advanced Crime Scene Investigation**
  - c) **A crime scene photography course**
  - d) **DNA Collection**

Your complaint and these findings are made part of CSSM2's Internal Affairs file.

You have the right to appeal this decision.

1. If you are not satisfied with the findings of the CPOA, please request an appeal in a signed writing to the undersigned within 30 days of receipt of this letter. Include your CPC number.

The POB may grant a Request for Reconsideration only upon the complainant offering proof that:

- A) The APD policy or APD Policies that were considered by the POB were the wrong policies or they were used in the wrong way; or,
- B) The APD Policies or APD Policies considered by the POB were chosen randomly or they do not address the issues in your complaint; or,
- C) The findings of the POB had no explanation that would lead to the conclusion made by the POB; or,
- D) The findings by the POB were not supported by the evidence that was available to the POB at the time of the investigation.

2. If you are not satisfied with the final disciplinary decision of the Chief of Police, you can request a review of the complaint by the City's Chief Administrative Officer. Your request must be in writing and submitted within 30 days of this letter. Include your CPC number.

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

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

Sincerely,  
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department Chief of Police

# CITY OF ALBUQUERQUE



## CIVILIAN POLICE OVERSIGHT AGENCY

**Police Oversight Board**

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May 19, 2017

Via Email

**Re: CPC #188-16**

Dear Mr.

Our office received the complaint you filed on October 16, 2016 against Officers of the Albuquerque Police Department (APD), regarding an incident that occurred on October 14, 2016. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint on December 8, 2016. The CPOA thoroughly and impartially investigated the complaint.

PO Box 1293

Albuquerque

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

NM 87103

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

[www.cabq.gov](http://www.cabq.gov)

### **I. THE COMPLAINT AND INVESTIGATION**

Mr. [redacted] and his passenger [redacted] were at the car wash parking lot along with fifty to seventy other cars of individuals. The gathering generated a call for service and officers went to clear the parking lot of individuals. Mr. [redacted] got into a brief verbal altercation with Officer O where Mr. [redacted] and Mr. [redacted] alleged Officer O used profanity with them. Mr. [redacted] admitted to performing a "burnout," which is a spinning of tires and revved his engine near the officers. Mr. [redacted] stated he exited the parking lot. Officer B exited the parking lot with his emergency equipment engaged. When Officer B tried to pull Mr. [redacted] over, Mr. [redacted] alleged Officer B caused a traffic accident. Mr. [redacted] claimed Officer B falsely arrested him, searched his phone, and prevented him from recording the encounter. Mr. [redacted] and Mr. [redacted] alleged Officer B used profanity with them. Mr. [redacted] wanted Officer B held

accountable for causing the accident and did not want to see the other driver get improperly cited.

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 reports, the Computer Aided Dispatch (CAD), the Fleet Crash Review Board's report, Mr. \_\_\_\_\_'s interview, Mr. \_\_\_\_\_'s interview, Officer B's interview, Officer O's interview, and several videos recorded by officers and Mr. \_\_\_\_\_.

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

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

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

Mr. \_\_\_\_\_ made several allegations that fall under this SOP:

1. Mr. \_\_\_\_\_ accepted the fact he would likely receive a ticket, but denied he committed reckless driving where arrest was appropriate. Mr. \_\_\_\_\_ claimed he was in a stationary position and not driving when he performed the burnout. Mr. \_\_\_\_\_ stated he ensured other cars were not in the area and performed the burnout safely. Mr. \_\_\_\_\_ his passenger, claimed the reckless driving charge was improper because it required two moving violations in order to be valid. Mr. \_\_\_\_\_ said the only thing Mr. \_\_\_\_\_ did was a burnout in a parking lot while they were not moving. Mr. \_\_\_\_\_ believed Officer B trumped up the charges against him in order to cover that Officer B caused an accident with another car. Instead, Officer B told him the accident was his fault, which made no sense to him, as his car was not involved.
2. Mr. \_\_\_\_\_ disagreed with the statement in the report that he was slow to stop. Mr. \_\_\_\_\_ claimed Officer B's seizure of his keys was an abuse of power.
3. Mr. \_\_\_\_\_ claimed Officer B seized his phone and prevented his ability to record. Mr. \_\_\_\_\_ claimed he took possession of Mr. \_\_\_\_\_'s phone at his friend's request. Mr. \_\_\_\_\_ first stated Officer B ordered him to give over the phone and later claimed Officer B grabbed the phone out of his hand. Mr. \_\_\_\_\_ claimed Officer B swiped the phone open and started looking through it. Mr. \_\_\_\_\_ suspected Officer B deleted a video he thought he had on the phone, but admitted he was not confident he had recorded both videos correctly.

Officer B's response:

1. Officer B stated Mr. \_\_\_\_\_ revved his engine several times and drove around the parking lot more than once, spinning out his tires. Officer B explained this was a dangerous activity and an example of losing control of the vehicle. Officer B then observed Mr. \_\_\_\_\_ drove towards the exit and again spun his tires out causing the backend of the car to fishtail. There were several cars and pedestrians in the area. According to Officer B, Mr. \_\_\_\_\_'s infractions were both while Mr. \_\_\_\_\_ was moving and stationary. The fact that it was private property did not matter, as reckless driving is enforceable both on the street and on private property. Officer B

claimed Mr. cut off vehicles when Mr. left the parking lot. For these reasons, he arrested Mr. for reckless driving. Officer B agreed he told Mr. he caused the accident. Officer B said this was due to how Mr. exited the parking lot and the way in which Mr. drove necessitated a traffic stop; Mr. was not the direct cause, but an indirect cause.

2. In response to Mr.'s complaint about his statement in the report of being slow to stop, Officer B explained Mr. did not move over immediately and should have yielded and stopped whether he was the one being pulled over or not. Mr. made it all the way to the bridge before pulling over, which was about 100 yards even though Officer B had his emergency equipment engaged as soon as he left the lot. Mr. was immediately confrontational so he asked for Mr.'s keys.

3. Officer B assumed Mr. was recording their interaction based on how Mr. held his cell phone. Officer B denied he prevented Mr. from recording. Once Officer B arrested Mr. then he instructed Mr. to put his phone on the seat so that he could handcuff Mr. Officer B denied he searched through the phone or manipulated anything such as deleting videos. He never snatched the phone from either Mr. or Mr.

#### The video review:

1. The video showed Mr. was immediately accusatory saying Officer B caused the accident to which Officer B told him he did. The lapel video showed Mr. and Officer B briefly argued about the cause of the accident. Ultimately, Officer B said the cause of the accident was irrespective of Mr.'s violations. In the lapel videos and the interviews of Mr. and Mr. there were numerous times Mr. admitted to some variation of his tires spinning out such as performing a "burnout" or that his tires "broke loose." The videos also showed that often Mr. admitted to a violation of exhibition of speed and loss of traction, but also claimed he was not speeding. The videos showed Mr. admitted to a violation of law, but alleged Officer B charged him too harshly. The appropriate venue to challenge the legitimacy of charges is court. There is no evidence to support that Officer B charged Mr. to cover his actions as they related to the accident. Reckless driving is enforceable on private property. Probable cause existed for Officer B to make the arrest. It would be up to the courts to decide if Mr. drove his vehicle in a careless and heedless manner with a willful or wanton disregard for the rights and safety of others without due caution as the statute states. There is no requirement two moving violations occur such as Mr. believed. At court, Mr. was found guilty by way of a plea. Mr. claimed his plea was entered as a mistake. That too would be resolved in court. The issue of Mr.'s arrest was EXONERATED meaning the arrest occurred, but it was within policy.

2. The lapel video showed Mr. admitted to not stopping right away because he did not know Officer B was intent on pulling him over. The lapel video showed Officer B asked Mr. for his car keys. Mr. asked if that was a lawful order. Officer B said that it was. The seizure of Mr.'s car keys was EXONERATED meaning the seizure occurred, but was not a violation of policy.

3. The lapel video showed Officer B did not prevent Mr. from recording with his phone until Officer B asked him to put his phone down because he was being arrested and needed to be handcuffed. Mr. provided a video taken on his cell phone that ended before Officer B approached to arrest Mr. so he had stopped recording before Officer B approached.

After Mr. [redacted] was placed in the back of the patrol car, the lapel video showed that Officer B retrieved Mr. [redacted]'s phone from the door panel pocket. Mr. [redacted] had already left Mr. [redacted]'s car. The lapel video showed Officer B never demanded the phone or snatched it away from anyone. The lapel video also showed Officer B never swiped the phone open or messed with the phone. Officer B brought the phone to his patrol car and put it in his front seat with the rest of Mr. [redacted]'s property. The videos contradicted Mr. [redacted]'s and Mr. [redacted]'s allegations. The allegation of a seizure and search of Mr. [redacted]'s phone was UNFOUNDED.

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

B) The CPOA reviewed Standard Operating General Order 1-1-4D16 regarding Officer B's conduct, which states:

*Police officers and Department employees are expected to conduct themselves in a professional manner at all times. Personnel are discouraged from using any language that could be considered profane, derogatory, or disrespectful toward any person. In certain situations, profanity may be acceptable, subject to review on a case-by-case basis.*

Mr. [redacted] stated when Officer B told him the car was being towed Officer B asked him his age. Mr. [redacted] told him and Officer B responded, "Good, you're a grown ass man so get the fuck to walking." Mr. [redacted] stated he complained to Officer B that he could not talk to him that way. Officer B told him "he just did" and again told him to walk away. Mr. [redacted] stated he did not argue further. Mr. [redacted] alleged he asked Officer B if he could have his handcuffs moved to the front while they were at the Prisoner Transport Center (PTC). Officer B insulted him by implying he was illiterate and used profanity while doing it, but Mr. [redacted] did not remember the exact quote. Officer B pointed out the sign that explained having handcuffs in front was prohibited.

The lapel video showed Officer B informed Mr. [redacted] the car was being towed. Mr. [redacted] was on his cellphone with a friend at that time. The lapel video showed Officer B asked Mr. [redacted] if he had any property in the car to which Mr. [redacted] said no so Officer B bid him a good night. The lapel video showed Mr. [redacted] said something inaudible. In response, Officer B asked him how old he was. Mr. [redacted] responded. Officer B said, "So you're a grown up, so just go ahead, and walk." Officer B told him he was not being detained. The lapel video showed Officer B never used profanity with Mr. [redacted]. At the PTC, Mr. [redacted] acknowledged he was being "mouthy." Mr. [redacted] was not worried about the verbal exchange. Mr. [redacted] did not remember the specifics of what Officer B allegedly said. The PTC no longer had video by the time the investigation was assigned. An assessment of the credibility of both Mr. [redacted] and Mr. [redacted] for this type of allegation, both of them had already made inaccurate statements about Officer B's conduct, proven by the lapel videos.

The CPOA finds Officer B's conduct overall to be **Unfounded** where the investigation determined that the alleged misconduct did not occur.



C) The CPOA reviewed Standard Operating Procedural Order 2-47-2C1 regarding Officer B's conduct, which states:

***Duties of personnel involved in a crash. 1. Render aid to the injured.***

Mr. complained that after Officer B caused the accident, he did not even check on the other driver. The other driver got out of his car and started to approach, but Officer B ordered him back to his car. Mr. stated it was very unprofessional for Officer B to have not made sure the other driver was ok before dealing with him.

The lapel video showed the driver pulled around Officer B's car and stopped mostly in front of Mr. s car. The lapel video showed Officer B immediately called for additional officers, which were nearby. The man started to approach and Officer B instructed him to go back to his car. The video showed the man appeared uninjured and was ambulatory. There were several cars quickly driving by on the road. Officer O showed up quickly and made contact with the other driver. The other driver did not complain of injuries. Officer B's decision to remain with Mr. was permissible given that that other officers were in the immediate area to assist Officer B, clearly the other driver was ambulatory, and the accident was low speed and minor. It was a safety issue to have the man out on the road.

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

D) The CPOA reviewed Standard Operating Procedural Order 2-48-2B1 regarding Officer B's conduct, which states:

***Vehicles will be towed when 1. The driver has been incapacitated, hospitalized, arrested, or when the vehicle cannot be released to a responsible party. Officers will not tow if the vehicle is parked at the driver's place of residence, or his/her registered address.***

Mr. wanted Mr. to take his car home and gave Mr. permission in Officer B's presence. However, Officer B insisted the car was to be towed and would not allow Mr. to take it.

Officer B stated the vehicle could not be released to Mr. because he did not know if Mr. was a licensed driver or sober. Officer B also claimed it was APD SOP to tow the vehicle since it was involved in a crime. Officer B agreed the car was not being held for evidence. Officer B stated the vehicle itself was a violation due to the modified exhaust and he considered it unsafe on the road.

Officer B did not check Mr. to see if he could take the car. The policy says nothing about a vehicle needing to be impounded due to being involved in a crime unless it is being held for evidence. A modified exhaust is not a condition listed in the policy that falls under being unsafe. Officer B should have done a quick assessment of Mr. to ensure he was a sober,

licensed, and insured driver and if so was considered a responsible party by Mr. [REDACTED]'s desire for him to take the car. The policy does not intend towing to be used as a punishment.

The CPOA finds Officer B's conduct to be **Sustained** where the investigation determined that the alleged misconduct did occur.

### **III. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING OFFICER O'S CONDUCT**

A) The CPOA reviewed Standard Operating General Order 1-1-4D16 regarding Officer O's conduct, which states:

*Police officers and Department employees are expected to conduct themselves in a professional manner at all times. Personnel are discouraged from using any language that could be considered profane, derogatory, or disrespectful toward any person. In certain situations, profanity may be acceptable, subject to review on a case-by-case basis.*

Mr. [REDACTED] and Mr. [REDACTED] both claimed when Mr. [REDACTED] told Officer O he was blocking the road to exit, Officer O told him, "Shut the fuck up" and to leave. Neither Mr. [REDACTED] nor Mr. [REDACTED] made additional allegations in their interviews about statements coming from Officer O. However, the lapel video showed Mr. [REDACTED] complained to Officer B that an officer "talked shit to him" and that he had rights.

Officer O stated Mr. [REDACTED] complained they should not have to leave the parking lot because they claimed they were doing nothing wrong. Officer O told Mr. [REDACTED] he was trespassing and needed to leave. Mr. [REDACTED] argued so Officer O told him more sternly to depart. Officer O said he was not rude, but was not patient with Mr. [REDACTED] either as it was a recurring problem. Officer O denied he used profanity with anyone, such as "shut the f [REDACTED] up." He did not insult Mr. [REDACTED].

Officer O did not have lapel video of this encounter because he was not engaging with an individual; he was providing general orders to people to leave the premises. The encounter did not fall under one of the mandatory requirements for recording and was too brief. Despite the lack of video evidence for this allegation, allegations of a similar nature from both Mr. [REDACTED] and Mr. [REDACTED] against Officer B were shown untrue based on video evidence.

The CPOA finds Officer O's conduct to be **Unfounded** where the investigation determined that the alleged misconduct did not occur.

#### Additional Issues:

Mr. [REDACTED] complained about the accident and stated Officer B caused the accident. Mr. [REDACTED] provided the following description of the accident:

Officer B exited the parking lot, dodging other cars, and went directly to the far left lane with his lights and siren on. Mr. [REDACTED] stated he quickly slowed and pulled into the right lane. There was a white car in front of him in the middle lane, which also slowed for Officer B. Officer B passed the white car in the left lane, and then switched lanes to the middle lane cutting

off the white car. Once Officer B was in front of the white car, Officer B hit his brakes so hard that he saw the front of Officer B's car dip forward. The white car hit Officer B from behind since there was no way for that car to stop in time since Officer B cut that driver off and hit his brakes. Mr. was already on the right shoulder. Mr. expressed concern the other driver would receive a citation as Officer B claimed one would be issued, which he felt was wrong.

Officer B provided the following description of the accident:

Mr. pulled out onto Montgomery and cut off three vehicles. Officer B pulled out onto Montgomery in order to stop Mr. for a traffic stop. The three vehicles Mr. cut off slowed down so he pulled ahead of them in the left lane. One of them was a white vehicle that ultimately hit him. Officer B observed the vehicle's brake lights when he approached and he believed the vehicle had stopped when he pulled in front of the white vehicle. Mr. had pulled over to the right lane so he moved into the center lane in order to get behind Mr.

He did not have room to stop behind Mr. because when Mr. finally did stop it was abruptly so Officer B stopped in the center lane. The white vehicle ran into the back of him while he was in the center lane. Officer B stated the driver failed to yield to a police vehicle while all of his emergency equipment was engaged. He did not investigate the accident as other officers performed that task. He did not know if the other driver was cited.

Officer B's lapel video was running during the time of the accident:

The lapel video showed Officer B waited at the driveway and about five cars passed before he pulled out. His emergency lights were running. The last car to pass was the white car. The white car brake lights were visible while Officer B was behind him. Officer B drove past the white car on the left. Officer B then moved into the middle lane. The lapel video showed Officer B's car was still moving forward and he did not brake hard as Mr. described, as his car did not dip forward. Officer B was still moving when the video showed a jarring, which was the impact. Officer B continued to move over and pulled behind Mr. s car at an angle. He did not pull in front of Mr. 's vehicle. Mr. had been in the right lane and continued moving forward when Officer B was hit. The white car passed Officer B slowly on the left. The white car continued forward into the right lane in front of Mr. s car. The accident report provided the driver's statement that he was unable to stop in time. The accident report documented an apparent contributing factor was a failure to yield to police vehicles as required by NM statute 66-7-332, but the driver was not issued a citation. Neither party complained of injury. The Fleet Crash Review Board deemed the damage was minor and the accident as non-preventable meaning that Officer B was not deemed to be at fault for the accident.

Mr. also complained that officers wasted taxpayer time at the substation because they were watching football. Mr. was not brought to a substation, but to the Prisoner Transport Center. The PTC officers remain at the facility unless they are performing a transport so regular field officers were not shirking duties to remain at a substation as Mr. asserted.

You have the right to appeal this decision.

1. If you are not satisfied with the findings of the CPOA, please request an appeal in a signed writing to the undersigned within 30 days of receipt of this letter. Include your CPC number.

The POB may grant a Request for Reconsideration only upon the complainant offering proof that:

- A) The APD policy or APD policies that were considered by the POB were the wrong policies or they were used in the wrong way; or,
- B) The APD policy or APD policies considered by the POB were chosen randomly or they do not address the issues in your complaint; or,
- C) The findings of the POB had no explanation that would lead to the conclusion made by the POB; or,
- D) The findings by the POB were not supported by evidence that was available to the POB at the time of the investigation.

2. If you are not satisfied with the final disciplinary decision of the Chief of Police, you can request a review of the complaint by the city's Chief Administrative Officer. Your request must be in writing and within 30 days of receipt of this letter. Include your CPC number.

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

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

May 19, 2017  
Via Certified Mail

**Re: CPC #190-16**

Dear Mr.

Our office received the complaint you filed on November 17, 2016 against the Albuquerque Police Department regarding an incident that occurred on November 1, 2016. Your complaint was originally filed with Internal Affairs on November 1, 2016. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint on December 8, 2016.

PO Box 1293

### I. THE COMPLAINT

Albuquerque

filed a complaint regarding the response or lack thereof of APD when he called 911. Mr. described that a man threatened him and spit on him. He wrote that officers never came and the 911 Operator was very “unhelpful.” Mr. wrote he was upset that he never received a call to say no one was coming in response to his call. He wrote it was no wonder the public was afraid and unhappy and more understanding was needed.

NM 87103

www.cabq.gov

### II. INVESTIGATION

The CPOA Investigator reviewed the 911 recordings after a delay in receiving them. The Operator for the first call Mr. made set up the call for service. The recording showed Mr. advised the Operator it was not an emergency, but a homeless person just spit on him and tried to take a swing at him. He later said the person threatened to shoot him, but believed it was “just talk” since Mr. did not see a weapon. Mr. confirmed with the Operator that no one was hurt. Mr. wanted to have an officer sent in order to go try to find the person and press charges. Mr. did not know where the person went and was uncertain of the person’s direction of travel. Mr. could not provide any descriptive information such as what the offender was wearing and provided a minimal physical description.

May 19, 2017

Page 2

Mr. [REDACTED] called a second time about thirty-four minutes later and Mr. [REDACTED] complained about the lack of response. The Operator explained there was no officer available to send yet. Mr. [REDACTED] was obviously frustrated by the Operator's response. The call for service was cancelled at Mr. [REDACTED] request, but he expressed his dissatisfaction.

On December 12, 2016, Mr. [REDACTED] called the CPOA office and spoke to a CPOA Investigator. Mr. [REDACTED] stated to the CPOA Investigator he wished to withdraw the complaint.

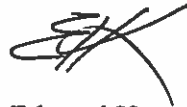
### **III. CONCLUSION**

The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** the complaint as Mr. [REDACTED] withdrew the complaint. A review of the recordings did not reveal anything to supersede Mr. [REDACTED]'s wishes.

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

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

Sincerely,  
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department Chief of Police

# CITY OF ALBUQUERQUE



## CIVILIAN POLICE OVERSIGHT AGENCY

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

May 19, 2017  
Via Certified Mail

**Re: CPC #001-17**

Dear Mr. \_\_\_\_\_

Our office received the complaint you filed on January 4, 2017 against Officer C. and Officer K. regarding an incident that took place on June 11, 2016. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint.

PO Box 1293

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

Albuquerque

NM 87103

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

[www.cabq.gov](http://www.cabq.gov)

### **I. THE COMPLAINT**

Mr. \_\_\_\_\_ complained that an accident he was involved in on June 11, 2016, with another driver was handled incorrectly and that the officers whom investigated the accident made false statements to him and in the police report. Mr. \_\_\_\_\_ states the officers told him the other person involved in the accident had been drinking and that she would get cited for having open containers. Mr. \_\_\_\_\_ is upset that the police report written places no blame on the other driver, even though Mr. \_\_\_\_\_ states he was rear-ended and the officers admitted the other driver had been drinking. Mr. \_\_\_\_\_ feels the other driver who was the Deputy District Attorney for Bernalillo County, was given preferential treatment by the officers.

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

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable SOPs, the Complaint, APD report \_\_\_\_\_, lapel videos and interviews of Officer C., Officer K. and Mr. \_\_\_\_\_.

A) The CPOA reviewed APD Standard Operating Procedure (SOP) 3-13-3 (B-4, a.), which states:

***4. During the performance of their law enforcement duties, officers shall also abide by the following guidelines:***

***a. When sworn employees are faced with a situation where they can exercise discretion, they must evaluate the circumstances, consider the available resources, rely on their training, department policies and procedures, statutory law, and supervisory orders in making what they believe and understand to be an appropriate decision given the specific circumstances.***

Mr. \_\_\_\_\_ complained that he was informed by an Officer that the driver of the vehicle that allegedly hit him would be cited for having open alcoholic containers after officers had found them in her vehicle. Mr. \_\_\_\_\_ also stated that the police report states the officer could not determine who was at fault for the accident and Mr. \_\_\_\_\_ feels it was a cover-up due to the government position of Mrs. \_\_\_\_\_.

The investigation showed that Officer C. was the primary officer dispatched to the accident between Mr. \_\_\_\_\_ and Mrs. \_\_\_\_\_. Officer C. conducted field sobriety tests and a PBT. In review of the lapel video's, Mrs. \_\_\_\_\_ appears argumentative and opposed to each test Officer C. imposed. Mrs. \_\_\_\_\_ did not appear to do well on the field tests. Mrs. \_\_\_\_\_ was told to stop swaying at one point and also during a portion of Mrs. \_\_\_\_\_ attempting to refuse one test, Officer C. informs her to continue with the test or she will go to jail. Mrs. \_\_\_\_\_ makes several comments during the contact between Officer C. and herself that he will say she failed and arrest her. Officer C. also gave Mrs. \_\_\_\_\_ a PBT breath test and the investigation showed the results, by itself, did not fall under NM statute for arrest of driving under the influence, video evidence concludes that alcohol may have been a contributing factor to the accident and Mrs. \_\_\_\_\_ should have, at minimum, received a citation for open container. Two open containers of miniature alcoholic beverages were discovered by Officer K. and presented to Officer C. Also, Mrs. \_\_\_\_\_ denied having any alcoholic drinks throughout the contact with Officer C. and only admitted to having an alcoholic beverage after Officer K. is seen with the empty bottles on the lapel video. Although Mr. \_\_\_\_\_ complained there was a possible cover-up taking place because of Mrs. \_\_\_\_\_ Maestas occupation within State Government, there was no mention of Mrs. \_\_\_\_\_' career during any portion of the lapel videos. The Investigator does not believe a cover-up occurred. Officer C. also made mistakes on his report. Officer C. selected HAD NOT CONSUMED ALCOHOL on the report even after having discovered the two open containers and more



importantly, Mrs. [REDACTED] admitting to drinking alcohol. Also, Officer C. makes no mention in his report of having Mrs. [REDACTED] take a PBT and no results of that PBT. The PBT test is seen being administered in lapel video. The Investigator determined through lapel video and statements that the investigation of this accident and outcome of the investigation by Officer C. should have contained more detail and a conclusive decision of contributing factors of the accident. Officer C. did have the ability to use discretion, however the investigation showed too much discretion was given.

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

### **III. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING OFFICER K.'S CONDUCT**

A) The CPOA reviewed APD Standard Operating Procedure (SOP) 3-13-3 (B-4, a.), which states:

*4. During the performance of their law enforcement duties, officers shall also abide by the following guidelines:*

*a. When sworn employees are faced with a situation where they can exercise discretion, they must evaluate the circumstances, consider the available resources, rely on their training, department policies and procedures, statutory law, and supervisory orders in making what they believe and understand to be an appropriate decision given the specific circumstances.*

Mr. [REDACTED] complained that he was informed by an Officer that the driver of the vehicle that allegedly hit him, would be cited for having open alcoholic containers after officers had found them in her vehicle. Mr. [REDACTED] also stated he observed the Officer pouring out the alcoholic beverages, which he feels was also part of the cover-up. Mr. [REDACTED] also stated that the police report states the officer could not determine who was at fault for the accident and Mr. [REDACTED] feels it was a cover-up due to the government position of Mrs. [REDACTED]

Officer K. was the secondary officer dispatched to assist Officer C. The investigation showed that while attempting to obtain Mrs. [REDACTED]'s drivers license from her purse, Officer K. finds 2 open miniature alcohol bottles in plain view of Mrs. [REDACTED]'s purse. Lapel video shows the bottles did not have caps on them and that they appeared empty. Lapel video shows when Officer K. presents the bottles to Officer C [REDACTED], there may have been a minute amount of liquid left in the bottles as Officer K. turns them upside down and then proceeds to wipe his fingers off. The evidence showed the caps being off, therefore Officer K. did not purposefully empty found alcohol beverages to cover anything up for Mrs. [REDACTED]

As stated earlier, Officer K. was the secondary officer and did, several times throughout the contact, tell Mr. [REDACTED] that she (Mrs. [REDACTED]), would at least receive citations for open

containers. I believe Officer K. was under the impression that the evidence clearly deserved at minimum, citations for Mrs. \_\_\_\_\_. Officer C., being the primary officer and author of the police report, chose not to issue those citations or place fault on Mrs. \_\_\_\_\_ for the accident. Officer K. appeared to have stated citations will be issued due to his training and experience.

I recommend a finding of **EXONERATED**, where the investigation determines, by a preponderance of the evidence that the alleged conduct did occur but did not violate APD policies, procedures or training.

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

You have the right to appeal this decision.

1. If you are not satisfied with the findings of the CPOA, please request an appeal in a signed writing to the undersigned within 30 days of receipt of this letter. Include your CPC number.

The POB may grant a Request for Reconsideration only upon the complainant offering proof that:

- A) The APD policy or APD policies that were considered by the POB were the wrong policies or they were used in the wrong way; or,
- B) The APD policy or APD policies considered by the POB were chosen randomly or they do not address the issues in your complaint; or,
- C) The findings of the POB had no explanation that would lead to the conclusion made by the POB; or,
- D) The findings by the POB were not supported by evidence that was available to the POB at the time of the investigation.

2. If you are not satisfied with the final disciplinary decision of the Chief of Police, you can request a review of the complaint by the city's Chief Administrative Officer. Your request must be in writing and within 30 days of receipt of this letter. Include your CPC number.

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

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

**Letter to Mr. McCormick, CPC 001-17**  
**May 19, 2017**  
**Page 5**

Sincerely,  
The Civilian Police Oversight Agency by

A handwritten signature in black ink, appearing to be 'E. Harness', written over a horizontal line.

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

May 19, 2017  
Via Email

--

**Re: CPC #009-17**

Dear Mr.

Our office received the complaint you filed on January 25, 2017 against the Albuquerque Police Department regarding an incident that occurred on January 16, 2017. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint on March 6, 2017.

PO Box 1293

### **I. THE COMPLAINT**

Albuquerque

filed a complaint regarding APD's investigative response to his wife's carjacking on January 12, 2017. On January 16, 2017, Isleta Pueblo police found an individual in possession of his wife's stolen car. While the offender was in Isleta's custody, his wife confirmed the person in possession of her car was the same person that robbed her. Mr.                     claimed APD did not respond to Isleta Police's requests to pick up the offender.

NM 87103

Mr.                     left several messages with a supervisor to find out what was being done.

### **II. INVESTIGATION**

www.cabq.gov

The CPOA Investigator received copies of the original incident APD report and the Isleta Police Department's report along with Isleta's criminal complaint and witness statements. The CPOA Investigator contacted Detective H who is assigned this case. Detective H provided some information about how the case was being handled and the communication he has had with Mr.

The CPOA Investigator contacted Mr.                     . Mr.                     stated he had learned a lot since his initial filing and was just frustrated with the system. Mr.                     apologized for filing the complaint. Mr.                     did not blame APD for the current situation and found more fault with the courts and the restrictions placed on APD. This investigation is being administratively closed by request of the citizen.

Letter to Mr. \_\_\_\_\_, CPC 009-17  
May 19, 2017  
Page 2

### **III. CONCLUSION**

The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** the complaint as Mr. \_\_\_\_\_ has withdrawn the complaint.

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

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

Sincerely,  
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department Chief of Police

# CITY OF ALBUQUERQUE



## CIVILIAN POLICE OVERSIGHT AGENCY

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*Dr. Lisa M. Orick-Martinez*     *Rev. Dr. David Z. Ring III*     *Leonard Waites*  
Edward Harness, Executive Director

May 19, 2017  
Via Certified mail

**Re: Citizen Police Complaint 091-17**

Dear Ms.

On March 6, 2017 you filed a complaint with our office via e-mail.

### I. THE COMPLAINT

You complained that you were in an accident February 18, 2017 and that information on the other driver who fled the scene was provided to the officer who responded to the accident. You complained that the officer failed to follow up on the information, that he wrote a shoddy report and that it took an excessively long time for the officer to turn in the report. There were some other issues you complained about as well. Your case was assigned a complaint number and the case was then assigned to an investigator for review.

### II. THE INVESTIGATION

The CPOA Investigator researched the matter and found that there was already another complaint from your friend, \_\_\_\_\_ filed on this case and assigned to the same investigator. That case number is CPC 90-17. Your friend made the same allegations that you did in the complaint. The incident both you and your friend complained of was the same. Your friend listed you as a witness in his complaint.

### III. CONCLUSION

Since your complaint contains the same information that your friend's complaint contains, and since you are complaining about the same things about the same officer, your complaint is duplicative and will be administratively closed. Please be aware that just because your complaint is being administratively closed, it does not mean that the matter will not be addressed or investigated. All it means is that your complaint and Mr. \_\_\_\_\_'s complaint are being combined. You will be interviewed by the investigator and your concerns will be addressed. You will also be notified of the outcome of the case. We are sorry for any

PO Box 1293

Albuquerque

NM 87103

[www.cabq.gov](http://www.cabq.gov)

Letter to Ms. , CPC 091-17  
May 19, 2017  
Page 2

inconvenience this may cause and if you have any questions please feel free to contact Investigator Paul Skotchdopole at 924-3773. Thank you for your patience and understanding.

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

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

Sincerely,  
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department, Chief of Police

# CITY OF ALBUQUERQUE



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*Dr. Lisa M. Orick-Martinez*     *Rev. Dr. David Z. Ring III*     *Leonard Waites*  
Edward Harness, Executive Director

May 19, 2017  
Via Certified Mail

**Re:    Citizen Police Complaint 095-17**

Dear Ms.

On March 27, 2017 you filed a complaint with our office via e-mail.

### I. THE COMPLAINT

PO Box 1293

Albuquerque

NM 87103

[www.cabq.gov](http://www.cabq.gov)

You complained that you believe that APD Records Supervisor F. is using her position to interfere with police officers. On February 27, 2017 you filed a police report with APD. When you went to pick up a copy of the police report, you were given an unofficial copy because the official copy of the report was not yet ready to be picked up. You wanted to know why the official copy of the report was not available to you when you went to pick up the report. You further complained that on March 8, 2017 you complained to an Albuquerque Public Schools (APS) Police Sergeant about an incident that occurred at Atrisco Elementary. Records Supervisor F. was listed on the APS Police Report as a witness and you allege she was not a witness. In closing, you requested that APD Records Supervisor F. be investigated to make sure that she was not interfering in police matters or records. Your complaint was assigned to a CPOA Investigator for review.

### II. THE INVESTIGATION

The CPOA Investigator researched the matter and found that Records Supervisor F. is the mother of a man with whom you have been having custody issues. The investigator went to the APD Records Division and learned that you picked up your unofficial copy of the police report that you filed on March 23, 2017. At the time, the report had not been through the entire records review process. You were given an unofficial copy of the report as a courtesy. On March 27, 2017, the records review process was completed and the police report became official. The report that you were given is identical to the official report and there were no changes. There was no evidence of any delay or changes to the report. There was no evidence



to indicate that Records Supervisor F. had anything to do with the processing of your report. There is no evidence to support your allegation that Records Supervisor F. is interfering in police matters or records. Additionally, we have no jurisdiction to investigate the APS Police Department or their personnel.

### **III. CONCLUSION**

The unofficial copy of the police report you requested was provided to you as a courtesy. That report and the final official report are identical. There is no evidence to support your allegation that APD Records Supervisor F. has been interfering in police matters or duties. Lastly, we have no jurisdiction to investigate the actions of the APS Police Department. At this time, your complaint is being administratively closed as the investigation cannot be conducted because of the lack of information that Records Supervisor F. has done anything wrong. Administratively closed complaints may be re-opened if additional information becomes available.

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

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

Sincerely,  
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department Chief of Police

# CITY OF ALBUQUERQUE



## CIVILIAN POLICE OVERSIGHT AGENCY

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

May 19, 2017  
Via Certified Mail  
-

### Re: CPC# 103-17

On March 15, 2017 we received a complaint you filed against the Albuquerque Police Department (APD). A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate the Complaint. The Administrative Office of the CPOA investigated the complaint. The CPOA made a finding, based on the information provided, of whether the Albuquerque Police Department (APD) 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

Below is a summary of the complaint and findings.

NM 87103

### I. THE COMPLAINT

Ms. \_\_\_\_\_ wrote she was walking to her front gate in her driveway when three Officers pulled up in front of her house. Ms. \_\_\_\_\_ stated the Officers yelled at her and were very unprofessional. Ms. \_\_\_\_\_ stated the officer approached her and told her the license plate light was out on her vehicle. Ms. \_\_\_\_\_ stated the officer made a scene and woke up her roommate, at whom the officer also yelled at. Ms. \_\_\_\_\_ stated the officer gave her a ticket for no insurance when she wasn't even driving and after the officer left she checked the license plate light and it was working. Ms. \_\_\_\_\_ stated she felt she was being harassed.

[www.cabq.gov](http://www.cabq.gov)

### II. INVESTIGATION

The Investigator received the complaint and conducted a preliminary investigation into the alleged incident. The investigator found the court information referencing the ticket Ms. \_\_\_\_\_ was issued. The investigator also determined that the officer involved in this incident was not an Albuquerque Police Department officer, but was of another agency. The

Letter to Ms. \_\_\_\_\_, CPC 103-17  
May 19, 2017  
Page 2

investigator attempted to contact Ms. \_\_\_\_\_ to inform her of the information; however the investigator has been unsuccessful in being able to contact Ms. \_\_\_\_\_.

### **III. CONCLUSION**

The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** this complaint due to the CPOA having no jurisdiction over agencies outside of the Albuquerque Police Department.

Administratively closed complaints may be re-opened if additional information becomes available. Please contact the CPOA in regards to your Civilian Police Complaint if you can provide further details and wish to have the complaint re-opened.

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

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

Sincerely,  
The Civilian Police Oversight Agency by



Edward Harness, Esq.  
Executive Director  
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# CITY OF ALBUQUERQUE



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Edward Harness, Esq., Executive Director

May 19, 2017  
Via Certified Mail

**Re: CPC# 104-17**

On March 15, 2017 we received a complaint you filed against the Albuquerque Police Department (APD). A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate the Complaint. The Administrative Office of the CPOA investigated the complaint. The CPOA made a finding, based on the information provided, of whether the Albuquerque Police Department (APD) 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

NM 87103

[www.cabq.gov](http://www.cabq.gov)

Below is a summary of the complaint and findings.

### **I. THE COMPLAINT**

Mr. \_\_\_\_\_ wrote, he was rear-ended by a driver under the influence. Mr. \_\_\_\_\_ stated there was a false report written by an Albuquerque Police Officer during the incident investigation.

### **II. INVESTIGATION**

The Investigator received the complaint and conducted a full investigation into the prior written complaint by Mr. \_\_\_\_\_, describing the same incident. That Investigation was CPC #001-17.

### **III. CONCLUSION**

The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** this complaint due to the allegations are duplicative. CPC#001-17 was fully investigated and completed.

Letter to Mr. \_\_\_\_\_, CPC 104-17  
May 19, 2017  
Page 2

Administratively closed complaints may be re-opened if additional information becomes available. Please contact the CPOA in regards to your Civilian Police Complaint if you can provide further details and wish to have the complaint re-opened.

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

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

Sincerely,  
The Civilian Police Oversight Agency by



Edward Harness, Esq.  
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cc: Albuquerque Police Department Chief of Police