

**CIVILIAN POLICE OVERSIGHT AGENCY**

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

**POLICE OVERSIGHT BOARD AGENDA**

**Thursday, June 9, 2016 – 5:00 PM**  
**Vincent E. Griego Chambers**

- I. Welcome and call to order.**
- II. Pledge of Allegiance – *Chair Beth Mohr***
- III. Approval of the Agenda**
- IV. Public Comments**
- V. Letters and Response from Chief**
  - a. Police Oversight Board Training Letter to Chief**
- VI. Jenica Jacobi, Assistant City Attorney & Bill Slausen, APD**
- VII. Dr. James Ginger, DOJ Monitor**
- VIII. Review and Approval of Minutes**
- IX. Consent Agenda Cases:**
  - i. Administratively Closed Cases**

<b>205-14</b>	<b>077-15</b>	<b>250-15</b>	<b>042-16</b>	<b>059-16</b>
<b>065-16</b>	<b>085-16</b>			
  - ii. Cases more than 120 Days**

<b>219-15</b>	<b>254-15</b>	<b>001-16</b>	<b>005-16</b>	<b>029-16</b>
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  - iii. Cases less than 120 Days**

<b>190-15</b>	<b>200-15</b>	<b>224-15</b>	<b>251-15</b>	<b>010-16</b>
<b>025-16</b>	<b>027-16</b>	<b>048-16</b>	<b>060-16</b>	<b>077-16</b>
- X. Case to be heard by the POB: 027-16, 060-16, 029-16**
- XI. Reports from Sub-Committees**
  - a. Outreach Sub-committee – *Leonard Waites***
  - b. Policy and Procedure Review Sub-Committee – *Susanne Brown***
    - i. Collective Bargaining Agreement with the APOA**
    - ii. Role in Policy Making**
    - iii. Body Worn Recording Devices**
    - iv. Letter After-Hours Communications, Probation and Parole**
  - c. Case review Sub-committee – *Joanne Fine***
    - i. Appeals**
      - 1. CPC 129-13, CPC 132-13, CPC 035-14, CPC 060-15, and CPC 157-15: The complainant stated that he is requesting a complete investigation of all of his cases.**

The request fails to meet the appeal process criteria. Therefore, the request is denied.

2. **CPC 229-14.** The complainant was involved in a motor vehicle accident. She stated that the report was inaccurate and that the officer downplayed her injuries in the report. The CPOA found that the officer's conduct to be exonerated and unfounded. The request fails to meet the appeal process criteria. Therefore, the request is denied.
3. **CPC 232-14.** The complainant only indicated in his request that he was appealing the findings of the CPOA and the disciplinary action of the CAO with no other detailed information. The CPOA found that the officer's conduct to be exonerated and unfounded. The request fails to meet the appeal process criteria. Therefore, the request is denied.
4. **CPC 156-15.** The complainant stated that he is a victim and that he was injured during his arrest and does not agree with the CPOA's decision. The request fails to meet the appeal process criteria. Therefore, the request is denied.

**XII. Reports from City Staff**

- a. **APD**
- b. **City Council**
- c. **Mayor's Office**
- d. **City Attorney**
- e. **Community Policing Councils**
- f. **CPOA –**
  - i. *Edward Harness, Executive Director*
  - ii. *Miriam Verploegh, Analyst*
    1. **Data Request**
    2. **Demographic Data Request**

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

**Matters subject to the attorney-client privilege pertaining to threatened or pending litigation in which the public body is or may become a participant pursuant to NMSA 1978, Section 10-15-1(H)(7).**

**XIV. Other Business:**

- a. **POB Training Letter to Chief**
- b. **Mission Statement dates**
- c. **Subcommittee dates**

- d. FATS Training and Ride-A-Longs**
- e. Board Designated Spokesperson**
- f. Legal Representation Contract**

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

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

# CITY OF ALBUQUERQUE



## CIVILIAN POLICE OVERSIGHT AGENCY

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

June 10, 2016  
Via Email

**Re:    CPC # 205-14**

Dear Ms.

The complaint you filed against Detective A. of the Albuquerque Police Department (APD) was received in our office on November 3, 2014 for an incident which occurred on September 29, 2014. Your complaint was assigned to a Civilian Police Oversight Agency (CPOA) Investigator for review.

### **I. THE COMPLAINT**

You complained that Detective A. threatened if you had lunch with your child at school you would be in trouble. You wrote that you requested permission from the school to have lunch with your child. You complained Detective A. offered assistance, but that it felt like harassment and intimidation.

PO Box 1293

### **II. FINDINGS AND CONCLUSIONS**

The CPOA Investigator contacted you for an interview. You originally agreed, but then in two different email communications said you wished to withdraw the complaint. Your desires not to have further contact with the Crisis Intervention Team (CIT) were forwarded to Detective A. The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** this complaint due the withdrawal of your complaint.

Albuquerque

New Mexico 87103

www.cabq.gov

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

Please contact me if you have any questions or concerns.

Sincerely,  
The Civilian Police Oversight Agency by

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

cc: Albuquerque Police Department Chief of Police

# CITY OF ALBUQUERQUE



## CIVILIAN POLICE OVERSIGHT AGENCY

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

June 10, 2016

Anonymous

**Re: CPC #077-15**

Dear Unknown:

Our office received the complaint you filed on May 27, 2015 against the Albuquerque Police Department (APD), regarding an incident that occurred on May 27, 2015. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint. The CPOA thoroughly and impartially investigated the complaint.

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

PO Box 1293

Albuquerque

New Mexico 87106

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.

Below is a summary of the complaint, the CPOA's investigation and findings.

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

### **I. THE COMPLAINT**

A complainant, allegedly a neighbor, filed a complaint anonymously about the conduct of Officer P.. The complainant wrote his or her neighbors called police to deal with a mentally ill relative who was high on drugs and threatened to kill family members. The complainant wrote Officer P. observed Mr.     talking to himself, but brought Mr.     to Mr.     's aunt to see if she would allow Mr.     back inside. The complainant wrote Mr. Lee's aunt told police Mr.     was on drugs and threatened to kill people. The complainant wrote Officer P. spoke over Mr.     's aunt and repeated back what Mr.     said as fact. The complainant wrote another male relative tried to defend the aunt. The complainant wrote Officer P. told the man to "shut up." The complainant wrote Officer P. planned to take Mr.     to a shelter, but the complainant felt a mental health evaluation was more appropriate.

### **II. INVESTIGATION**

The CPOA Investigator reviewed the complaint submitted. The CPOA Investigator interviewed Officer P., Officer V., and Officer R.. The CPOA Investigator reviewed the lapel videos of Officer P. and Officer V.. The lapel video showed Mr. [redacted] responded to Officer P.'s questions appropriately and that he did not exhibit incapacitation due to substances. The lapel video showed Mr. [redacted] did not make any threats or violent statements in Officer P.'s presence. The lapel video showed Mr. [redacted]'s aunt did not make any specific statements about threats just that her nephew was threatening so she kicked him out of the house. Mr. [redacted] did not meet the criteria of an immediate risk and therefore could not be taken for an involuntary mental health assessment. The lapel video showed Mr. [redacted] did not voluntarily want mental health or medical services. The lapel video showed Officer V. explained this to the family. The lapel video showed Officer P. attempted to find a shelter facility for Mr. [redacted]. As to the conduct issue, the lapel video refuted the complainant's claim that Officer P. spoke over Mr. [redacted]'s aunt or told her things as fact. The lapel video showed Officer P. asked her if Mr. [redacted] could stay. The lapel video showed a male relative immediately argued and spoke over Officer P.. Officer P. tried to calm the situation before resorting to telling the man to shut up. The lapel video showed when Officer P. resorted to telling the man to shut up, the man did.

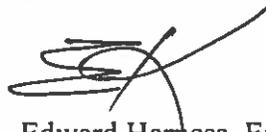
### III. CONCLUSION

The CPOA had made the decision to **ADMINISTRATIVELY CLOSE** the complaint, due to the complaint being anonymous and considered by the Albuquerque Police Officers Association contract to be an unofficial complaint. After a thorough review, the only policy violation, a language issue, is minor.

Administratively closed complaints may be re-opened if additional information becomes available.

Letter to the file.

Sincerely,  
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department Chief of Police

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*Rev. Dr. David Z. Ring III*

Edward Harness, Esq., Executive Director

June 10, 2016

Via Certified Mail

...

**Re: CPC #190-15**

Dear Ms. \_\_\_\_\_

The complaint you filed against Officer H. of the Albuquerque Police Department (APD) was received in our office on September 29, 2015 regarding an incident that occurred on August 10, 2015. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint on October 2, 2015. The Administrative Office of the CPOA thoroughly and impartially investigated your complaint. The CPOA made findings of whether the Albuquerque Police Department (APD) Officers involved violated Standard Operating Procedures (SOPs) based on a preponderance of the evidence. A preponderance of the evidence means that one side has a greater weight of evidence that is more credible and convincing than the other side. Another way of saying it is more than 50% of the credible evidence. If the credible evidence is 50-50, the proper finding is Not Sustained.

PO Box 1293

Albuquerque

New Mexico 87103

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

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

### I. THE COMPLAINT

Ms. \_\_\_\_\_ was involved in a hit and run crash on August 10, 2015 at 4:15 AM. Officer H. apprehended, arrested, and charged the hit and run driver in the crash. After the crash, Ms. \_\_\_\_\_ tried to contact Officer H. to provide him with more information about the crash. Officer H. allegedly never contacted Ms. \_\_\_\_\_. Officer H. failed to appear for the defendant's trial on September 28, 2015. The trial was continued to November 24, 2015. Officer H. also failed to appear for trial on that date. Other officers involved in the case did appear on November 24, 2015 and the defendant accepted a plea deal. Ms. \_\_\_\_\_ complained that Officer H. was negligent in his duties by not responding to her requests for contact and for not appearing in Court.

**II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING OFFICER H.'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), a review of the Citizen Police Complaint, an interview with Ms.                      and an interview with Officer H.. The Computer Assisted Dispatch report and Court Records were also reviewed.

Ms.                      was interviewed over the phone. She basically repeated what she had written in her complaint but added that Officer H. never contacted her and he also failed to appear for Court on the 24<sup>th</sup> of November.

A) The CPOA reviewed Standard Operating Procedure 2-01-2 C 1 regarding Officer H.'s conduct, which states:

*All personnel directed to appear in court, pre-trials, or MVD hearings must appear and be prepared to testify. A special court notice, posted court/MVD hearing notices, or subpoenas are considered an order to appear.*

Ms.                      complained that Officer H. failed to contact her so she could give him photos of the traffic accident she was involved in. Ms.                      complained that numerous messages were passed on to Officer H. and he failed to call her back. Furthermore, Officer H. did not appear in Court on September 29, 2015 and he also failed to appear in court on November 24, 2015.

Ms.                      indicated that Officer H.s Lieutenant told her that Officer H. may not be available for the trial but he would make sure the other officers were there. At the trial on November 24, 2015 Officer H. wasn't there, but three other officers were. The defendant took a plea which Ms.                      was satisfied with. Ms.                      felt that had she not taken the steps she did to make sure the case got prosecuted the offender would have gotten off.

The investigation showed that Officer H. did receive the messages to call Ms.                      but he did not. Even though Officer H. was encouraged by the CPOA Investigator to contact Ms.                      and to appear in Court on the 24<sup>th</sup> of November, Officer H. failed to do so. Court Services records showed that Officer H. was on the Court Docket, and thereby notified, of the need for him to appear in court on both dates. Even though he was notified to appear and he was available to do so, he failed to do so.

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

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

You have the right to appeal this decision.

Letter to Ms. . CPC 190-15

June 10, 2016

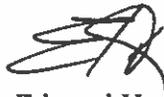
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1. If you are not satisfied with the findings of the CPOA, please request an appeal in a signed writing to the undersigned within 30 days of receipt of this letter. Include your CPC number.
2. If you are not satisfied with the final disciplinary decision 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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*Rev. Dr. David Z. Ring III*  
Edward Harness, Esq., Executive Director

June 10, 2016  
Via Certified Mail

**Re: CPC #200-15**

Dear Ms.

Our office received the complaint you filed against Officer H. of the Albuquerque Police Department (APD) on October 13, 2015, regarding an incident that occurred on June 9, 2015. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint on October 20, 2015. The Administrative Office of the CPOA thoroughly and impartially investigated your complaint. The CPOA made findings of whether the Albuquerque Police Department (APD) Officers involved violated Standard Operating Procedures (SOPs) based on a preponderance of the evidence. A preponderance of the evidence means that one side has a greater weight of evidence that is more credible and convincing than the other side. Another way of saying it is more than 50% of the credible evidence. If the credible evidence is 50-50, the proper finding is Not Sustained.

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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.

Below is a summary of the complaint, the CPOA's review of the investigation, and the CPOA's findings.

### I. THE COMPLAINT

Ms. \_\_\_\_\_ complained on October 13, 2015 that on June 9, 2015 at about 3:30 a.m., she had been in a domestic dispute with her boyfriend and it got so bad that the police had to be called. APD Officer H. and APD Officer T. responded. Ms. \_\_\_\_\_ complained to Officer H. that her boyfriend stole her phone from her but Officer H. did not investigate that allegation of theft. Officer H. allegedly told Ms. \_\_\_\_\_ that he had called her friend, \_\_\_\_\_; and \_\_\_\_\_ said that he would meet the officer

and Ms. [redacted] at San Mateo and Zuni. Officer H. only gave Ms. [redacted], 3 minutes to change her clothes and then when they got to San Mateo and Zuni, [redacted] was not there and Officer H. left her alone there and drove off. Ms. [redacted] also complained that when she got in the officer's car, that she had a backpack with her and that she had a folding pocket knife on her person. The officer returned the backpack to her, telling Ms. [redacted] that the knife was in the backpack. When Ms. [redacted] searched the backpack the knife was not in it. Ms. [redacted] alleged that when she finally reached [redacted] by phone, she learned that Officer H. never contacted him to pick her up. Ms. [redacted] complained that Officer H. should have investigated her allegation of theft, that he should have given her more time to change her clothes, and that he should have never left her alone at 3:30 AM, in a bad neighborhood. She also alleged that Officer H. took her knife.

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

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable Standard Operating Procedures (SOPS), the Citizen Police Complaint, the Computer Assisted Dispatch (CAD) report, the police report, the CPOA Investigator interviews with Officer P. and Officer T., and Ms. [redacted].

There was no lapel video to be reviewed because Ms. [redacted] filed the complaint more than 120 days after the incident occurred and the lapel video had been deleted by that time.

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

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

Ms. [redacted] complained that Officer H. should have investigated her allegation that her boyfriend stole her phone. She complained that Officer H. should have given her more time to change her clothes. She complained that Officer H. made up a story that he had contacted her friend [redacted] and that [redacted] was going to meet them at San Mateo and Zuni. Lastly she complained that Officer H. should have never left her alone at 3:30 AM, in a bad neighborhood.

Ms. [redacted] filed her complaint more than 120 days after the incident took place. There was lapel video of the encounter but because no arrest was made the video was automatically deleted at the 120 day time frame. The incident took place over six months ago and the only thing to rely on in conducting the investigation was the CADS report, the police report, and people's recollection of what took place during the incident.

The CADS report indicated that the police officers were on scene for almost an hour before Officer H. transported Ms. [redacted] to a drug treatment facility known as MATS.

That hardly suggests that Officer H. did not give Ms. time to gather her belongings.

Neither officer interviewed remembered Ms. complaining that her boyfriend stole her phone.

Ms. said that she was forced to go to MATS but the police report, that was written and turned in the day of the incident, indicated that Ms. told Officer H. that she was under the influence of methamphetamine and that she wanted help for her addiction. The investigation showed that Officer H. offered to take her to MATS and Ms. volunteered to go there if her friend could meet her there.

The investigation revealed that Officer H. did not remember making any phone calls to any of Ms.'s friends, but the other officer who was there remembered Officer H. called someone but that no contact was made on the phone call. The other officer believed that Ms. also agreed to be transported to MATS.

Both officers stated that when they arrived at MATS, Ms. changed her mind about getting treatment and that once she was given her backpack full of her items, she walked away on her own saying that she was fine. The investigation revealed that Officer H. did not simply kick Ms. out of the car and leave her alone in a bad neighborhood as Ms. alleged, but that Ms. walked away from the police on her own.

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

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

*Officers collecting evidence, property, or found items are responsible for the custody of these items until they have been turned into the Evidence Room or substation drop boxes or lockers. Officers will tag all found, safekeeping and evidence items using the Officer Input Module (OIM) evidence accounting tracking system...*

Ms. alleged that before she was placed in the police car to be taken to the area of where MATS is located, that Officer H. took a small folding pocket knife from her which she had on her person. She claimed that when she got out of the car and was given back her backpack that her knife was not returned to her.

Officer H. said he did not ever see Ms. in possession of a knife. The treatment facility would not allow any weapons of any kind in. Officer H. said that if Ms. did have a knife and he would have discovered it prior to transporting her, he most likely would have left it behind at her residence.

The other officer present on scene saw Ms. \_\_\_\_\_ being placed in the police car and transported to MATS. That officer said that he never saw Ms. \_\_\_\_\_ in possession of any knife.

Ms. \_\_\_\_\_ said that she had a knife that was taken by Officer H. and never returned. Officer H. and the other officer said that Ms. \_\_\_\_\_ never had a knife. There is no lapel video. There is no way to determine if Ms. \_\_\_\_\_ had a knife or not.

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

Your complaint and these findings are made part of Officer H.'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.
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



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(505) 924-3770

cc: Albuquerque Police Department Chief of Police

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

June 10, 2016  
Via Certified Mail

**Re: CPC #219-15**

Dear Mr.

Our office received the complaint you filed against Albuquerque Police Department (APD) Officer R. on November 18, 2015, regarding an incident that occurred on September 7, 2015. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint on November 23, 2015. The Administrative Office of the CPOA thoroughly and impartially investigated your complaint. The CPOA made findings of whether the Albuquerque Police Department (APD) Officers involved violated Standard Operating Procedures (SOPs) based on a preponderance of the evidence. A preponderance of the evidence means that one side has a greater weight of evidence that is more credible and convincing than the other side. Another way of saying it is more than 50% of the credible evidence. If the credible evidence is 50-50, the proper finding is Not Sustained.

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Below is a summary of the complaint, the CPOA's review of the investigation, and the CPOA's findings.

### **I. THE COMPLAINT**

On September 7, 2015 at about 5:00 PM, Mr. \_\_\_\_\_ was arrested after he assaulted and battered a woman and then broke into a church. Numerous police officers responded to the church where Mr. \_\_\_\_\_ had refused to surrender. Mr. \_\_\_\_\_ broke out a side window of the church and tried to escape out of that window but the police were near the window so Mr. \_\_\_\_\_ retreated back into the church. Mr. \_\_\_\_\_ was injured by the broken glass when he tried to get out of the window. Mr. \_\_\_\_\_ was given numerous commands to come out of the church and surrender peacefully but he refused to do so. A K-9 officer and his dog responded to the scene. After the K-9 officer considered all of

the options available, the K-9 was sent in through the broken window and the K-9 apprehended Mr. [REDACTED] by biting him on the leg.

Mr. [REDACTED] complained that he was a victim of excessive force and that his civil rights were violated. He wrote in his complaint that he was in mental crisis at the time and that the officers used force when it wasn't necessary. Mr. [REDACTED] complained that the officers failed to follow their Standard Operating Procedure of responding to people in mental crisis and that they did not follow proper guidelines when they sent the K-9 into the church. Mr. [REDACTED] also complained that the officers used a taser on him. Mr. [REDACTED] claimed that at the time he was not a threat to anyone but himself, that he was not armed, and that he was not trying to flee from the officers. Mr. [REDACTED] wrote in his complaint that the police should have called in some mental crisis personnel to handle these types of situations. Mr. [REDACTED] claimed he was hospitalized for a month because of the injuries he sustained from the incident.

## **II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING OFFICER H.'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) 2-52-3 A (Use of Force), 2-13 (Response to the Mentally Ill), and 4-12 (K-9 Unit policy), the Complaint, the CPOA Investigator interviews with Officers S., H., Ho., R., He., Her., B., Field Investigator M., Officer Bo., and Officer Y., and an interview with Mr. [REDACTED]

The Executive Director also reviewed the CPOA Investigator's review of the Computer Assisted Dispatch (CAD) Report, and a review of the all of the police reports pertaining to the incident. APD's Use of Force investigation, conducted by Officer R.'s Supervisor was also reviewed. Photos of the scene, and all of the involved officers, as well as photos of Mr. [REDACTED] s injuries were reviewed. There were 21 separate lapel camera recordings associated with this incident and they were all reviewed by The CPOA investigator.

- A) The CPOA reviewed Officer R.'s conduct concerning Albuquerque Police Department General Order 2-52-3 A which states :

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

- To effect the lawful arrest or detention of a person.
- To gain control of a combative prisoner.
- Prevent and/terminate the commission of a crime.
- To intervene in a suicide or self-inflicted injury.
- To defend an officer or member of the public from the physical acts of another.

Mr. [REDACTED] complained that he was a victim of excessive force and that his civil rights were violated. He wrote in his complaint that he was in mental crisis at the time and that the officers used force when it wasn't necessary. Mr. [REDACTED] complained that the officers

failed to follow their Standard Operating Procedure of responding to people in mental crisis and that they did not follow proper guidelines when they sent the K-9 into the church. Mr. [redacted] also complained that the officers used a taser on him. Mr. [redacted] claimed that at the time he was not a threat to anyone but himself, that he was not armed, and that he was not trying to flee from the officers. Mr. [redacted] wrote in his complaint that the police should have called in some mental crisis personnel to handle these types of situations. Mr. [redacted] claimed he was hospitalized for a month because of the injuries he sustained from the incident.

The investigation revealed that Mr. [redacted] was not in mental crisis at the time, but that he was under the influence of Methamphetamine and Cocaine. He was also in possession of "Spice", a synthetic type of marijuana. The evidence showed that Crisis trained officers were on scene and their lapel videos showed that they tried everything they could to get Mr. [redacted] to surrender peacefully. Mr. [redacted] refused to do that. The K-9 officer, Officer R., prior to deploying the K-9, spoke with the supervisor on scene. He learned that Mr. [redacted] had assaulted and battered a woman nearby prior to his breaking into the church. The K-9 officer spoke to the Pastor of the church who confirmed that Mr. [redacted] had broken into the church and that the Pastor would pursue charges. The K-9 officer properly assessed the situation given the facts at hand and he determined that Mr. [redacted] had destroyed items in the church, that he had access to broken glass and items that could be used as weapons against officers who were trying to arrest him, and that Mr. [redacted] had refused all commands to exit the church and surrender peacefully. Mr. [redacted] had numerous places to hide inside the church where he could ambush officers or arm himself with weapons. The K-9 officer decided that utilizing the police dog to apprehend Mr. [redacted] would be a safer alternative to having a police officer or officers try to arrest Mr. [redacted]. The apprehension would be safer for the officers well as any civilians in the area should Mr. [redacted] try to escape. Standard warnings were given and the dog was released. Once the dog apprehended Mr. [redacted] officers moved in and handcuffed him. There was no evidence to support Mr. [redacted]'s allegation that a Taser was used on him. In fact, all of the lapel camera videos, and photos taken of Mr. [redacted] just after the incident prove that a Taser was not used on Mr. [redacted].

Mr. [redacted] was interviewed by the CPOA Investigator. Mr. [redacted] said that he and two friends had gotten together and were cruising Central Avenue. Mr. [redacted] was in the back seat and they decided to smoke a "blunt" which Mr. [redacted] had on him at the time. A "blunt" is a hollowed out cigar filled with marijuana. Mr. [redacted] told me that after they finished the first "blunt", his friend pulled out a second and lit it. The second "blunt" was passed to Mr. [redacted] and he took a hit, or a puff, off of it. He started feeling weird. He then took a second hit and he started feeling uneasy and anxious. He said that he told his friend who was driving the car to let him out of the car. The friend refused. Mr. [redacted] said that he told the driver that if he did not stop the car he was going to kick him in the back of the "f\*\*\*ing" head. The driver pulled over and Mr. [redacted] got out of the car and started running. The passenger in the car chased him but couldn't catch him. The next thing that Mr. [redacted] remembered was waking up in the hospital. He did not remember assaulting anyone, did not remember breaking into the church, and he did not remember any

interaction with the police. He said that he had to go through three surgeries and part of his calf, where the dog bit him, had been removed.

Mr. [REDACTED] stated he had never been diagnosed with Mental Illness but having been in and out of prison for most of his adult life, 20 years for murder, he said that he must have some mental illness. Mr. [REDACTED] said that his behavior in this case was drug induced and that it was a bad reaction to an illegal drug that caused the issues. Mr. [REDACTED] told the CPOA Investigator that he filed the complaint because he wanted to know if the police did the right thing.

The investigation showed that the police response to this incident and the tactics they employed prior to the use of force were proper and consistent with APD policy. The Response to the Mentally Ill SOP, did not apply as Mr. [REDACTED] was not mentally ill at the time but was instead suffering from drug induced psychosis. None of the officers who dealt with Mr. [REDACTED] suspected him of being mentally ill. All of them, including a Drug Recognition Expert, suspected that Mr. [REDACTED] was under the influence of Synthetic Marijuana and other drugs. Some of the officers had even seen similar behaviors in other individuals just days before and those officers said there was a bad batch of synthetic marijuana being sold on the street around that time. The investigation also showed that the use of force (the K-9 deployment) was objectively reasonable, and it complied with the K-9 Unit policy and training requirements of the Albuquerque Police Department.

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

Your complaint and these findings are made part of Officer R.'s, Internal Affairs record.

**You have the right to appeal this decision.**

1. If you are not satisfied with the findings of the CPOA, please request an appeal in a signed writing to the undersigned within 30 days of receipt of this letter. Include your CPC number.
2. If you are not satisfied with the final disciplinary decision of the Chief of Police, you can request a review of the complaint by the 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. '**  
**June 10, 2016**  
**Page 5**

**CPC 219-15**

Sincerely,  
The Civilian Police Oversight Agency by

A handwritten signature in black ink, appearing to be 'EA', 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**    *Beth Mohr, Chair*    *Leonard Waites, Vice Chair*

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

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

*Rev. Dr. David Z. Ring III*

Edward Harness, Esq., Executive Director

June 10, 2016

Via Certified Mail

**Re: CPC #224-15**

Dear Ms. \_\_\_\_\_

Our office received the complaint you filed against Albuquerque Police Department (APD) Detective R. on November 19, 2015, regarding an incident that occurred that same day. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint on November 25, 2015. The Administrative Office of the CPOA thoroughly and impartially investigated your complaint. The CPOA made findings of whether the Albuquerque Police Department (APD) Officers involved violated Standard Operating Procedures (SOPs) based on a preponderance of the evidence. A preponderance of the evidence means that one side has a greater weight of evidence that is more credible and convincing than the other side. Another way of saying it is more than 50% of the credible evidence. If the credible evidence is 50-50, the proper finding is Not Sustained.

PO Box 1293

Albuquerque

New Mexico 87103

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

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

Below is a summary of the complaint, the CPOA's review of the investigation, and the CPOA's findings.

### **I. THE COMPLAINT**

Ms. \_\_\_\_\_ wrote in her complaint that on November 19, 2015 at about 12:30 PM, APD Detective R. came in to her place of business, a McDonald's restaurant and approached her at the register that she was working. Detective R. flashed his badge at Ms. \_\_\_\_\_ and told her that he needed to speak with a manager so he could review some video tape on a customer's stolen car. Ms. \_\_\_\_\_ told Detective R. that the manager was not available at the moment because it was lunchtime and they were very busy. She asked Detective R. if he

could set up a time later in the day to take care of the matter. Detective R. allegedly got very irritated and said that he was very behind on cases and that he did not have time to come back later and that the matter concerned the safety of their customers. Ms. \_\_\_\_\_ wrote that she told Detective R. to wait while she went and spoke with then manager. The manager went to the counter and told Detective R. that he would have to come back.

About an hour later, the original police officer who had already seen the video came into the store and spoke with the manager. Around that time, Ms. \_\_\_\_\_ received an urgent message from McDonald's over their e-mail system. Detective R. had allegedly called McDonald's corporation and threatened to discredit McDonald's in the media. Ms. \_\_\_\_\_ said that Detective R. came in to their business, demanding that they stop what they are doing to help him and when they asked him to come back when they were not so busy, Detective R. refused and instead filed a complaint. Ms. \_\_\_\_\_ alleged that Detective R. was rude and impatient and that she did not appreciate him threatening to discredit the business.

## **II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING DETECTIVE R.'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 CPOA Investigator interview with Ms. \_\_\_\_\_ and interviews of Detective R. and Detective C.. The Director also reviewed recorded phone conversations between Detective R., the local and corporate offices of McDonald's and the owner or general manager of the specific McDonald's store involved in the incident.

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

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

Ms. \_\_\_\_\_ wrote in her complaint that on November 19, 2015 at about 12:30 PM, APD Detective R. came in to her place of business, a McDonald's restaurant, and approached her at the register that she was working. Detective R. flashed his badge at Ms. \_\_\_\_\_ and told her that he needed to speak with a manager so he could review some video tape on a customer's stolen car. Ms. \_\_\_\_\_ told Detective R. that the manager was not available at the moment because it was lunchtime and they were very busy. She asked Detective R. if he could set up a time later in the day to take care of the matter. Detective R. allegedly got very irritated and said that he was very behind on cases and that he did not have time to come back later and that the matter concerned the safety of their customers. Ms. \_\_\_\_\_ wrote that she told Detective R. to wait while she went and spoke with then manager. The manager went to the counter and told Detective R. that he would have to come back.

About an hour later, the original police officer who had already seen the video came into the store and spoke with the manager. Around that time, Ms. \_\_\_\_\_ received an urgent message from McDonald's over their e-mail system. Detective R. had allegedly called

McDonald's corporation and threatened to discredit McDonald's in the media. Ms. \_\_\_\_\_ said that Detective R. came in to their business, demanding that they stop what they are doing to help him and when they asked him to come back when they were not so busy, Detective R. refused and instead filed a complaint. Ms. \_\_\_\_\_ alleged that Detective R. was rude and impatient and that she did not appreciate him threatening to discredit the business. Ms. \_\_\_\_\_ later e-mailed the complaint that she received from her corporation.

The evidence in this case showed that Detective R. was accompanied by another Detective, Detective C., when Detective R. met with Ms. \_\_\_\_\_ and her husband, the manager of the McDonald's store. Both Detectives felt that Ms. \_\_\_\_\_ and Mr. \_\_\_\_\_ acted as if the Detective were bothering them and that the \_\_\_\_\_ were not cooperative. The \_\_\_\_\_ offered no help or guidance to Detective R. other than telling him to come back later. Ms. \_\_\_\_\_ stated that Detective R. got very irritated, but Detective C. said that Detective R. was not irritated at all and that Detective R. conducted himself professionally. Mr. \_\_\_\_\_ did not submit to an interview for this complaint.

Detective R. recorded his phone calls to the local McDonald's office, the Corporate McDonald's office, and his conversations with the owner or General Manager of the McDonald's store. All of those recordings were provided to the CPOA Investigator for review. The recordings showed that Detective R. did not call the offices out of anger or frustration, and he did not call them with the intent to file a complaint or to try to get anyone in trouble. It was clear from the recordings that Detective R. was just trying to get someone else to help him get the video that he needed. Detective R. did tell his story of how he could not get what he needed and it was the corporate office who filed the complaint. Detective R. did not say that he would go to the media with the information and he did not say that he would discredit McDonald's. Detective R. did say that it would look bad if it got out that McDonald's did not help with one of their customers who had been victimized and that was said in general conversation. It was not a threat to go to the media. The evidence available showed that there was no direct intent by Detective R. to file a complaint against the managers of the McDonald's store. Detective R. was simply trying to get the video that he needed before it was lost or destroyed. In fact, by that time, the video had been lost or destroyed and was no longer available.

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

Your complaint and these findings are made part of Detective R.'s record.

**You have the right to appeal this decision.**

1. If you are not satisfied with the findings of the CPOA, please request an appeal in a signed writing to the undersigned within 30 days of receipt of this letter. Include your CPC number.
2. If you are not satisfied with the final disciplinary decision of the Chief of Police, you can request a review of the complaint by the 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**    *Beth Mohr, Chair*    *Leonard Waites, Vice Chair*  
*Dr. Susanne Brown*            *Eric H. Cruz*            *Joanne Fine*  
*Dr. Carlotta A. Garcia*        *Dr. Lisa M. Orick-Martinez*  
*Rev. Dr. David Z. Ring III*  
Edward Harness, Esq., Executive Director

June 10, 2016  
Via Certified Mail

### **Re: Citizen Police Complaint 250-15**

Dear Ms. \_\_\_\_\_

Your complaint against the Albuquerque Police Department (APD) was received by our office on December 18, 2015 for an incident which occurred on November 9, 2014. Your complaint was reviewed by the Civilian Police Oversight Agency (CPOA) Assistant Lead Investigator and a preliminary investigation was conducted.

PO Box 1293

### **I. THE COMPLAINT**

Albuquerque

New Mexico 87103

You wrote in your complaint that November 19, 2014, your sister was killed. You write that for the last six months you had been trying to obtain copies of the officer's lapel videos and in particular a video of an interview that was conducted with the suspect by Officer G. You wrote that to date you had only been provide with one lapel video and that you had been working with the APD Records person to obtain further videos but you had been unsuccessful in obtaining anything further.

### **II. THE INVESTIGATION**

www.cabq.gov

In an effort to obtain more information concerning your complaint, A CPOA Investigator conducted a preliminary investigation. The investigator forwarded your complaint to the APD Inspection of Public Records Act (IPRA) supervisor and in forwarding that e-mail to them, the Investigator noted that your complaint should be treated as an IPRA request. The APD Supervisor responded that he was currently working on getting you more information but that he was having difficulty in retrieving the records that you were requesting. He said that he would call you and update you on the status of your request. The CPOA Investigator then spoke with you over the phone. You explained your frustration in not being able to get the one interview that you were requesting. The CPOA Investigator explained to you that our agency is not the custodian of records for APD and that even if we could obtain a copy of the interview, we would not be able to provide it to you but that APD would have to release it to you. The Investigator encouraged you to file a formal IPRA Request with APD and the Investigator gave you the information on how to do that. The Investigator also suggested that

June 10, 2016

Page 2

an Attorney may be able to provide legal advice to you regarding your complaint. Lastly, you indicated that the person who had killed your sister had been prosecuted by the District Attorney's (DA) office. The Investigator suggested to you that the DA who prosecuted the offender may have the video that you requested and that you should contact them for assistance in obtaining the video. You indicated to the Investigator that you were aware that Officer G. who interviewed the suspect was later shot in the line of duty and since that time, he had been issued a new computer and that the interview was on an old computer that was in his car at the time that the officer was shot. You indicated that you had not been able to speak with Officer G. directly but you believed that the video or interview was on his old computer.

You contacted the CPOA Investigator a few days later and told him that you had filed a formal IPRA request for all the videos and documents related to the incident. You also stated that you were going to consult an Attorney about the matter. You stated that the DA who prosecuted the case had contacted you and they told you that they did not have a copy of the interview. Officer G. also spoke with you and he told you that he did not have a copy of the the interview that you are seeking but that he was going to try to locate his old computer to see if it was on the hard drive of that computer.

### III. CONCLUSION

You are seeking records that are available or should be available under the Inspection of Public Records Act. Our agency has assisted you by providing you information on how to obtain those records. Should APD not be able to provide the records you requested or are unresponsive to your requests, there are legal remedies available under IPRA. It is my hope that you are provided with the records you requested. At this time, I am administratively closing your complaint without further investigation.

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

Please contact me if you have any questions or concerns.

Sincerely,



Ed Harness  
Executive Director  
(505) 924-3774

CC: Albuquerque Police Department, Chief of Police

# CITY OF ALBUQUERQUE



## CIVILIAN POLICE OVERSIGHT AGENCY

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

June 10, 2016  
Via Certified Mail

**Re: CPC #251-15**

Dear Mr.

Our office received the complaint you filed on December 21, 2015 against Officers of the Albuquerque Police Department (APD), regarding an incident that occurred on December 14, 2015. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint on December 28, 2015. The CPOA thoroughly and impartially investigated the complaint.

PO Box 1293

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

Albuquerque

New Mexico 87103

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

www.cabq.gov

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

Mr.            attended a District Court temporary restraining order hearing filed by an APD officer to halt a promotion process. Mr.            observed Major G in uniform, which he believed was a violation of policy. Mr.            also observed that Major G was not wearing his lapel camera, which was a violation of policy.

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 citizen interview, the city attorney's interview, and Major G's interview.

**II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING MAJOR G'S CONDUCT**

A) The CPOA reviewed Standard Operating Procedural Order 2-01-2E2bi regarding Major G's conduct, which states:

*Uniform Attire Federal or District Court Officers who appear or testify may wear the authorized working uniform only in an emergency. Uniforms may be worn at preliminary hearings.*

Mr.                   attended a hearing in District Court concerning an APD officer suing over a promotion denial. Mr.                   observed Major G in the courtroom in uniform. Mr.                   understood Major G was there to testify if needed. Mr.                   contended there was plenty of notice about the hearing and that the situation was not an emergency, which would have been an allowed exception for Major G to wear his uniform.

Major G was summoned to the city attorney's office to discuss an upcoming personnel case, which was a typical activity for him during the workday. Major G was wearing his uniform, which was his daily work attire. Major G assumed the hearing was at some date in the future and was surprised to learn he had to go to court right then. Since he had received no prior notice he was going to court that day, he did not have an opportunity to change out of his uniform. As an aside Major G explained this was not a typical trial where individuals could be influenced or intimidated by him wearing his uniform; it was a personnel matter where all parties involved knew his position and were either officers, former officers, or attorneys.

City Attorney Hults acknowledged the court sent notice of a hearing on December 7, 2015, but she did not have an opportunity to act upon it until December 11, 2015 because she was out of the office. Ms. Hults' associate sent an email invite to Major G on Friday December 11, 2015 to meet at her office on Monday December 14, 2015 to discuss the case. The email invite mentioned a hearing at 3:00 p.m., but Ms. Hults stated the comment was easily missed. Major G did not see the notation and Ms. Hults stated Major G was genuinely surprised they were going to the hearing after their discussion. Ms. Hults stated Major G did not sit with her and the city legal team and instead sat within the audience. Ms. Hults agreed Major G was there to testify if the Judge required, but Major G did not appear or testify as the Judge determined it was unnecessary. Ms. Hults agreed there was probably plenty of notice to the legal department, but not to Major G and he was there at her request last minute. Additionally Ms. Hults believed this hearing fit the criteria of a preliminary hearing because a temporary restraining order hearing is preliminary to a permanent restraining order. The policy allows uniforms to be worn in a preliminary hearing, when the appearance is considered an emergency, i.e. last minute, and Major G did not actually appear or testify for the court.

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

B) The CPOA reviewed Standard Operating General Order 1-39-3A regarding Major G's conduct, which states:

*All uniformed officers will be required to carry the issued recorder while on duty.*

Mr.            stated he did not see Major G wearing his lapel camera while in uniform.

Mr.            claimed Major G did not wear his lapel camera and Major G stated he did. Ms. Hults did not pay attention if Major G had his lapel camera on his person. Major G did not have any recordings during that date and time to prove that he had his lapel camera, but none of his activities required a recording.

The CPOA finds Major G's conduct to be **Not Sustained** where the investigation was unable to determine whether the alleged misconduct occurred.

Your complaint and these findings are made part of Major G's Internal Affairs record.

**You have the right to appeal this decision.**

1. If you are not satisfied with the findings of the CPOA, please request an appeal in a signed writing to the undersigned within 30 days of receipt of this letter. Include your CPC number.
2. If you are not satisfied with the final disciplinary decision of the Chief of Police, you can request a review of the complaint by the 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



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

June 10, 2016  
Via Certified Mail

**Re: CPC #254-15**

Dear Ms.

Our office received the complaint you filed on December 23, 2015 against Officers of the Albuquerque Police Department (APD), regarding an incident that occurred on December 20, 2015. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint on December 29, 2015. The CPOA thoroughly and impartially investigated the complaint.

PO Box 1293

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

Albuquerque

New Mexico 87103

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

www.cabq.gov

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

Ms.            was a passenger in a vehicle driven by her boyfriend. They approached a DWI checkpoint on Montgomery Blvd NE. After completing the standardized field sobriety tests, Ms. Harris' boyfriend was arrested. Ms.            had complaints about how Sgt. C dealt with her after her boyfriend was in custody.

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable SOPs, the complaint, the police report, the lapel videos of Officer M and Sgt. C, and the interviews of Officer M and Sgt. C. Neither the complainant nor her boyfriend cooperated with the investigation so there were no citizen interviews. The investigation was based on the written complaint.

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

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

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

Ms. \_\_\_\_\_ wrote in her complaint when she reached towards her boyfriend's pocket while he was in handcuffs that Sgt. C aggressively shoved her. Ms. \_\_\_\_\_ wrote Sgt. C had no right to put hands on her. Ms. \_\_\_\_\_ wrote Sgt. C was arrogant and unapologetic for his forceful behavior. Ms. \_\_\_\_\_ wrote Sgt. C was again arrogant and displayed a nasty forceful attitude when he suggested she had to take a breathalyzer test if she wanted to take possession of her boyfriend's car.

Neither Ms. \_\_\_\_\_ nor her boyfriend cooperated with the investigative process. Sgt. C's lapel video was obscured with his jacket, but Officer M's video captured the physical contact. Ms. \_\_\_\_\_ approached her boyfriend and started reaching towards him. Sgt. C touched and briefly took hold of Ms. \_\_\_\_\_ arm at the elbow. Officer M also observed that Sgt. C touched or lightly grabbed Ms. \_\_\_\_\_ arm. Ms. \_\_\_\_\_ turned towards Sgt. C and Sgt. C had let go at that point. The lapel video showed Sgt. C did not shove or aggressively grab Ms. \_\_\_\_\_ despite her claim. Physical contact occurred, but based on the use of force policy at the time, what occurred as shown in the video did not fit the definition of a use of force. The lapel video showed Sgt. C explained to Ms. \_\_\_\_\_ why she could not reach into her boyfriend's pocket without clarification to the officers first. Sgt. C also explained to Ms. \_\_\_\_\_ about the car being towed. The lapel video showed Ms. \_\_\_\_\_ expressed that she was not intoxicated and therefore should be allowed to take the car. However, she seemed to balk at being required to take any assessment to demonstrate her sobriety. The lapel video showed Sgt. C was professional with Ms. \_\_\_\_\_ and did not utilize force against her.

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

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

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

Ms. \_\_\_\_\_ wrote she received conflicting information with Sgt. C saying she had to take a breathalyzer before the keys could be released to her. She informed Sgt. C she was not intoxicated. Another supervisor at the scene informed her she needed to be on the

registration in order to take possession of the vehicle. The inconsistency frustrated her and she should have been allowed to take the car.

Ms. 's boyfriend was the registered owner of the car and was arrested. Sgt. C agreed he originally thought if Ms. was unimpaired and her boyfriend wanted her to take the car, she could. The lapel video showed Ms. indicated she did not want to take a sobriety test and Sgt. C should abide solely by her statement she was not intoxicated. The lapel video showed Ms. argued about taking a test and Sgt. C explained he was trying to do her a favor. When Ms. spoke to the more experienced DWI supervisor, that sergeant informed her she needed to be on the registration. The standard for the DWI unit is if the sole registered owner is the person being arrested that person is incapable of granting permission since their judgement is impaired. In order to avoid liability issues the responsible party that can take the vehicle is one that is on the registration. Additionally, Officer M stated Ms. 's boyfriend expressly did not give Ms. permission to take the vehicle. The towing of the vehicle was within policy.

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

Your complaint and these findings are made part of Sgt. C's Internal Affairs record.

**You have the right to appeal this decision.**

1. If you are not satisfied with the findings of the CPOA, please request an appeal in a signed writing to the undersigned within 30 days of receipt of this letter. Include your CPC number.
2. If you are not satisfied with the final disciplinary decision of the Chief of Police, you can request a review of the complaint by the 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**    *Beth Mohr, Chair*    *Leonard Waites, Vice Chair*  
*Dr. Susanne Brown*            *Eric H. Cruz*            *Joanne Fine*  
*Carlotta A. Garcia*            *Dr. Lisa M. Orick-Martinez*  
*Rev. Dr. David Z. Ring III*  
Edward Harness, Esq., Executive Director

May 20, 2016  
Via Certified Mail

**Re: CPC #001-16**

Dear Ms.

Our office received the complaint you filed on December 23, 2015 against Officers of the Albuquerque Police Department (APD), regarding an incident that occurred on July 17, 2010. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint on January 5, 2016. The CPOA thoroughly and impartially investigated the complaint.

PO Box 1293

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

Albuquerque

New Mexico 87103

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

www.cabq.gov

### I. THE COMPLAINT AND INVESTIGATION

Ms. [redacted] was on the phone with Comcast regarding installation fees. The Comcast associate she was speaking with grew concerned for her safety about statements Ms. [redacted] made and involved his supervisor. The Comcast supervisor contacted police and was on the phone with 911 for about 48 minutes relaying all of the information his employee received from Ms. [redacted]. Police arrived during the time Ms. [redacted] was on the phone with Comcast. Numerous attempts were made to get Ms. [redacted] to answer the door and speak with police. The Comcast employee speaking with Ms. [redacted] relayed several items of concern for Ms. [redacted]'s safety. Given concerns for her safety, APD and AFD entered Ms. [redacted]'s home and transported her for a mental health evaluation.

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable SOPs, the complaint, the police report, the Computer Aided Dispatch (CAD), the 911 call, previous calls for service to the home, the citizen interview, Officer R, Officer C, Officer L, and Sgt. W's interviews.

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

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

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

Ms. \_\_\_\_\_ stated that when Officer R was tasked with transporting her he had a "pissed off" expression. It was extremely hot in the police car and she asked for air conditioning. Again, Officer R seemed pissed at her request, but he complied. Officer R said nothing to her. Ms. \_\_\_\_\_ alleged he was racist because of his body language and facial expression, but she could not explain anything further. Ms. \_\_\_\_\_ claimed Officer R had anger issues. At the hospital, Officer R told her to spread her legs wider while conducting a pat search. Officer R "ran away" once a woman at the hospital said something about her wrists.

Officer R did not specifically recall this call because of the extreme time lapse from occurrence to when Ms. \_\_\_\_\_ reported the incident. Ms. \_\_\_\_\_ did not provide an accurate date as to when the incident occurred and it was determined through the investigation. There was no independent evidence as the belt tape recordings that might have existed were no longer there. None of the other officers recalled this incident due to the time lag of reporting. None of the other officers felt it was typical for Officer R to be angry about transporting someone and all agreed it was a standard duty officers perform. Ms. \_\_\_\_\_ offered no information to substantiate a racial bias allegation and she described her allegation as a conduct issue. If a pat search were conducted it would be necessary for Officer R to instruct her to spread her stance. Once Ms. \_\_\_\_\_ was released to the hospital, there would be no reason for him to remain. When asked why she waited so long to file her complaint Ms. \_\_\_\_\_ said she "had enough." She expressed a fear that police would kill her, but provided no information to substantiate the claim. When she was asked why she felt so in fear she reported the police were not nice. There have been several calls for service that involved welfare calls and evaluations.

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

B) The CPOA reviewed Standard Operating Procedural Order 2-19-5 regarding Officer R's conduct, which states:

*In all cases seat belts will be utilized by each prisoner and the driver.*

Ms. claimed she slid all over the seat because she was not belted in.

Officer R did not specifically recall this call because of the extreme time lapse from occurrence to when Ms. reported the incident. There is no independent evidence to know whether Officer R used the seatbelt for Ms. However, Officer R's history does not show a pattern of such an issue. The evidence did not support Ms.'s memory on some other aspects of her complaint. An assessment of the credibility of the parties was made and there was a lack of evidence to support the failure to use seatbelts.

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

B) The CPOA reviewed Standard Operating General Order 1-04-6N regarding Officer R's conduct, which states:

*Personnel shall operate official vehicles in a careful and prudent manner and shall obey all laws and all department orders pertaining to such operation.*

Ms. claimed Officer R drove "like a maniac." Ms. claimed Officer R took turns quickly, she bounced around, and she heard tires squealing.

A review of the CAD showed when Officer R called out with his departure and arrival. The mileage indicated the trip was about 4.5 miles and took approximately 12 minutes. According to Google Maps, the equivalent trip could take as short as 10 minutes or as long as 13 minutes. Considering Officer R's transport time was within that range, the evidence would support that Officer R did not drive recklessly as his travel time would have likely been shorter.

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

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

A) The CPOA reviewed Standard Operating Procedural Order 2-19-3B regarding Officer L's conduct, which states:

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

Ms. claimed she immediately complained that her handcuffs were too tight. Ms. claimed a woman at the hospital in a floral dress expressed shock at her injured wrists because they were cut from the handcuffs. She claimed her wrists took her over a month to heal.

None of the officers specifically recalled this call because of the extreme time lapse from occurrence to when Ms. reported the incident. There was no independent evidence as the belt tape recordings that might have existed were no longer there. Ms. had no idea

who in the hospital looked at her and thought the person that exclaimed might have been a volunteer. Ms. [REDACTED] offered to show pictures, but she did not provide them. Officer R, the transporting officer, stated if any comment had existed about Ms. [REDACTED]'s wrists from the hospital, he would have notated them in the police report. Ms. [REDACTED] stated she did not have paperwork from the hospital and was not sure if she saw anyone. Ms. [REDACTED] did not file her complaint in a reasonable period. Ms. [REDACTED] did not provide evidence to support her claim. The only thing this case can be evaluated on is credibility of the parties. Ms. [REDACTED]'s memory of the events did not match what evidence was available.

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

#### **IV. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING SGT W'S CONDUCT**

A) The CPOA reviewed Standard Operating Procedural Order 2-13-10A2 regarding Sgt. W's conduct, which states:

*In accordance with NMSA 43-1-10, an officer may detain a person for an emergency evaluation and care at a hospital, mental health facility, or an evaluation facility in the absence of a valid court order only if: 2. The officer has reasonable grounds to believe the person as just attempted suicide.*

Ms. [REDACTED] denied saying anything about killing herself or her dog to the Comcast employee she had on the phone. Ms. [REDACTED] denied being incoherent or having difficulty walking. Ms. [REDACTED] agreed she did not open the door because she was not expecting anyone. Ms. [REDACTED] felt paramedics should have been called if there was concern for her wellbeing. Ms. [REDACTED] complained no one told her where she was being taken and she should not have been taken to a mental health facility

Ms. [REDACTED] claimed she did not threaten suicide, but the 911 recording indicates otherwise. The 911 call showed Ms. [REDACTED] provided shifting reasons as why she refused to open the door. A Comcast supervisor called police relaying information Ms. [REDACTED] told to his employee as it was occurring. The employee stated Ms. [REDACTED] told them she took specific medications and heard her shake a pill bottle. Ms. [REDACTED] agreed she had prescriptions for those specific medications, but only took them as prescribed. Ms. [REDACTED] claimed the shaking noise was jellybeans, not pills. Both the caller and the officers' later observation documented on the report that Ms. [REDACTED] appeared incoherent and had difficulty. The CAD showed rescue was called and AFD assisted in entering the home because Ms. [REDACTED] refused to answer the door. Given all of the information available at the time, the officers had reasonable grounds to believe Ms. [REDACTED] posed a danger to herself.

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

B) The CPOA reviewed Standard Operating Procedural Order 2-02-2a1 regarding Sgt. W's conduct, which states:

*When sworn personnel damage civilian property in the course of their official duties: 1. The supervisor in charge will ensure that photographs are taken of the damage that was caused.*

Ms. \_\_\_\_\_ claimed officers forced their way into her home and caused damages. Ms. \_\_\_\_\_ stated when she walked out of her bedroom Sgt. W knocked the phone out of her hand, causing it to break. Ms. \_\_\_\_\_ claimed her house was not secured when they left.

The police report documented that Sgt. W took photographs at the point of entry. The photo lab did not have photos tagged into Evidence for this case. Risk Management did not have records that went back that far as their retention period is a couple of years. Ms. \_\_\_\_\_ stated her brother was a witness to the condition of the door and that the house was left open, but had passed away prior to Ms. \_\_\_\_\_'s filing of the complaint. Ms. \_\_\_\_\_ never reported the damages. Ms. \_\_\_\_\_ had opportunity to file the complaint when the incident was timelier. Ms. \_\_\_\_\_ did not provide any evidence to support what damages occurred or that Sgt. W did not document things properly. Other aspects of Ms. \_\_\_\_\_'s complaint showed the available evidence did not support her memory of events.

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

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

**You have the right to appeal this decision.**

1. If you are not satisfied with the findings of the CPOA, please request an appeal in a signed writing to the undersigned within 30 days of receipt of this letter. Include your CPC number.
2. If you are not satisfied with the final disciplinary decision of the Chief of Police, you can request a review of the complaint by the 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



**Letter to Ms.  
June 10, 2016  
Page 6**

**CPC 001-16**

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

**cc: Albuquerque Police Department Chief of Police**

# CITY OF ALBUQUERQUE



## CIVILIAN POLICE OVERSIGHT AGENCY

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

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

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

*Rev. Dr. David Z. Ring III*

Edward Harness, Esq., Executive Director

June 10, 2016

Via Certified Mail

**Re: CPC # 005-16**

Dear Ms.

Our office received the complaint you filed on January 7, 2016 against Officer V. of the Albuquerque Police Department (APD) regarding an incident that occurred on January 6, 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

Albuquerque

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

New Mexico 87104  
www.cabq.gov

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

### I. THE COMPLAINT

Ms. said that on January 6, 2016, she and her boyfriend were in a domestic dispute and her boyfriend called Albuquerque Police Department (APD) to report the incident and Officer V. and Officer M. responded to the call. Ms. complained Officer V. was confrontational and hostile and threatened her with arrest. She said at one point Officer V. told her to "assume the position" and he grabbed her right wrist in a violent manner and twisted her right shoulder back as he hand-cuffed her. She complained he hand-cuffed her so tightly that both wrists were bruised and swollen. She complained that as Officer V. escorted her out of her home he slammed her into the apartment gate causing an injury to her left thigh. She complained that he violently pushed her into his police car, resulting in a twisted and sprained right knee.

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

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable SOPs, the Complaint, the CADs report, Officer V.'s report, Officer V.'s and Officer M.'s lapel videos and interviews with Ms. Officer V. and Officer M..

A) The CPOA reviewed APD Standard Operating Procedure (SOP) 2-52-3 (A) which states:

***2-52-3 GENERAL REQUIREMENTS AND EXPECTATIONS FO ALL OFFICERS WITH REGARD TO USE OF FORCE***

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

- To effect a lawful arrest or detention of a person.***
- To gain control of a combative prisoner.***

Ms. complained Officer V. was confrontational and hostile and threatened her with arrest. She complained when he arrested her he grabbed her right wrist in a violent manner and twisted her right shoulder back as he hand-cuffed her. She complained he hand-cuffed her so tightly that both wrists were bruised and swollen. She complained that as Officer V. escorted her out of her home he slammed her into the apartment gate causing an injury to her left thigh. She complained that he violently pushed her into his police car, resulting in a twisted and sprained right knee.

A review of the lapel videos, the CADS and written report, and interviews with Ms. Officer V. and Officer M. showed Officer V. was not hostile towards Ms. despite her continued unwillingness to cooperate with him. Lapel videos showed Officer V. repeatedly asked Ms. to stand up so he could place her under arrest and she refused several times; however, when she finally stood up she turned around and placed her hands behind her back on her own and Officer V. did not grab her right wrist and violently twist it and her shoulder as alleged in her complaint. Lapel video showed Ms. pulled away from Officer V. leading with her right shoulder and arm, which required him to hold onto her wrists so she wouldn't pull away from him and Officer M. Lapel video showed Officer V. lifted her handcuffed arms slightly to get her to comply and walk as he escorted her out of the apartment. Ms. complained the hand-cuffs were too tight as she exited the apartment so Officer V. adjusted them right away before he escorted her past the apartment gate and down the stairs. Lapel video showed Officer V. did not slam Ms. into the gate, nor did Ms. cry out in pain, nor complain that he slammed her into the gate. Lapel video showed Ms. and Officer V. arrived at his patrol vehicle and he opened the right rear door for Ms. , who stepped in the car leading with her left foot, not her right foot as she stated in her interview. Lapel video showed she sat down on her own, without assistance, and did not cry out in pain, nor complain she twisted her knee. Lapel video showed their arrival at the North East Substation

and then the Metropolitan Detention Center (MDC) and showed Ms. walked normally and without a limp. Lapel video showed Ms. did not complain to Officer V., Officer M. or any other officers with whom she came into contact that she was injured or in pain. The evidence revealed Ms. contradicted herself several times during her interview and was untruthful in her written statement and interview regarding what took place during the incident. The evidence showed Officer V. only used the amount of force necessary to affect the arrest of Ms. and compel her to comply when he asked her to walk to his vehicle; however, he did not violate any APD policies or procedures.

The CPOA finds Officer V.'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 Officer V.'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.
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** *Beth Mohr, Chair* *Leonard Waites, Vice Chair*

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

*Rev. Dr. David Z. Ring III*

Edward Harness, Esq., Executive Director

June 10, 2016

Via Certified Mail

Re: **CPC # 010-16**

Dear Mr

Our office received the complaint you filed on January 7, 2016 against Officer L. of the Albuquerque Police Department (APD) regarding an incident that occurred on November 25, 2015. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint.

PO Box 1293

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

Albuquerque

New Mexico 87103

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

www.cabq.gov

### I. THE COMPLAINT

Mr. [redacted] complained that on November 25, 2015, Albuquerque Police Department (APD) Officer L. failed to confirm the identity of [redacted] when she issued him a citation for panhandling. Specifically, Mr. [redacted] complained that Mr. [redacted] provided Mr. [redacted] name and date of birth to Officer L. when questioned about his identity and then when she issued the citation, Officer L. gave Mr. [redacted] Mr. [redacted] social security number, driver license and home address. Mr. [redacted] complained that Officer L. failed to help him clear up the error by getting it removed from his permanent record.

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

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable SOPs, the Complaint, the CADs report, the citation written by Officer L., Officer L.'s lapel videos and booking photos of Mr. and Mr. .

A) The CPOA reviewed APD SOP 1-04-6 (H), which states:

### *1-04-6 CONDUCT BOTH ON AND OFF DUTY*

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

Mr. complained Officer L. failed to confirm the identity of when she issued him a citation for panhandling and gave him Mr. social security number, driver license and home address.

A review of the lapel videos, CADS report, the citation issued to Mr. posing as Mr. and interviews were reviewed and revealed Officer L. contacted Mr. and issued him a citation for panhandling and when she asked for identification, he provided Mr. name and date of birth without hesitation. The evidence revealed Mr. and Mr. have known each other since grade school and had been friends, and Mr. may have allowed Mr. to use his personal information for legal purposes. The investigation showed Officer L. used Mr. booking photo to identify Mr. and booking photos of both men showed they share similar physical features, to include a mole on the right side of their nose/upper lip. Based on this photo identification, Officer L. issued the citation, which included Mr. personal information to someone she reasonably thought was Mr. and for whom the information was intended. While it is unfortunate that Mr. used Mr. identification, and as a result received personal information intended for Mr. Mr. was convincing enough and shares a specific physical characteristic (i.e. mole on his face) which made Officer L. reasonably believe she was giving personal information to Mr.

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

You have the right to appeal this decision.

Letter to Mr. , CPC 010-16  
June 10, 2016  
Page 3

1. If you are not satisfied with the findings of the CPOA, please request an appeal in a signed writing to the undersigned within 30 days of receipt of this letter. Include your CPC number.
2. If you are not satisfied with the final disciplinary decision of the Chief of Police, you can request a review of the complaint by the 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**    *Beth Mohr, Chair*    *Leonard Waites, Vice Chair*  
*Dr. Susanne Brown*            *Eric H. Cruz*            *Joanne Fine*  
*Carlotta A. Garcia*            *Dr. Lisa M. Orick-Martinez*  
*Rev. Dr. David Z. Ring III*  
Edward Harness, Esq., Executive Director

June 10, 2016  
Via Certified Mail

Re: **CPC #025-16**

Dear Ms.

Our office received the complaint you filed on February 5, 2016 against Officers of the Albuquerque Police Department (APD), regarding an incident that occurred on January 10, 2016. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint on February 17, 2016. The CPOA thoroughly and impartially investigated the complaint.

PO Box 1293

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

Albuquerque

New Mexico 87103

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

www.cabq.gov

### I. THE COMPLAINT AND INVESTIGATION

Ms.            encountered Sgt. Y at the gas station on Wisconsin and Central. Sgt. Y initiated a traffic stop and ultimately towed Ms.            vehicle. Ms.            had received citations from different officers on an earlier date for the same violations Sgt. Y observed. Sgt. Y did not cite Ms.            for the violations.

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 Computer Aided Dispatch report (CAD), the police report, the citizen interview, and the officer interview.

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

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

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

Ms. complained that she tried to explain her situation to Sgt. Y, but he refused to listen. Ms. claimed Sgt. Y "took his power" when he repeatedly said he would tow her car. Ms. stated Sgt. Y acted very unprofessionally. Ms. wrote Sgt. Y kept her license and tried to grab her. Ms. stated Sgt. Y attempted to return her license, but she walked away.

Sgt. Y returned Ms. license so he did not know why she said she did not receive it. Sgt. Y documented that he briefly grabbed her arm when she walked away, but he immediately released it. Sgt. Y repeated himself because she would not listen.

There was no video of the situation. Ms. called her daughter who was on the phone while Ms. interacted with Sgt. Y. Ms. daughter did not remember the details of this incident well because her mother has had other police encounters where she has also been on the phone for parts. Ms. daughter stated she has not heard statements from any of the APD officers that gave her concern. Usually the officers' statements consisted of trying to calm Ms. down. Ms. daughter stated her mother does get nervous and excited around police due to previous negative experiences so she often tries to encourage her mother to be calm and listen to the officers. Touching her arm or even temporarily grabbing her, but letting go in order to get her to remain was permissible. Given the information from Ms. daughter, Sgt. Y's description, and Ms. admission that she was angry at the scene, the preponderance of the evidence suggests Sgt. Y was professional with Ms.

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

B) The CPOA reviewed Standard Operating Procedural Order 2-48-2B4ai regarding Sgt. Y's conduct, which states:

*Any police officer may order the impoundment of any vehicle within the municipal corporate limits, without prior notice to the owner or operator of the vehicle, when a*

*vehicle is being driven unsafely under state law due to one of the following: Failure to have insurance on the vehicle as required under state law and as documented by one of the following: an admission by the driver or other occupant of the vehicle.*

Ms. admitted Sgt. Y was in the right by towing her car because she did not have insurance or registration. However, she felt like Sgt. Y did not need to tow her car and was trying to harass her to provoke her to do something. She thought he should have cut her a break.

Policy states that the car in Ms. 's situation shall be towed. Ms. admitted to the violations.

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

C) The CPOA reviewed Standard Operating General Order 1-03-3A regarding Sgt. Y's conduct, which states:

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

Ms. complained that she was parked and there was no reason for Sgt. Y to have approached her. Ms. admitted the various violations, but Sgt. Y did not want to listen to her explanations. Ms. believed Sgt. Y did not need to tow her car and acted in a prejudicial manner because she believed he would not have towed her car if she were a White person.

Ms. admitted her vehicle was in violation. Ms. wrote in her complaint that Sgt. Y followed her to the gas station, not that she was parked before Sgt. Y saw her. Per policy, the vehicle needed to be towed and Ms. expectation she should have been given a break by not having the vehicle towed was unreasonable. Sgt. Y did use his discretion and did not make things more difficult for her because he did not cite her, arrest her, or detain her when she chose to leave or for the violations. His leniency indicated he did not take actions based on some bias against her. Ms. did not allege any prejudicial statements were made. Ms. ; daughter did not hear anything over the phone that gave her concern.

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

D) The CPOA reviewed Standard Operating General Order 1-39-2C regarding Sgt. Y's conduct, which states:

June 10, 2016

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*...Personnel issued video recorders that malfunction will contact their supervisor immediately to arrange for a replacement to be issued. The malfunction and the replacement of the recorder will be documented in the applicable report.*

Sgt. Y stated his lapel camera acted as if it was recording. When he went to download his camera, he realized he had no video from the incident. Sgt. Y believed his cord was the problem and replaced his cord. Sgt. Y did not have documentation from APD Property for the replacement as he automatically carries spares for him and the other officers on his squad. Sgt. Y did not document the problem in his report.

A search of other videos showed Sgt. Y had a recording at 0933 that day and 1325, consistent with about when he realized there was a problem since the call was at 1135. However, Sgt. Y should have notated the issue with the recorder in the report.

The CPOA finds Sgt. Y's conduct to be **Sustained Violation Not Based On The Original Complaint** where the investigation determined that misconduct did occur that was not alleged in the original complaint, but was discovered during the investigation.

Your complaint and these findings are made part of Sgt. Y's Internal Affairs record.

**You have the right to appeal this decision.**

1. If you are not satisfied with the findings of the CPOA, please request an appeal in a signed writing to the undersigned within 30 days of receipt of this letter. Include your CPC number.
2. If you are not satisfied with the final disciplinary decision of the Chief of Police, you can request a review of the complaint by the 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



his poor behavior towards her during their encounter. She believed that Officer M. presented information inaccurately and with bias.

## **II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING DETECTIVE R.'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, and the CPOA Investigator interview with Officer M.. The Director also reviewed the police report filed by Officer M. The Computer Assisted Dispatch (CAD) report was also reviewed. Lastly, Officer M.'s lapel video recording was reviewed.

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

*All sworn department personnel will record each and every contact with a citizen during their shift that is the result of a dispatched call for service... Personnel will activate the recorder prior to arriving at the call or prior to citizen contact...and will record the entirety of the citizen contact...*

Ms. had called the police because she had been yelled at and berated by the father of two girls who were holding a yard sale in an area where Ms. had ridden her bike. Ms. was participating in a neighborhood cleanup and one of the yard sale signs had blown over and ended up in the street. Ms. spoke with the girls about the sign and started to ride her bike away. The father of the girls came out after Ms. and yelled at Ms. and the man allegedly made obscene gestures. Ms. called the police to report the encounter with the man. Ms. specifically complained that Officer M. failed to record his interaction with her on his lapel camera as he was required to do by policy. The investigation showed that Officer M. did fail to record his interaction with Ms. . Officer M. felt that since Ms. was outside his car door speaking with him, and since he was seated in his car, that the lapel camera would not have picked up the conversation and that the video would only show the interior of his car. That was why he chose not to record the contact. Officer M. did however record his interaction with the other party involved in the incident. Officer M. recorded the man and the two young girls holding the yard sale. Officer M. was required to and should have turned on his lapel camera before even speaking with Ms. . Had Officer M. done so, many of the allegations in Ms. s complaint could have been verified but instead the allegations ended up being unconfirmed. There is no provision that gives an officer the option to record if he thinks the recording device won't pick something up. The interaction between Ms and Officer M. should have been recorded. It was not.

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

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

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

Ms. complained that Officer M. was argumentative, dismissive, and that he took steps to denigrate her to justify his poor behavior towards her.

There is no lapel video recording of Officer M.'s interaction with Ms. . There are no independent witnesses who may have been present to hear what was said by Ms. or Officer M.. There is no way to determine from the statements from Ms. or Officer M. exactly what transpired between the two. The first ten allegations in Ms supplemental report were all based on that interaction. One thing that can be confirmed is that Officer M. reported Ms. first name as , not . That could be a common mistake to make and Officer M. actually has a daughter named who goes by . Reporting the name incorrectly does not constitute bad behavior. Allegations 2-10 in the supplemental report filed by Ms. are allegations that Ms. told Officer M. something or that she didn't say something, but because of the lack of evidence there is no way to determine who said what to whom. Officer M. denied allegations 2-10 and said that he wrote the details of the interaction between him and Ms. based on what he remembered the contact to be. In any case, it comes down to a she said/he said situation and there is insufficient evidence to prove or disprove the conduct. Ms. did complain that Officer M. used profanity in front of the two young girls who were holding the yard sale. Ms. found that conduct to be unprofessional. The lapel video that was recorded and reviewed showed that while Officer M. did use profanity, he used it with the man who admitted to yelling obscenities at Ms. . The man had referred to using the F-word and the B-word and Officer M. actually said the words when repeating to the man what had been told to him. The lapel video showed that Officer M. and the man with whom he was speaking were some distance away and out of earshot from the young girls. While Ms. , in reviewing the video, may have found something said to someone else outside her presence as unprofessional conduct, the man was not offended and the foul language was not in front of the children as Ms. alleged.

Without more evidence to consider, a determination cannot be made as to whether or not Officer M. acted unprofessionally during his contact with Ms.

The CPOA find's Officer M.'s conduct to be **Not Sustained**, as the investigation is unable to determine by a preponderance of the evidence, whether the alleged misconduct occurred.

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

*Personnel shall not alter, misrepresent, or otherwise make any false statement on any report or other written document which has been filled out in the course of their employment. Written document refers to reports, citations Steps to be followed in , public records or documents, public vouchers, overtime slips, request for leave of absence, affidavits, or any other written instrument completed by department personnel.*

June 10, 2016

Page 4

Ms. \_\_\_\_\_ alleged in her written supplemental report/complaint in paragraphs 11-13 that Officer M. made false statements in his report. She complained that Officer M. wrote in his report that the other party referred to her as “old” and “elderly” multiple times.

The lapel video showed that neither the man with whom Officer M. spoke, nor the young girls, ever referred to Ms. \_\_\_\_\_ as “old” or “elderly.”

Ms. \_\_\_\_\_ alleged that Officer M. also wrote in his report that the other party told him that yelling obscenities was probably not the smartest thing to do.

The lapel video showed that the man never made such a statement to Officer M..

Ms. \_\_\_\_\_ alleged that Officer M. wrote in his report that the girls told Officer M. that Ms. \_\_\_\_\_ had told them they could be cited for littering.

The lapel video showed that the girls never told Officer M. that.

Ms. \_\_\_\_\_ felt that Officer M. put the false statements into the report to justify Officer M.’s poor behavior towards her and to satisfy some need that Officer M. had to denigrate her.

The evidence proves that Officer M. wrote false statements in his police report. The evidence does not prove that he did so to satisfy any need had to justify his behavior or to satisfy some need that he had to denigrate Ms. \_\_\_\_\_.

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

Your complaint and these findings are made part of Officer M.’s record.

**You have the right to appeal this decision.**

1. If you are not satisfied with the findings of the CPOA, please request an appeal in a signed writing to the undersigned within 30 days of receipt of this letter. Include your CPC number.
2. If you are not satisfied with the final disciplinary decision of the Chief of Police, you can request a review of the complaint by the 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,

**Letter to Ms. , CPC 027-16**  
**June 10, 2016**  
**Page 5**

The Civilian Police Oversight Agency by

A handwritten signature in black ink, appearing to read 'Edward Harness', with a long horizontal stroke extending to the right.

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

cc: Albuquerque Police Department Chief of Police

# CITY OF ALBUQUERQUE



## CIVILIAN POLICE OVERSIGHT AGENCY

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

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

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

*Rev. Dr. David Z. Ring III*

Edward Harness, Esq., Executive Director

June 10, 2016

Via Certified Mail

**Re: CPC # 029-16**

Dear Ms.

Our office received the complaints you filed on January 23, 2016 and February 16, 2016 against Officer L. and Officer D. of the Albuquerque Police Department (APD) regarding an incident that occurred on January 22, 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

Albuquerque

New Mexico 87103

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

www.cabq.gov

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

### **I. THE COMPLAINT**

Ms. said that on January 22, 2016, she called Albuquerque Police Department (APD) because her brother was intoxicated and needed paramedics to take him to the hospital. She said APD Officers L. and D. responded and witnessed an armed drug dealer threaten her with a gun and complained they did nothing to the armed drug dealer and instead pointed an AR-15 and a shotgun in her face before they threw her to the ground, sat on her back and pointed the guns at her head. She complained she sustained injuries to her head, neck, back, hips, legs and arm and is unable to walk as a result. She alleged she was transported to University of New Mexico Hospital (UNMH) where she was treated for the injuries sustained from the incident.

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

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable SOPs, the Complaint, and interviews with the complainant and Officer L., the CADs report, the report written by Officer L., and Officer L.'s lapel videos.

A) The CPOA reviewed APD SOP 1-05-2 (C)(9)(e) which states:

***1-05-2 RECORDS RULES***

***C. Personnel of the Department Shall Write Reports on:***

***9. When personnel:***

***e. Points his/her firearm at an individual, acquiring a target, to deescalate a situation. A Show of Force form is required.***

***i. Does not include the use of the low-ready position.***

Ms. [REDACTED] said that on January 22, 2016, she called APD to help her intoxicated brother and Officer L. was one of the responding officers. She complained that Officer L. witnessed an armed drug dealer threaten her with a gun and instead of arresting the armed drug dealer Officer L. pointed an AR-15 in her face and then threw her to the ground, sat on her back and kept the AR-15 pointed at her head.

A review of the interviews, Officer L.'s lapel videos, the CADS report, and the written report revealed that Officer L. had her AR-15 at the low-ready position upon initial contact with Ms. [REDACTED] in the parking lot but raised the weapon up and had it trained on Ms. [REDACTED] upper body when Ms. [REDACTED] advanced towards the officers and ignored their commands to show her hands and to stop moving towards them. The evidence showed that Officer L. did not throw Ms. [REDACTED] to the ground, or sit on her back, or point the AR-15 at Ms. [REDACTED] head but rather assisted in handcuffing Ms. [REDACTED] and searching her for weapons. The evidence showed there were no "armed drug dealers" present when Officer L. was on scene. The evidence showed that Officer L. viewed pointing the AR-15 at Ms. [REDACTED] upper body as a Show of Force (SOF) and believed there was no requirement to file a separate report for this under the Use of Force (UOF) policy in place at the time of the incident. The evidence showed that Officer L. indeed was required to file a SOF report under the UOF SOP in policy and failed to do so.

The CPOA finds Officer L.'s conduct a **SUSTAINED VIOLATION NOT BASED ON ORIGINAL COMPLAINT** regarding the allegation of a violation of this SOP, which means the investigation determined, by a preponderance of the evidence that misconduct did occur that was not alleged in the original complaint but that was discovered during the misconduct investigation.

B) The CPOA reviewed APD SOP 2-24-3 (A)(5)(f) which states:

***2-24-3 PRELIMINARY AND FOLLOW-UP CRIMINAL INVESTIGATIONS RULES***

*A. Preliminary Investigations*

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

*f. Report the incident fully and accurately.*

The CADS report, Officer L.'s written report and lapel videos were reviewed. The evidence revealed that Officer L. did not include deploying her AR-15, or pointing the weapon at Ms. in her written report; therefore she failed to report the incident fully and accurately, as required by APD SOP.

The CPOA finds Officer L.'s conduct a **SUSTAINED VIOLATION NOT BASED ON ORIGINAL COMPLAINT** regarding the allegation of a violation of this SOP, which means the investigation determined, by a preponderance of the evidence that misconduct did occur that was not alleged in the original complaint but that was discovered during the misconduct investigation.

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

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable SOPs, the Complaint, the CADs report, the report written by Officer D., and interviews with the complainant and Officer D., and Officer D.'s lapel videos.

- A) The CPOA reviewed APD SOP 2-52-3 (A) which states:  
**2-52-3 GENERAL REQUIREMENTS AND EXPECTATIONS FOR ALL OFFICERS WITH REGARD TO USE OF FORCE**  
*Officers may use force when objectively reasonable based on a totality of the circumstances. The objectives for which force may be appropriate include:*
- *To effect a lawful arrest or detention of a person.*
  - *To gain control of a combative prisoner.*

Ms. said that on January 22, 2016, she called APD to help her intoxicated brother and Officer D. was one of the responding officers. She complained that Officer D. witnessed an armed drug dealer threaten her with a gun and instead of arresting the armed drug dealer Officer D. pointed a bean bag shotgun in her face and then threw her to the ground, sat on her back and kept the shotgun pointed at her head. Ms. complained she sustained injuries to her head, neck, back, hips, legs and arm and is unable to walk as a result. She alleged she sustained injuries in this incident and was transported to University of New Mexico Hospital (UNMH) where she was treated for the injuries.

A review of the interviews, Officer D.'s lapel videos, the CADS report, and the written report revealed that Officer D. had his less-lethal bean bag shotgun at the low-ready position upon

initial contact with Ms. in the parking lot and never raised the weapon up and trained it on Ms. Lapel video showed Ms. advanced towards the officers, ignoring their commands to show her hands and to stop moving towards them. Ms. walked directly up to the officers and Officer D. grabbed Ms. by the throat with his left hand and stopped her forward movement and then turned her around and took her to the ground with his left arm. During the take down Officer D. did not throw or slam Ms. onto the ground and Ms. did not yell out in pain, or tell him she was injured. Officer D. had one knee on Ms. lower back as he placed her in handcuffs. During the handcuffing, Officer D.'s shotgun was slung over his shoulder and did not appear to be pointed at Ms. head. The evidence showed Officer D. used the amount of force necessary to stop Ms. and to take her into custody and these actions did not result in any injuries. Lapel video showed Ms. attempted to stand up, unassisted, several times and showed her able to stand on her own as she moved towards and sat onto the gurney. Ms. was transported to UNMH for a mental health evaluation due to suicidal statements she made to officers and not because of any injuries sustained in this incident. The evidence showed there were no "armed drug dealers" present when Officer D.

The CPOA finds Officer D.'s conduct a **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 2-52-7 (B) which states:

***2-52-7 AFTER ACTION REQUIREMENTS FOR USE OF FORCE***

***Reporting Requirements***

***All officers will notify an on-duty supervisor as soon as practical when a Use of Force incident occurs. In all cases, officers will notify and on-duty supervisor prior to leaving the scene of the Use of Force incident, unless it is unsafe to do so.***

The evidence, which included Officer D.'s interview, revealed that he did not notify his supervisor of the Use of Force (UOF) in grabbing Ms. by the throat and taking her to the ground, and ultimately taking her into custody. While Officer D. felt this was not a UOF, which required supervisor notification, the evidence revealed that it was a UOF that should have been reported to his supervisor.

The CPOA finds Officer D.'s conduct a **SUSTAINED VIOLATION NOT BASED ON ORIGINAL COMPLAINT** regarding the allegation of a violation of this SOP, which means the investigation determined, by a preponderance of the evidence that misconduct did occur that was not alleged in the original complaint but that was discovered during the misconduct investigation.

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

**You have the right to appeal this decision.**

1. If you are not satisfied with the findings of the CPOA, please request an appeal in a signed writing to the undersigned within 30 days of receipt of this letter. Include your CPC number.
2. If you are not satisfied with the final disciplinary decision of the Chief of Police, you can request a review of the complaint by the 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**    *Beth Mohr, Chair*    *Leonard Waites, Vice Chair*  
*Dr. Susanne Brown*            *Eric H. Cruz*            *Joanne Fine*  
*Carlotta A. Garcia*            *Dr. Lisa M. Orick-Martinez*  
*Rev. Dr. David Z. Ring III*  
Edward Harness, Esq., Executive Director

June 10, 2016  
Via Certified Mail

**Re:    Citizen Police Complaint 042-16**

Dear Mr.

Your complaint against Albuquerque Police Department (APD) Officer B. was received by our office on March 3, 2016 for an incident which occurred on that same date. Your complaint was reviewed by the Civilian Police Oversight Agency (CPOA) Director. The CPOA Director contacted you by phone in order to gain more information from you. Your complaint was assigned to a CPOA Investigator on March 22, 2016 for investigation.

PO Box 1293

### **I. THE COMPLAINT**

Albuquerque

New Mexico 87105

www.cabq.gov

You did not file a written complaint but instead called in what you had witnessed to an Administrative Assistant in the Chief's office. She, in turn, sent an e-mail listing your concerns to an APD Lieutenant who forwarded your concerns to our agency. The Executive Director of the CPOA called you over the phone to get more information from you. You told The Executive Director that on March 3, 2016 at about 1:15 PM, you were in line at a drive through at a local hamburger restaurant located near Menaul and Rhode Island. There was a marked police car in front of you. You stated that the officer who was driving the police car got very upset that his order was taking so long. You said that you witnessed the officer "chew out" a young man who was working at the restaurant because the order took so long and then the officer demanded a refund. You felt that the officer in the police car displayed unprofessional behavior that did not reflect positively on the APD. You told the Executive Director that you did not want to pursue a formal investigation into the matter but that you would be satisfied if a Supervisor could speak with the officer and counsel the officer about his conduct. Your complaint was then assigned to the CPOA Investigator who facilitated the informal resolution of your complaint

### **II. THE INVESTIGATION**

In an effort to assist you, the CPOA Investigator notified and spoke with the officer about your complaint. The CPOA Investigator also notified the officer's Supervisor, Sergeant S., about your complaint and your desire to have the matter resolved informally with a counseling session with the officer. Sergeant S. informed the CPOA Investigator that Officer

Letter to Mr. CPC 042-16  
June 10, 2016  
Page 2

B. did bring this matter to his attention on the date of the incident. Sergeant S. said that on that date, and after being notified of your complaint, that he spoke with Officer B. at length about the incident. Officer B. said that he was concerned with the order taking so long and felt that it was possible that his food had been tampered with and that was why he had demanded a refund. Regardless of what Officer B. felt, Sergeant S. reminded Officer B., that as a public servant, he must always present himself in a professional manner. Sergeant S. reported to the CPOA Investigator that Officer B. was receptive to the counseling session and Officer B. understood what the Sergeant had said.

### III. CONCLUSION

Your complaint alleged a minor policy violation. Because you told the CPOA Executive Director that you did not want to pursue a formal investigation into the matter but that you would be satisfied if a Supervisor could speak with the officer and counsel the officer about his conduct, and because that was done, we are administratively closing your complaint and no further investigation will be conducted.

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

Please contact me if you have any questions or concerns.

Sincerely,  
The Civilian Police Oversight Agency by



Edward Harness  
Executive Director  
(505) 924-3770

CC: Albuquerque Police Department, Chief of Police

# CITY OF ALBUQUERQUE



## CIVILIAN POLICE OVERSIGHT AGENCY

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

June 10, 2016  
Via Certified Mail

**Re: CPC # 048-16**

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

Our office received the complaint you filed on March 11, 2016 against an Officer of the Albuquerque Police Department (APD) regarding an incident that occurred on March 10, 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

Albuquerque

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

New Mexico 87104 Please be aware, the contract between the Albuquerque Police Officers' Association (APOA) and the City of Albuquerque requires that officers cooperate in the investigation; therefore, the officer's statements may not be made public. Below is a summary of the complaint, the CPOA's investigation, and findings.

www.cabq.gov

### I. THE COMPLAINT

Mrs. \_\_\_\_\_ wrote a complaint on behalf of her husband \_\_\_\_\_ Mrs. \_\_\_\_\_ stated on March 10, 2016 her husband was not panhandling and that he was only crossing the street. Mrs. \_\_\_\_\_ wrote that Officer G. stopped Mr. \_\_\_\_\_ and told him if he saw him around the area he would take him to jail. Mrs. \_\_\_\_\_ wrote that Officer G. told \_\_\_\_\_ he would get 2 summonses in the mail and \_\_\_\_\_ became scared and gave the officer his old ID which had the wrong address. Mrs. \_\_\_\_\_ wrote \_\_\_\_\_ felt discriminated against because Officer G. asked James if he was homeless, harassed and threatened him. Ms. \_\_\_\_\_ wrote that \_\_\_\_\_ called the substation to update the information to his current address and was told by someone that he could receive another citation for giving the officer wrong information. Mrs. \_\_\_\_\_ would like all the charges dismissed for the harassment to stop against \_\_\_\_\_ and Mrs. \_\_\_\_\_

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

The investigation included a review of the Complaint, SOPs, Lapel Video of Officer G., interview of Officer G. and the CAD and Police report of the incident.

(A) The CPOA reviewed Standard Operating General Order 1-3-3 (A1) in reference to Officer G.'s conduct, which states:

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

Mrs. [redacted] wrote she felt her husband [redacted] was being discriminated against by Officer G. when he was issued a summons for obstructing traffic. Mrs. [redacted] stated that her husband Mr. [redacted] was only crossing the street and Officer G. asked him if he was homeless.

The investigation showed Mr. [redacted] was observed with a sign panhandling at Wyoming Blvd. and Zuni. Officer G. observed Mr. [redacted] in the middle lane of traffic collecting money from a vehicle. Officer G. observed the light turn green causing traffic to be delayed due to Mr. [redacted] being in the roadway. The investigation showed Officer G. informed Mr. [redacted] that he could not be obstructing traffic and panhandling. Once Officer G. drove away he then observed Mr. [redacted] return to the same area pull out his sign and continue panhandling. The investigation determined Officer G. then turned his vehicle around and made contact with Mr. [redacted] after he had warned him previously. Mr. [redacted] was asked during the contact if the address on the ID was good or if he was currently homeless. The investigation showed there was no discrimination in asking that question. Officer G. was informing Mr. [redacted] that there are signs that offer help if he happened to be homeless.

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

(B) The CPOA reviewed Standard Operating General Order 1-4-3 (B7) in reference to Officer G.'s conduct, which states:

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

Mrs. [redacted] wrote that her husband Mr. [redacted] was only crossing the street and was not panhandling when Officer G. harassed him and issued him a citation.

The investigation showed that when Mr. [redacted] was contacted by Officer G. and was informed he would be issued a citation/summons; Mr. [redacted] never stated he was not

panhandling or collecting money from vehicles in the roadway. In fact Mr. \_\_\_\_\_ is observed arguing with Officer G. that it is his right to panhandle. Mr. \_\_\_\_\_ argues his right and admits to panhandling even quoting an article he saw on Channel 13 news telling him it was ok to do so.

The investigation also showed that Officer G. had only warned Mr. \_\_\_\_\_ that he could not panhandle and obstruct traffic when he first observed Mr. \_\_\_\_\_. It was not until after the warning that Officer G. saw Mr. \_\_\_\_\_ immediately return to the area and begin panhandling once again that Mr. \_\_\_\_\_ was issued a summons for obstructing traffic.

The CPOA finds Officer G.'s conduct **UNFOUNDED**, where the investigation determined by clear and convincing evidence that the alleged misconduct did not occur or did not involve the subject officer.

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

**You have the right to appeal this decision.**

1. If you are not satisfied with the findings of the CPOA, please request an appeal in a signed writing to the undersigned within 30 days of receipt of this letter. Include your CPC number.
2. If you are not satisfied with the final disciplinary decision of the Chief of Police, you can request a review of the complaint by the 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**    *Beth Mohr, Chair*    *Leonard Waites, Vice Chair*  
*Dr. Susanne Brown*    *Eric H. Cruz*    *Joanne Fine*  
*Carlotta A. Garcia*    *Dr. Lisa M. Orick-Martinez*  
*Rev. Dr. David Z. Ring III*  
Edward Harness, Esq., Executive Director

June 10, 2016  
Via Certified Mail

**Re:    Citizen Police Complaint 059-16**

Dear Mr.

Your complaint against Albuquerque Police Department (APD) was received by our office on April 18, 2016 for an incident which allegedly occurred a day earlier. Your complaint was reviewed by the Civilian Police Oversight Agency (CPOA) Director. The CPOA Director assigned your complaint to a CPOA Investigator on April 19, 2016 for investigation. On that date, you filed a similar complaint regarding an incident that occurred "about 6 months ago."

PO Box 1293

### **I. THE COMPLAINTS**

Albuquerque

New Mexico 87103

www.cabq.gov

In your first complaint, you alleged that you called the police and that an APD Operator answered your call. You alleged that no officer responded to your apartment but later on, 5 APD officers went to handle a call at a different apartment in your complex. You did not wish to bother the officers who were on that call. You complained that you called the APD again and that an officer did respond to your home at that time and that officer apologized for not responding to your call the first time. You reported to that officer that the night before, a friend had stolen the keys to your car.

In your second complaint, the one filed on the 19<sup>th</sup> of April, you alleged that about six months ago, you called 911 to report that on one of your water pipes under the sink in the bedroom, there was a white ball with a valve on it on one of the pipes. You requested that an officer be sent out to photograph the white ball, but then you changed your mind because your house was dirty and you did not want the officers to see your house in that condition. You told the operator that you would call back after you cleaned your house. You went outside and saw a white car in the parking lot that freaked you out, so you called 911 again. An officer showed up and spoke to a woman who lives in the apartment beneath you. You wrote that you have been trying to file a complaint at the court house and with the DA's office about that.

## **II. THE INVESTIGATION**

In an effort to assist you, the CPOA Investigator conducted an extensive search with the cooperation of the APD Division that keeps recordings of phone calls made to APD. In reference to your first complaint, the database was searched for two days before and two days after you alleged that you called the police and there is no record of you calling 911 on the date that you alleged that you called. The database was searched by name, by address, and by phone number. Furthermore, every call that was made on the date you allegedly named you call to the telephone operator you identified was reviewed. There was no call from you to that operator on the day that you alleged that you made the call. The only call that was recorded was when you called the following day. There isn't enough information for us to continue investigating your complaint that the police were not sent out after you called 911 the first time. There is no 911 call or even a call to 242-COPS.

With regards to your second complaint, the CPOA Investigator was unable to find a call from you "about 6 months ago" regarding the white ball. Even if it was located, you stated that you did not want an officer sent out until you cleaned your apartment. There was no Standard Operating Procedure (SOP) violation committed by the APD on that occasion. With regards to the suspicious white car that freaked you out, and officer was sent out and handled the call properly. There is not enough information or detail in your complaint to move forward with any further investigation as no misconduct by anyone from APD was alleged in that complaint.

## **III. CONCLUSION**

Your complaints were researched and because of insufficient evidence or lack of evidence, there is no way to proceed any further in investigating your complaints. We are administratively closing your complaints and no further investigation will be conducted.

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

Please contact me if you have any questions or concerns.

Sincerely,  
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department Chief of Police

# CITY OF ALBUQUERQUE



## CIVILIAN POLICE OVERSIGHT AGENCY

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

June 10, 2016  
Via Certified Mail

**Re: CPC # 060-16**

Dear Ms.

Our office received the complaint you filed on April 19, 2016 against Officers of the Albuquerque Police Department (APD) regarding an incident that occurred on February 25, 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

Albuquerque

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

New Mexico 87101 Please be aware, the contract between the Albuquerque Police Officers' Association (APOA) and the City of Albuquerque requires that officers cooperate in the investigation; therefore, the officer's statements may not be made public. Below is a summary of the complaint, the CPOA's investigation, and findings.

www.cabq.gov

### I. THE COMPLAINT

Ms. [redacted] wrote that on February 25, 2016 she was intoxicated and arrested for battery against a household member. Ms. [redacted] complained that during the encounter with Officer V. and due to Ms. [redacted] being intoxicated, she did not recall wearing a bra. Ms. [redacted] stated she did recall being shirtless and asking Officer V. if she could put a shirt on and Officer V. stating "no, let's go". Ms. [redacted] stated Officer V. gave Ms. [redacted] a green towel to cover up. Ms. [redacted] complained that during her transport to the substation she was shirtless and uncomfortable due to Officer V. being a male. Ms. [redacted] complained that she was booked into Metro Detention Center and she had no bra and no underwear on and those items were not listed in her belongings nor was the green towel. Ms. [redacted] stated she had a fear of possible sexual misconduct due to her being intoxicated and the lack of clothing. Ms. [redacted] stated she talked to the complainant who originated the call to police that night and was

informed that Mr. (complainant) gave Officer V. a T-shirt, a sweatshirt and that Ms. was wearing a bra when she was arrested and left the apartment on the night of the incident.

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

The investigation included a review of the Complaint, SOPs, Lapel Video of Officer V., interviews of Officer V., Lt. R and Ms. and the CAD and Police report of the incident.

(A) The CPOA reviewed Standard Operating General Order 1-2-3 (4B) in reference to Officer V.'s conduct, which states:

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

*b. In addition and with recognition that each unique situation will require specific actions, the appropriate decision should be the least restrictive decision, which once made, will not compromise either officer safety or result in unlawful action, and which will result in an outcome that remains in accordance with departmental policy and procedures.*

Ms. wrote that due to her intoxication on the night of February 25, 2016 and the lack of clothing she had on at the time of her arrest she felt uncomfortable with Officer V. being the only officer without a female officer on scene. Ms. stated Officer V. refused to allow her to put clothing on and due to her being transported without a shirt and her lack of remembering from being intoxicated, Ms. feared there may have been sexual misconduct by the officer.

Officer V. was dispatched to a disturbance call involving Ms. Mr. Ms. boyfriend made the call to police stating Ms. was intoxicated and he wanted her out of his home. Officer V. arrived at the apartment and met with Mr. As Officer V. entered the apartment Ms. approached the officer. Lapel video showed Ms. wearing a bra and sweatpants. Because Officer V. was the only officer on scene he separated the two parties, immediately covered Ms. with a towel from the residence and secured Ms. in his patrol unit while he conducted his investigation with Mr. Ms. did ask for clothing in the initial moments of the contact, however Officer V. being the only officer in the residence with both parties, for understandable officer safety reasons, removed Ms. after covering her with the towel. The investigation showed Officer V. conducted himself and his investigation in an appropriate manner by covering Ms., calling for assistance from a female officer and once having Ms. at the substation, Officer V. obtained a superior officer as a witness to escort Ms. into the substation and giving her a sweatshirt to cover with. Officer V. recorded the incident in its entirety and there was no incident at any time to find sexual misconduct against Officer V.

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

(B) The CPOA reviewed Standard Operating General Order 2-08-2 (M3 a.b.) in reference to Officer V.'s conduct, which states:

*M. Disposition of Evidence*

*3. Safekeeping Property: Submission and Disposition*

*a. Property may be tagged into the Evidence Unit for safe keeping when:*

*i. the officer has exhausted all other possibilities of disposing of the property.*

*ii. The owner is known*

*iii. The owner has a permanent mailing address*

*b. The submitting officer will notify the owner that the evidence unit is holding the property and they must have the property picked up within 30 days.*

Ms. [REDACTED] complained that items she was wearing and items her boyfriend gave the officer were not made part of her personal belongings when she arrived at the Detention Center.

The investigation showed that Officer V. used a towel to cover up Ms. [REDACTED] during her arrest and transport to the substation. Ms. [REDACTED] had on sweatpants and a bra during her arrest. Once at the substation, Ms. [REDACTED] removed her bra and towel and was given a sweatshirt which Mr. [REDACTED] had provided to the officer at the scene of the arrest. Mr. [REDACTED] also provided Officer V. with a T-shirt. Officer V. placed these items inside his police vehicle and only gave the sweatshirt to Ms. [REDACTED]. Inside the substation where Ms. [REDACTED] removed her bra and the towel, Officer V. took these items and placed them on a counter, later placing the items inside his vehicle as he transported Ms. [REDACTED] to the PTC. The items Ms. [REDACTED] was wearing at the time of processing inside the PTC were the only items Ms. [REDACTED] claimed. The other items were never turned in to the PTC by Officer V. The investigation proved that the items Ms. [REDACTED] stated in her complaint, a towel, t-shirt and bra were her personal belongings and should have been entered with Ms. [REDACTED]. The investigation showed these items were discarded without Ms. [REDACTED] approval. These items would have fit into the personal belongings bag provided by the PTC and were acceptable items allowed. The investigation showed that Officer V. had options for Ms. [REDACTED] personal items to either place them with the PTC or tag the items for safekeeping under standard operating procedures. Officer V. should not have made the decision to discard the items.

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

Your complaint and these findings are made part of Officer V'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.
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**    *Beth Mohr, Chair*    *Leonard Waites, Vice Chair*  
*Dr. Susanne Brown*        *Eric H. Cruz*        *Joanne Fine*  
*Dr. Carlotta A. Garcia*    *Dr. Lisa M. Orick-Martinez*  
*Rev. Dr. David Z. Ring III*  
Edward Harness, Esq., Executive Director

June 10, 2016  
Via E-Mail

**Re: CPC # 065-16**

Dear Ms.

Our office received the complaint you filed on March 28, 2016 against Officers of the Albuquerque Police Department (APD) regarding an incident that occurred sometime in 2009. After conducting a preliminary investigation, I determined that your complaint is too old to and lacks enough substantive information to investigate. Your complaint alleges activity by an officer that was not hired by APD until 2010.

PO Box 1293

Therefore, I am **ADMINISTRATIVELY CLOSING** your complaint without further investigation.

Albuquerque

Please contact me if you have any questions or concerns.

New Mexico 87103

Sincerely,  
The Civilian Police Oversight Agency by

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

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

cc: Albuquerque Police Department Chief of Police

# CITY OF ALBUQUERQUE



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

June 10, 2016  
Via Certified Mail

**Re: CPC #077-16**

Dear Mr.

Our office received the complaint you filed against Albuquerque Police Department (APD) Officer H. on April 11, 2016, regarding an incident that occurred on January 14, 2016. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint on April 29, 2016. The Administrative Office of the CPOA reviewed the Critical Incident Review Team (CIRT) Serious Use of Force investigation into your incident. The CPOA made findings of whether the Albuquerque Police Department (APD) Officer involved violated Standard Operating Procedures (SOPs) based on a preponderance of the evidence. A preponderance of the evidence means that one side has a greater weight of evidence that is more credible and convincing than the other side. Another way of saying it is more than 50% of the credible evidence. If the credible evidence is 50-50, the proper finding is Not Sustained.

PO Box 1293

Albuquerque

New Mexico 87103

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

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

### I. THE COMPLAINT

On January 14, 2016 at about 11:20 PM, an alarm company notified APD that an alarm had been activated at the \_\_\_\_\_ restaurant located at \_\_\_\_\_ Central Ave., NE. Officers responded to the call and saw a window had been broken out on the west side of the business. Officers saw Mr. \_\_\_\_\_ inside the restaurant and attempted to contact Mr. \_\_\_\_\_ but Mr. \_\_\_\_\_ went to the back of the business and hid in a closet. APD Officers on scene gave numerous commands for Mr. \_\_\_\_\_ to come out and give up. Mr. \_\_\_\_\_ did not respond to those commands. The owner of the restaurant arrived on scene and told the officers that no one was authorized to be in his business at that hour. The owner gave the officers permission to search the building for Mr. \_\_\_\_\_ whom the officers knew was still inside. A K-9 officer was called in and two K-9 warning announcements were given which consisted of "Attention

inside the building. This is the Albuquerque Police Department K-9 Unit. You need to come out and make your presence known or a police dog will be used to find you. When he finds you, he will bite you.” Mr.           did not come out. The dog was used to find Mr.           and the dog bit Mr.           Mr.           was arrested for committing a commercial burglary.

Mr.           complained that during his apprehension that the K-9 continued biting him even though the K-9 officer commanded the dog to stop biting. Mr.           said that he was fully compliant with the officer’s orders. Mr.           complained that the use of the police dog to apprehend him was an unreasonable and excessive use of force. Mr.           complained that the injuries he suffered from the K-9 bite subjected him to highly infectious diseases at the Metropolitan Detention Center. Mr.           wrote in his complaint that he wanted all the lapel camera video preserved.

## **II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING K-9 OFFICER H.’S CONDUCT**

The Executive Director of the CPOA reviewed the investigation conducted by the CIRT Investigator, which included a review of the applicable Standard Operating Procedures (SOPS), the Complaint, and an interview with K-9 Officer H.. Mr.           refused to give a statement to the CIRT investigator. The Director also reviewed the police reports filed by the officers who were on scene including K-9 Officer H.’s report, The Field Investigator’s report, and documentation of Mr.           injuries, The K-9 Officer’s Supervisor’s Use of Force report, and a review of all video recordings in this incident.

A) The CPOA reviewed Standard Operating Procedure 4-12-7 entitled Use of the Police Service Dog (PSD) as a Force Option Regarding Officer H.’s conduct, which states:

*Handler’s use of their PSD as a use of force option may range from presence to less lethal force. A Handler shall not deploy their PSD merely because it is an available option. When a PSD is used as a use of force option, the Handler’s deployment of their PSD shall be objectively reasonable under the facts and circumstances confronting the Handler. The Handler must evaluate the following factors, taking into consideration the safety of officers, citizens, and the suspect/individual, prior to deployment of the PSD:*

- 1. The severity of the crime(s) at issue; the use of a canine will normally be limited to felony crimes unless otherwise dictated within this policy.*
- 2. Whether the suspect poses an immediate threat to the safety of the officers or others; and*
- 3. Whether the suspect is actively resisting arrest or attempting to evade arrest by flight.*

Prior to deploying the PSD, Officer H. noted that Mr.           had forced entry to the business by breaking out a window. Ms.           had no authorization from the owner of the building to be in the building. Mr.           actively evaded arrest by not peacefully surrendering to the police when he could have done so. Instead, Mr.           chose to hide from the police in the back of the building. The building was a restaurant and the police did not know if Mr.           was armed. What they did know is that Mr.           had access to weapons in the restaurant, knives, a hand saw, crowbar, and screwdriver. Mr.           had numerous places in the building that he could hide in that would provide him with an advantageous position should he have chosen to lie in wait and attack the police who were trying to arrest him. The use of the PSD

created time and distance between Mr. and the officers. Officer H. correctly determined that using the PSD would be the best method to locate Mr. without putting the officers in jeopardy. One officer on scene reported seeing Mr. , who had his face covered with a mask, try to exit the building at one point and escape. When the officers challenged Mr. , he retreated into the building.

The investigation showed that Officer H. knew that Mr. had committed a felony; commercial burglary. Officer H. knew that Mr. had access to weapons and was not peacefully surrendering. Mr. posed an immediate threat to the safety of the officers and others. Officer H. knew that Mr. had already tried to escape being taken into custody because Mr. tried to get out of a window but retreated when he was confronted by officers who told him to surrender.

The CPOA finds Officer H.'s conduct with regards to the deployment of the PSD to find Mr. to be **Exonerated**, where the investigation determined, by a preponderance of the evidence, that the alleged conduct did occur, but it did not violate APD policies, procedures, or training.

B) The CPOA reviewed Standard Operating Procedure 2-52-3 A regarding Officer H.'s conduct, entitled General Requirements and Expectations of all officers with regard to Uses of Force which states in part:

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

*To effect the lawful arrest or detention of a person.*

Mr. complained that during his apprehension that the K-9 continued biting him even though the K-9 officer commanded the dog to stop biting. Mr. said that he was fully compliant with the officer's orders. Mr. complained that the use of the police dog to apprehend him was an unreasonable and excessive use of force.

The investigation showed that Mr. had committed the felony crime of commercial burglary. Mr. was subject to arrest at the time that the PSD was properly used to find him. The physical evidence in the case showed that Mr. injuries were a direct result of Mr. actively fighting the PSD when the dog found and bit Mr. A lapel video captured Officer H. telling Mr. to stop fighting the dog. Officer H. documented in his report that he saw Mr. push and grab at the dog's head and muzzle area in attempt to get the dog to release his hold. When officers were able to gain control of Mr. the dog was ordered to release Mr. and the dog complied. The dog did not continue to bite Mr. after that as Mr. alleged. Based on the review of the documentation and evidence provided, and upon careful consideration of the facts and circumstances surrounding this incident, the use of force was in compliance with APD policy, tactics, and training.

The CPOA finds Officer H.'s conduct with regards to the Use of Force (the dog biting Mr. to be **Exonerated**, where the investigation determined, by a preponderance of the evidence, that the alleged conduct did occur, but it did not violate APD policies, procedures, or training.

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

June 10, 2016  
Via Certified Mail

**Re: CPC #085-16**

Dear Mr.

Our office received the complaint you filed on May 5, 2016 against Officers of the Albuquerque Police Department (APD) regarding an incident that occurred on May 5, 2016. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint on May 19, 2016.

PO Box 1293

### **I. THE COMPLAINT**

Mr. [redacted] filed a complaint regarding the driving conduct of an unknown individual who displayed a badge when confronted. Mr. [redacted] wrote an individual in a gray Dodge Charger with a child in his front passenger seat forced him out of a lane. When Mr. [redacted] honked at the individual, he held a badge out his window. Mr. [redacted] indicated to the person to pull over, but the person refused.

Albuquerque

New Mexico 87103

### **II. INVESTIGATION**

The CPOA Investigator reviewed the complaint Mr. [redacted] submitted. The Investigator contacted Mr. [redacted] to see if he had additional information to aid in the identification of the officer on May 23, 2016. Mr. [redacted] stated he did not have additional identifying information. Mr. [redacted] understood he did not have enough information to conduct an investigation. Mr. [redacted], primary goal was to inform the Department so that officers would be cognizant of their behavior.

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### **III. CONCLUSION**

The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** your complaint, due to not being able to identify any Albuquerque Police Officer related to this incident and not having enough information to further the investigation.

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.

Letter to Mr. CPC 085-16  
June 10, 2016  
Page 2

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