



CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board *Joanne Fine, Chair* *Dr. Carlotta Garcia, Vice Chair*
Johnny J. Armijo *Susanne Brown* *Eric H. Cruz*
Dr. William J. Kass *Valerie J. St. John* *Rev. Dr. David Z. Ring III*
Leonard Waites
Edward Harness, Executive Director

POLICE OVERSIGHT BOARD AGENDA

Thursday, July 13, 2017 – 5:00 PM

Vincent E. Griego Chambers

I. Welcome and call to order.

II. Pledge of Allegiance – *Leonard Waites*

III. Mission Statement – *Joanne Fine*

*“Advancing Constitutional policing and
accountability for APD and the Albuquerque
Community.”*

IV. Approval of the Agenda

V. Public Comments

VI. Review and Approval of Minutes

VII. Discussion:

- a. APOA Contract
- b. Traffic data update

VIII. Consent Agenda Cases:

a. Administratively Closed Cases

019-17 086-17 112-17

b. Cases investigated

131-15 180-16 182-16 194-16 196-16
038-17 111-17

c. CIRT Cases – None

IX. OIS – John O’Keefe I-10-17

X. POB’s Review of Garrity Materials

XI. Reports from Subcommittees

a. Community Outreach Subcommittee – *Dr. Ring*

b. Policy and Procedure Review Subcommittee – *Susanne Brown*

1. Ordinance amendments

c. Case review Subcommittee – *Leonard Waites*

1. Appeals - None

PO Box 1293

Albuquerque

NM 87103

www.cabq.gov

XII. Reports from City Staff

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

XIII. Meeting with Counsel re: Pending Litigation or Personnel Issues:

Closed Discussion and Possible Action re: Pending Litigation or Personnel Issues

- a. Matters subject to the attorney-client privilege pertaining to threatened or pending litigation in which the public body is or may become a participant pursuant to NMSA 1978, Section 10-15-1(H)(7); and
- b. Limited personnel matters pursuant to NMSA 1978, Section 10-15-1(H)(2)

XIV. Other Business

- XV. Adjournment- *Next Regularly scheduled POB meeting will be on August 10, 2017 at 5 p.m. in the Vincent E. Griego Chambers.***

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

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

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Rev. Dr. David Z. Ring III

Edward Harness, Executive Director

July 14, 2017

Via Certified Mail

;

Re: CPC #131-15

Dear Mr.

PO Box 1293

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint against Officers of the Albuquerque Police Department (APD) on July 29, 2015, regarding an incident that occurred on July 3, 2015. The CPOA thoroughly and impartially investigated the complaint.

Albuquerque

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

NM 87103

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

I. THE COMPLAINT AND INVESTIGATION

Several callers identified a fellow resident, Mr. [REDACTED], as shooting off his gun in the courtyard. Callers also reported Mr. [REDACTED] pointed his firearm at a BCSO helicopter or airplane overhead. APD officers responded, tactically deployed, and took Mr. [REDACTED] into custody. He was arrested and the firearm he possessed was determined to be stolen. Mr. [REDACTED] denied having his gun out, claimed he was wrongfully detained, and believed the officers only harassed him due to his race. Further investigation determined that even though the firearm was stolen, Mr. [REDACTED] purchased the gun from a legitimate dealer so charges were changed as the investigation progressed. Mr. [REDACTED] believed the change in charges was improper.

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), Mr. 's interview, Officer B, Officer S, Officer K and Detective W's interviews, and numerous lapel videos from multiple officers.

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

A) The CPOA reviewed Standard Operating General Order 1-02-2B2 regarding Officer B's conduct, which states:

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

Mr. claimed as soon as he opened his apartment door that Officer B "snatched" him out of the house and threw him in handcuffs. Mr. claimed he had done nothing wrong. Mr. denied firing his weapon, denied he had the weapon in his hand when he answered the door, and claimed he had already taken the weapon off his hip and put it on the sofa when he answered the door. He claimed it was obvious he did not have a gun because officers would have shot him if he had. He asked several times why he was being taken into custody, but Officer B and others would not answer. He later complained he was told he was arrested for a stolen gun even though it was minutes after grabbing him. When officers mentioned his gun was stolen he explained he had proof the gun belonged to him, but Officer B said he did not care and was taking him to jail. Mr. heard from his neighbors later that the officers stood outside his house for four hours. He did not understand what they were looking for and why they had authority to be there. Mr. believed the officers were looking for his gun ownership paperwork in order to shred it. Mr. made many assumptions of what the officers were doing in his house.

The lapel video showed no one "snatched" Mr. out of the house. The lapel video showed Mr. was verbally resistive, but eventually complied with officers' orders and exited his apartment. He walked towards officers and was handcuffed. Mr. admitted to answering the door with the gun in his hand later on in the lapel videos and indirectly in his interview. The lapel video showed when officers conducted the protective sweep the gun was on the floor, not on the sofa. Numerous witnesses identified Mr. as having fired his gun in the courtyard of the apartment complex. Officer B and others told Mr. the reason for his detention was the allegation he had fired his gun. Further investigation led to the information the gun was potentially stolen, which was also told to Mr. . Mr. was cautioned he might be charged with disorderly conduct as well since Mr. continued to scream, cuss, and kick while in the back of the police car. The lapel video showed Officer B never told Mr. that he did not care about his proof of ownership of the gun and was taking him to jail anyway. The lapel videos showed the officers did the brief protective sweep and then did not enter the apartment until the search warrant was obtained. No one rifled

through his paperwork or removed it. They did remain outside the apartment talking to other residents and looking for evidence.

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

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

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

Mr. claimed Officer B grabbed his arm forcefully and twisted his arm. Mr. claimed two pairs of handcuffs were placed on him and they were very tight.

The lapel video showed officers did not grab Mr. forcefully or twist his arm. Mr. provided minimal resistance, but did squirm some so officers did hold him in order to handcuff him. Mr. was not placed in two pairs of handcuffs. At the substation, he was handcuffed to the bench because he aggressively got up at times. The lapel video showed Mr. complained about handcuff tightness much later, but continued to be very verbally combative and frequently kicked and banged in the back of the patrol car, making readjustments at the time unsafe. The videos showed there was a visible gap in the cuffs as he moved around.

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

C) The CPOA reviewed Standard Operating General Order 1-03-3A1 regarding Officer B'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.

Mr. claimed he was discriminated against because his home had been burglarized in the past and officers did nothing, but with him the officers took him into custody for something, he denied doing. He claimed the officers used the "N" word.

The lapel videos showed Mr. repeatedly accused officers of being racist, but the officers denied such accusations. None of the officers referred to him in a disparaging or discriminatory manner. Several witnesses specifically identified Mr. so the detention and arrest of Mr. was not due to any bias or profiling. The officers never used the "N" word or any other insult.

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

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

A) The CPOA reviewed Standard Operating General Order 1-02-2B2 regarding Officer S' conduct, which states:

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

Mr. [REDACTED] claimed as soon as he opened his apartment door that Officer S "snatched" him out of the house and threw him in handcuffs. Mr. [REDACTED] claimed he had done nothing wrong. Mr. [REDACTED] denied firing his weapon, denied he had the weapon in his hand when he answered the door, and claimed he had already taken the weapon off his hip and put it on the sofa when he answered the door. He asked several times why he was being taken into custody, but Officer S and others would not answer. He later complained he was told he was arrested for a stolen gun even though it was minutes after grabbing him.

The lapel video showed no one "snatched" Mr. [REDACTED] out of the house. Mr. [REDACTED] eventually complied with officers' orders and exited his apartment. He walked towards officers and then was handcuffed. He originally opened his door with a gun in hand. The lapel videos and his interview showed Mr. [REDACTED] admitted to answering the door with the gun in his hand. Officers reported he tossed the gun inside, which the gun was found on the floor, not in a holster on the sofa. Numerous witnesses identified Mr. [REDACTED] as having fired his gun in the courtyard of the apartment complex. Officer S and others told Mr. [REDACTED] the reason for his detention was the allegation he had fired his gun. Further investigation led to the information the gun was potentially stolen.

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

B) The CPOA reviewed Standard Operating Procedural Order 2-52-3A regarding Officer S' conduct, which states:

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

Mr. [REDACTED] claimed Officer S grabbed his arm forcefully and twisted his arm. Mr. [REDACTED] claimed two pairs of handcuffs were placed on him and they were very tight.

The lapel video showed officers did not grab Mr. [redacted] forcefully or twist his arm. Mr. [redacted] provided minimal resistance, but did squirm some so officers did hold him in order to handcuff him. Mr. [redacted] was not placed in two pairs of handcuffs. At the substation, he was handcuffed to the bench because he aggressively got up at times. The lapel video showed Mr. [redacted] complained about handcuff tightness much later, but continued to be very verbally combative and frequently kicked and banged in the back of the patrol car, making readjustments at the time unsafe. The videos showed there was a visible gap in the cuffs as he moved around.

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

C) The CPOA reviewed Standard Operating General Order 1-03-3A1 regarding Officer 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.

Mr. [redacted] claimed he was discriminated against because his home had been burglarized in the past and officers did nothing, but with him the officers took him into custody for something, he denied doing. He claimed the officers used the "N" word.

The lapel videos showed Mr. [redacted] repeatedly accused officers of being racist, but the officers denied such accusations. None of the officers referred to him in a disparaging or discriminatory manner. Several witnesses specifically identified Mr. [redacted] so the detention and arrest of Mr. [redacted] was not due to any bias or profiling. The officers never used the "N" word or any other insult.

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

Additional Issues:

1. Mr. [redacted] complained that all the responding officers had weapons pointed directly at him.

The officers documented in their reports that they had weapons out and those officers that pointed them at Mr. [redacted] documented that they did. Not all officers pointed their weapons at Mr. [redacted]; many were in a low ready position. The use of force and reporting of force policies were in flux at the time of this incident. General Order 1-05-2C9e, which had been issued 5/7/15, stated that personnel needed to write in their report when he/she pointed a firearm at an individual, acquiring a target, to deescalate a situation. The policy stated a show of force form is required, but that it did not include the use of low ready. Procedural Order 2-54 that clarifies how things should be reported and investigated did not exist until 2/12/16. The officers' action of pointing firearms at Mr. [redacted] was reasonable given the reports he had a gun, shot off a gun,

pointed a gun at the BCSO helicopter, and some officers could see he had a gun in his hand when he answered the door. Officers documented their actions in their reports and supervisors completed a show of force report for those officers that actually pointed their weapons. The show of force was within policy and it was documented per the policy at the time.

2. Mr. [redacted] complained he received additional charges for aggravated battery from this incident, which he felt was improper since they were not initially charged. Mr. [redacted] claimed Detective W tried to pin a different case on him since the stolen property charge was not successful. Mr. [redacted] claimed he was incarcerated for no reason.

The initial report consisted of one felony and two misdemeanors. The initial felony was receiving/transfer of a stolen firearm valued less than \$2500. The misdemeanors were negligent use of a deadly weapon and disorderly conduct. For court reasons if there is a combination of felony and misdemeanor charges, only the felonies are brought forth in the initial filing. Detective W conducted an investigation and determined Mr. [redacted]'s claim of purchasing the stolen firearm legitimately from [redacted] was true. Therefore, the stolen property charge was removed. An investigation was still pending into how [redacted] came into possession of the stolen firearm. Detective W and the ADA had conversations as to what charges would be appropriate against Mr. [redacted] for the use of the firearm based on the witness statements. After the conversations, the determined felony charges were to be attempted aggravated battery, which was why there was a second case and a delay of six days in filing those charges. Since Detective W's death in the line of duty occurred prior to the due date of this case and its completion, this issue was not brought as a specific SOP against the officer, but is being addressed in the report; Detective W's actions would have been considered within policy.

You have the right to appeal this decision.

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

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

- A) The APD policy or APD policies that were considered by the POB were the wrong policies or they were used in the wrong way; or,
 - B) The APD policy or APD policies considered by the POB were chosen randomly or they do not address the issues in your complaint; or,
 - C) The findings of the POB had no explanation that would lead to the conclusion made by the POB; or,
 - D) The findings by the POB were not supported by evidence that was available to the POB at the time of the investigation.
2. If you are not satisfied with the final disciplinary decision of the Chief of Police, you can request a review of the complaint by the city's Chief Administrative Officer. Your request must be in writing and within 30 days of receipt of this letter. Include your CPC number.

Letter to Mr. , CPC 131-15
July 14, 2017
Page 7

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

July 14, 2017

Via Certified Mail

Re: CPC #180-16

Dear Mr.

Our office received the complaint you filed on November 14, 2016 against Officer X.C. and Officer T.C. of the Albuquerque Police Department (APD) regarding an incident that occurred on November 4, 2016. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint.

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

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

I. THE COMPLAINT

Mr. said that on November 4, 2016, he was driving Eastbound on Central Avenue between 0700-0730 hours when he observed a black 'low rider' vehicle tailgating an Albuquerque Public Schools (APS) van. He said the low rider then sped past the van and continued driving erratically. Mr. said he followed the black vehicle and as he passed the vehicle, the driver tried to run him out of his lane. He said the other driver threw a Coke at his windshield and flashed what appeared to be a weapon at him. Mr. : called Albuquerque Police Department (APD) Dispatch to report the incident and the dispatcher

advised Mr. _____ not to follow the black vehicle. He said he didn't follow the vehicle. Mr. _____ provided vehicle and driver information to the dispatcher and continued driving on Central even after the black vehicle turned off of Central. Mr. _____ said the black vehicle entered onto Central Avenue, again, so he started following it in an attempt to locate the vehicle for APD officers. Mr. _____ said Officer X.C. and Officer T.C. arrived and contacted the driver of the black vehicle in a McDonald's parking lot. He watched the interaction between the officers and the other driver from across the street and complained the officers let the driver go without questioning him. He said Officer T.C. followed the black vehicle out of the McDonald's parking lot and Officer X.C. contacted Mr. Mares at the hamburger stand. Mr. _____ complained Officer X.C. yelled at him, trying to argue with him about the situation. He complained Officers T.C. and X.C. just jumped back in their cars and let a dangerous person go free, without charging him, and blamed him for the incident. He alleged the officers lied to him and were unprofessional because they said they didn't receive any information about the incident involving the black vehicle from the dispatcher but then looked at their computers and realized they actually received the information.

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

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable SOPs; the Complaint; the CADS reports and lapel video recordings.

A) The CPOA reviewed APD SOP 1-1-4(D)(15), which states:

1-1-4 RULES OF CONDUCT

D. On-Duty Conduct

15. Personnel will treat the public with respect, courtesy and professionalism at all times.

Mr. _____ complained Officer X.C. jumped out of his car and yelled at him. He also complained Officer X.C. lied to him when he told him that he didn't receive suspect vehicle information from APD dispatch. Mr. _____ complained this was unprofessional.

Mr. _____ was not interviewed as he did not respond to the CPOA Investigator's attempts to contact him. Further, mailed correspondence was returned undeliverable. This investigation was completed based solely upon his written complaint.

The lapel videos showed that Officer X.C. did not yell at or lie to Mr. Mares, nor was he unprofessional during the interaction. The evidence showed Officer X.C. did not violate any APD SOPs.

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

B) The CPOA reviewed APD SOP 3-13-3(B)(2), which states:

3-13-3 OFFICER'S DUTIES AND CONDUCT

Procedures

B. Enforcing Laws, Ordinances, and Police Regulations.

3. Officers shall abide by the following principles:

- a. Take appropriate action and render assistance in any instance that comes to their attention, whether on duty or off duty.***

Mr. [REDACTED] complained that Officer X.C. didn't do his job when he allowed the driver of the low-rider vehicle with which Mr. [REDACTED] was allegedly involved in a road rage incident go, instead of getting a dangerous person off the street.

The evidence showed that Officer X.C. did not contact the driver of the low-rider vehicle because he could not locate the vehicle and Mr. [REDACTED] did not have enough identifying information about the driver or his vehicle to provide Officer C [REDACTED] to assist in the investigation. As a result, Officer C [REDACTED] did what he could in the situation given the circumstances.

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

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

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable SOPs; the Complaint; the CADS reports and lapel video recordings.

A) The CPOA reviewed APD SOP 1-1-4(D)(15), which states:

1-1-5 RULES OF CONDUCT

D. On-Duty Conduct

- 16. Personnel will treat the public with respect, courtesy and professionalism at all times.***

Mr. ██████████ complained Officer T.C. lied to him when he told him that he didn't receive suspect vehicle information from APD dispatch. Mr. ██████████ complained this was unprofessional.

The lapel videos showed that Officer T.C. did not lie to Mr. ██████████, nor was he unprofessional during the interaction. The evidence showed Officer T.C. did not violate any APD SOPs.

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

B) The CPOA reviewed APD SOP 3-13-3(B)(2), which states:

3-13-3 OFFICER'S DUTIES AND CONDUCT

Procedures

C. Enforcing Laws, Ordinances, and Police Regulations.

4. Officers shall abide by the following principles:

- a. Take appropriate action and render assistance in any instance that comes to their attention, whether on duty or off duty.***

Mr. ██████████ complained that Officer T.C. contacted the driver of the low-rider vehicle with which Mr. ██████████ was allegedly involved in a road rage incident and instead of getting a dangerous person off the street, Officer T.C. let him go.

The evidence showed that Officer T.C. did not contact the driver of the low-rider vehicle because he could not locate the vehicle and Mr. ██████████ did not have enough identifying information about the driver or his vehicle to provide Officer T.C. to assist in the investigation. As a result, Officer T.C. did what he could in the situation given the circumstances.

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

Your complaint and these findings are made part of Officer X.C.'s and Officer T.C.'s Internal Affairs records.

You have the right to appeal this decision.

July 14, 2017

Page 5

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

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

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

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

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

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

Sincerely,
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



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Eric H. Cruz

Rev. Dr. David Z. Ring III

July 14, 2017

Via Certified Mail

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Re: CPC #182-16

Dear Ms.

Our office received the complaint you filed against Albuquerque Police Department (APD) Officer M. on November 14, 2016 regarding an incident that occurred on October 24, 2016. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint on April 19, 2017. 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

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NM 87103

www.cabq.gov

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

I. THE COMPLAINT

Ms. _____ stated in her complaint that on October 24, 2016 at about 8:55 AM, she was involved in an accident with a big truck at Montgomery Boulevard and the I-25 North Frontage Road. Ms. _____ only speaks Spanish. She called 911 to report the accident and they told her that they would send out a Spanish speaking officer to help her. The firefighters and ambulance personnel arrived before the APD officer. One of the firefighters did speak a little Spanish and a friend of Ms. _____'s also arrived on scene helped translate. Officer M. arrived and he did not speak Spanish. When Ms. _____ obtained the report that Officer M. wrote she found the report contained lies because she never told the officer anything at the scene and he wrote in the report that she told him how the accident occurred. She stated that Officer M.

never spoke to her or her friend about the accident. Ms. [redacted] stated that she tried to get the report corrected but the person whom she spoke with about the report told her that there was nothing that could be done to correct the report, that everything the officer said was correct, and that Ms. [redacted] was to blame.

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

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable Standard Operating Procedures (SOPS), the Complaint, the Computer Assisted Dispatch (CAD) report, the accident report, and interviews with Officer M., Ms. [redacted] her daughter, and a Paralegal helping them with their case.

A) The CPOA reviewed Standard Operating Procedure 1-1-4 D 19 regarding APD Officer M.'s conduct, which states in part:

Personnel will not alter, misrepresent, or make any false statement in any report verbal or written or other written document that has been completed in the course of their employment. Written documents include, but are not limited to, reports.....

Ms. [redacted] stated in her written complaint that when she called to report the accident that she was involved in she was told by the dispatcher that the dispatcher told her that they would send out a Spanish speaking officer to help her. In her in person interview with the CPOA Investigator she changed that to say that the dispatcher told her they would try to send her a Spanish speaking officer if one was available. She said in her complaint that firefighters and ambulance personnel arrived before the Officer M.. Ms. [redacted] said in her written complaint and in her interview that one of the firefighters did speak a little Spanish and a friend of hers who arrived on scene helped translate. Officer M. arrived and he did not speak Spanish. When Ms. [redacted] obtained the report that Officer M. wrote she said that the report contained lies because she never told the officer anything at the scene and he wrote in the report that she told him how the accident occurred. She stated that Officer M. never spoke to her or her friend about the accident. Ms. [redacted] stated that she tried to get the report corrected but the person whom she spoke with about the report told her that there was nothing that could be done to correct the report, that everything the officer said was correct, and that Ms. [redacted] was to blame.

Ms. [redacted] told the CPOA Investigator in the interview that she did speak with Officer M. briefly but that conversation was limited to his asking her for her driver's license, registration, and insurance. She maintained that she never gave Officer M. her version of how the accident occurred and that the statements attributed to her in the report are inaccurate or false. Ms. [redacted] did tell the CPOA Investigator during her interview that at the time of the accident she was very nervous.

The CPOA Investigator explained to Ms. [redacted] and her daughter that the normal remedy in situations like this is to file a supplemental report. When the CPOA

Investigator told them that Officer M. was willing to file a supplemental report for them, they informed the CPOA Investigator that they had already done so. They explained that they wanted to meet with Officer M. in person to file the supplemental but he was reluctant to do so saying that he could do it over the phone. Ms. _____'s daughter insisted on a face to face meeting and the officer agreed to meet them, however, when they got to the officer's substation he was already gone.

When the CPOA Investigator asked them what remedy they were seeking, the CPOA Investigator was told that they wanted Officer M. to write a supplemental report that would state that he never spoke with Ms. _____ about how the accident occurred.

The investigation revealed that Officer M. and Officer H., both APD motorcycle officers, were dispatched to handle the accident. Officer M. was the primary officer and he was responsible for handling the accident. When APD officers are on their motorcycles, they only have information that is verbally communicated to them over the radio. They do not have access to their data terminals until they stop their motorcycles.

If a dispatcher adds information to the call and does not verbally inform the motorcycle officer of the information then the officer will not see the added information as they would if they were in a patrol car. When Officer M. arrived on scene he assessed the accident and observed that Ms. _____'s vehicle had been on the inside turn lane and the large truck that was involved in the accident was in the outside turn lane. It appeared that both vehicles made the turn at the same time and the large truck struck Ms. _____.

Ms. _____'s vehicle and drug it and pinned it up against the median. Ms. _____'s vehicle was partially lodged beneath the truck's trailer. The investigation revealed that Officer M. spoke with the driver of the semi-truck and obtained his information. Officer M. then went over and spoke with Ms. _____. She was seated in her car and there were 3-4 firefighters around her and one of the firefighters was speaking Spanish to Ms. _____. Through the firefighter, Officer M. asked Ms. _____ for her driver's license, registration and insurance which Ms. _____ supplied to him. Officer M. asked Ms. _____ what happened through the firefighter and she told him what happened. The firefighter translated and provided the information to him. That information was what he wrote in the report. Officer M. wrote his report at the scene or very soon thereafter and what he wrote in the report was the information that was fresh in his mind at the time. Officer M. believes that the information that he put in the report accurately reflected what he was told by Ms. _____.

_____ as translated to him through the Spanish speaking firefighter. Granted, according to Ms. _____, the firefighter did not speak Spanish very well. It is possible that information was lost or miscommunicated in translation. No one reported any injuries in the accident until later. When Ms. _____ was no longer nervous and had a chance to calm down, she experienced pain in her neck and back.

The investigation also revealed that after the accident Officer M. had a message left in his box to call Ms. _____ or her daughter. Officer M. was at the substation at the time, working, and he called and spoke with the daughter. She told him that there was

information in the report that was not correct and she wanted the original report changed. Officer M. told her that he could not change the original report but that he would do a supplemental report for her. Officer M. offered to do that over the phone but the daughter insisted on wanting to meet face to face. Officer M. told the daughter that it wasn't necessary for them to come to the station as he had all of his equipment there and could do it over the phone but she again insisted on meeting. Officer M. agreed to the meeting and waited at the station until his end of shift but Ms. never came in on that day. They did come in a day or two later but Officer M. was out in the field working. Officer M. informed his Supervisor, who was dealing with Ms. that Officer M. couldn't come in and that if they left a number that Officer M. would call them back. Officer M. attempted to call them back the following day but there was no answer.

Officer M. denied the allegation that he told Ms. s daughter that he got the information that he wrote in the report from Ms. 's husband. Officer M. said that in speaking with the daughter he that he referred to the man who showed up at the scene as Ms. s husband and the daughter got very upset with that and told him that was not her mother's husband but her mother's boyfriend. Officer M. said that he told the daughter that he gave that man the paperwork at the scene but that he did not elicit information from the man about the accident.

This incident was an unfortunate situation for Ms. . Because the complaint was held for some time before being assigned, there was no lapel video available for the CPOA Investigator to review. This case comes down to Officer M. saying that Ms. told him something about the how the accident occurred and Ms. saying that she never said that. It is literally a case of he said/she said.

Our office has no jurisdiction to compel a firefighter to give a statement and even if the firefighter could be identified through investigation, there is little likelihood that he would remember what someone said at the scene of a minor accident without injuries 8 months after the incident occurred.

Both Ms. and Officer M. seemed credible and there just isn't enough evidence to make a finding other than not sustained.

The CPOA finds Officer M.'s conduct to be **NOT SUSTAINED**, where 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 M.'s Internal Affairs file.

You have the right to appeal this decision.

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

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

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

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

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

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

Sincerely,
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



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Rev. Dr. David Z. Ring III

July 14, 2017

Via Certified Mail

Re: CPC #194-16

Dear Ms.

Our office received the complaint you filed on October 7, 2016 against Sergeant (Sgt.) Y. of the Albuquerque Police Department (APD) regarding an incident that occurred on October 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

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

Albuquerque

NM 87103

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

www.cabq.gov

I. THE COMPLAINT

Ms. complained that on October 6, 2016, she called APD to report an assault committed against her, and two APD officers arrived on scene and spoke with her. She described these two officers as kind. She said Sgt. Y. arrived on scene and was "beyond rude and uncaring." She complained Sgt. Y. refused to press charges on the suspect and stated that the District Attorney's Office (DAO) wouldn't care. She complained Sgt. Y. profiled her based on her neighborhood.

II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING SGT. Y.'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 reports and lapel video recordings.

A) The CPOA reviewed APD SOP 1-1-4(D)(15), which states:

1-1-4 RULES OF CONDUCT

D. On-Duty Conduct

15. Personnel will treat the public with respect, courtesy and professionalism at all times.

Ms. _____ complained that Sgt. Y. was beyond rude and uncaring, said the District Attorney's Office (DAO) wouldn't care about the assault, and profiled her based on her neighborhood.

The lapel videos showed that Sgt. Y. was not rude and uncaring, did not say the DAO wouldn't care but rather told them that there was not enough information for APD or the DAO to press charges against anyone. The lapel video showed Sgt. Y. did not discriminate against Ms. _____ because of her neighborhood. The evidence showed Sgt. Y. was forthright and professional and did not violate any APD SOPs.

The CPOA finds Sgt. Y.'s conduct **UNFOUNDED** regarding the allegations of violations of this SOP, which means the investigation determined, by clear and convincing evidence, that the alleged misconduct did not occur or did not involve the subject officer.

Your complaint and these findings are made part of 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.

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

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

CITY OF ALBUQUERQUE



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Eric H. Cruz

Rev. Dr. David Z. Ring III

July 14, 2017

Via Certified Mail



Re: CPC #196-16

Dear Ms. _____

Our office received the complaint you filed on November 12, 2016 against Officer C. of the Albuquerque Police Department (APD) regarding an incident that occurred on June 8, 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

NM 87103

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

www.cabq.gov

I. THE COMPLAINT

Ms. _____ complained that on June 8, 2015, she was traveling westbound on Montgomery near Carlisle when she was pulled over by Officer C.. She complained that Officer C. approached her window and demanded her license and registration and was behaving rudely and extremely aggressively, yelling at her and speaking to her with utter disrespect. She complained Officer C. was behaving as if she were a crazy criminal who had taken him on a chase. She said that after she was stopped she began to move her vehicle away slowly towards a skateboarder who was also in the parking lot to ask the skateboarder if she could use his cell phone and when she did this Officer C. shouted at her as loudly as he could. She

complained she was frightened of Officer C. because he was verbally abusive and she was afraid he would become physically abusive. She said she was nervous because she was a powerless black woman alone with him late at night. She complained that after writing the citation, Officer C. banged a clip board on her window and screamed at her to sign it. She complained that Officer C. was yelling and bullying her so much that spittle flew out of his mouth an onto her face. She alleged that during her contact with Officer C. he mouthed a racial insult at her although she couldn't be certain about it, and stated that the whole incident was racially motivated.

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

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable SOPs; the Complaint; the CADS reports and lapel video recordings.

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

1-04-1 PERSONNEL CODE OF CONDUCT

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

Ms. complained that Officer C. approached her window and demanded her license and registration and was behaving rudely and extremely aggressively, yelling at her and speaking to her with utter disrespect. She complained Officer C. was behaving as if she were a crazy criminal who had taken him on a chase. She said that after she was stopped she began to move her vehicle away slowly towards a skateboarder who was also in the parking lot to ask the skateboarder if she could use his cell phone and when she did this Officer C. shouted at her as loudly as he could. She complained she was frightened of Officer C. because he was verbally abusive and she was afraid he would become physically abusive. She said she was nervous because she was a powerless black woman alone with him late at night. She complained that after writing the citation, Officer C. banged a clip board on her window and screamed at her to sign it. She complained that Officer C. was yelling and bullying her so much that spittle flew out of his mouth an onto her face.

The lapel video showed that upon initial contact with Ms. Officer C. was polite and professional and was not extremely aggressive and yelling at her, as alleged in her complaint. The video showed he did not demand her license and registration and was not disrespectful during this interaction, as alleged in the complaint. The lapel video showed that Officer C. returned to his vehicle to write a citation and when he got out of his vehicle to give the citation to Ms. , she began to drive away. Officer C. yelled at her to stop and told her to turn off her vehicle. He told her that moving her vehicle while he was approaching was endangering his life.

The lapel video showed that Officer C. did not bang his clip board on Ms. 's window, nor did he yell and scream at her to sign the citation and spittle did not appear to fly out of his mouth when he asked her to sign the citation. The video showed that Officer C. was not verbally abusive to Ms. , nor were there indications he was going to become physically abusive towards her. The video showed Officer C. was professional and courteous throughout his contact with Ms. , and although he yelled at her to stop moving her vehicle as it endangered his life, he did not violate any APD SOPs.

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

B) The CPOA reviewed APD SOP 1-03-3(A)(3), which states:

1-03-3.1 BIASED BASED POLICING/PROFILING

A. General Procedures

- 3. Department personnel will provide the same level of police service to every citizen regardless of their race, color, national origin or ancestry, citizenship status, language spoken, religion, gender, gender identity, sexual orientation, age, disability, or economic status.***

Ms. alleged that during her contact with Officer C. he mouthed a racial insult at her although she couldn't be certain about it, and stated that the whole incident was racially motivated.

The lapel video showed Officer C. was professional and courteous throughout his contact with Ms. . It did not appear that he mouthed any racial insults at her, nor did it appear this traffic stop was racially motivated. Officer C. did not violate any APD Standard SOPs.

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

The lapel video showed that Ms. 's complaint was nearly completely untruthful.

Your complaint and these findings are made part of Officer 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.

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

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

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

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

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

Sincerely,
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



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Rev. Dr. David Z. Ring III

July 14, 2017

Via Certified Mail

Re: CPC #019-17

Dear Mr.

PO Box 1293

Our office received the complaint you filed on January 9, 2017 against Albuquerque Police Department (APD) Officer B. regarding an incident which occurred on November 24, 2016. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint.

Albuquerque

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

NM 87103

www.cabq.gov

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

I. THE COMPLAINT

Mr. said he went to his ex-girlfriend's house on November 24, 2016, to look for her and was assaulted by her 3 adult sons. He complained that Officer B. did not accurately or thoroughly report the incident and listed several areas in the report he viewed as inaccurate. He complained Officer B. did a "crappy job" and said the offenders should have been punished for assaulting a senior citizen.

II. THE INVESTIGATION

A CPOA Investigator reviewed your complaint and watched two lapel camera video recordings which showed Officer B. contacting you inside the ambulance prior to your transport to the hospital and showed Officer B. contacting your ex-girlfriend and her grown children inside their home. The lapel video showed that the statements made in your complaint were not accurate and that Officer B.'s report is accurate and reflects the information you and the other involved parties gave him the night of the incident.

III. CONCLUSION

Based on the aforementioned information, the CPOA has made the decision to **ADMINISTRATIVELY CLOSE** your complaint because Officer B. did not violate any APD SOP violations.

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

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

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

Sincerely,
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department Chief of Police

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Rev. Dr. David Z. Ring III

July 14, 2017

Via Certified Mail

Re: CPC #038-17

Dear Mr. _____

Our office received the complaint you filed on December 19, 2016 against Detective (Det.) G. of the Albuquerque Police Department (APD) regarding an incident that occurred on August 15, 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.

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

I. THE COMPLAINT

Mr. _____ complained that while investigating the homicide of Jaydon Chavez-Silver, Albuquerque Police Department (APD) Detective (Det.) G. intimidated, coerced and threatened witnesses when interviewing them and supplied them with a false narrative they "parroted" back to her and used to implicate Mr. _____ grandson, _____ and another subject, _____ in the murder of Jaydon Chavez-Silver. Specifically, Mr. _____ contends Det. G. threatened, intimidated and coerced witnesses Mr. D. and Mr. E. Mr. _____ said in the case of Mr. D., Det. G. offered a quid pro quo of charges being dropped for

fabricated information he provided. Mr. [REDACTED] complained Det. G. then used the fabricated information from Mr. D., Mr. E. and other witnesses, in her Criminal Complaint against [REDACTED] and [REDACTED]. Mr. [REDACTED] alleged that Det. G. committed perjury when she testified to the Grand Jury that the fabricated information contained in the Criminal Complaint was factual and provided independently to her by these witnesses. He complained that Det. G. failed to make any attempt to contact witnesses that [REDACTED] said he was with at the time of the murder. He complained that as a result of Det. G.'s investigation, which he characterized as egregious and unprofessional, [REDACTED] and [REDACTED] were falsely arrested and wrongly incarcerated for 10 months. He stated that defense attorneys and investigators conducted their own investigation and presented the results of this investigation, along with the manner in which Det. G. conducted her investigation, to the District Attorney's Office (DAO) for the Second Judicial District and that resulted in the dismissal of all charges against [REDACTED] and [REDACTED] (NOTE: Along with [REDACTED] and [REDACTED], [REDACTED] was also included in Det. G.'s Criminal Complaint, and he was ultimately charged in Jaydon's homicide, although he was not mentioned by the complainant.)

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

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable SOPs; the Complaint; the homicide report and supplemental reports written by Det. G. and other members of APD; the Criminal Complaint; recorded and transcribed interviews, including interviews conducted by Det. G. and APD personnel, CPOA interviews with Det. G. and Officer N., as well as Pre-Trial Interviews (PTI's) conducted by defense attorneys; Det. G.'s Grand Jury testimony transcripts; and available lapel video recordings.

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

1-04-1 PERSONNEL CODE OF CONDUCT – COMPLIANCE WITH LAWS, RULES AND REGULATIONS

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

Mr. [REDACTED] complained that during her interviews with Mr. D. and Mr. E., Det. G. intimidated, coerced and threatened them and supplied them with a false narrative they "parroted" back to her that she ultimately used to implicate [REDACTED] and [REDACTED] in Jaydon's murder. Mr. [REDACTED] said in the case of Mr. D., Det. G. offered a quid pro quo of charges being dropped for fabricated information he provided. He complained Det. G.'s conduct during this investigation was egregious and unprofessional.

The evidence showed that Det. G. interviewed Mr. D. after he was arrested for selling [REDACTED] fake rocks i.e. Possession of a counterfeit controlled substance with intent to

distribute, in which [redacted] was a co-conspirator. Det. G. told him he she wasn't necessarily concerned about the drug charges or about taking him to jail but wanted to talk to him about Jaydon's murder. She did not tell him *she* could have pending charges against him dropped if he testified; rather she told him that she would speak to the DAO and tell them he cooperated with the investigation. She offered this much in the same way APD offers it to Confidential Informants as a way for them to work off their charges in non-violent drug-related cases in exchange for their testimony. It is APD SOP for detectives/officers to use their discretion in whether or not to file charges in low-level, non-violent crimes in an effort to obtain information in cases of higher importance. The evidence revealed Det. G. asked an Assistant DA (ADA) if they could drop charges against Mr. D. if he cooperated in this investigation and the ADA said they could. This action did not constitute quid pro quo, as alleged in the complaint.

During his interview, Mr. D. repeatedly told Det. G. that [redacted] and [redacted] were involved in Jaydon's murder. He said [redacted] told him he had to test out his new Tech 9 and was shooting it the night of Jaydon's murder. He said [redacted] and [redacted] told him that Mr. M., or someone at Mr. M.'s house owed them a lot of money so "they set the dude up and drove by and smoked his ass or something like that." The evidence revealed that Mr. D. was the first to mention [redacted] and [redacted] and not Det. G.. This and all information provided by Mr. D. during his interview, was offered voluntarily to Det. G. and not fed to him so he could "parrot" it back to her, as alleged in the complaint.

The evidence showed that Det. G. interviewed Mr. E. on three separate occasions; August 18, 2015 in person, August 19, 2015 over the phone and August 20, 2015 in person and in Mr. E.'s Probation/Parole Officer's (PO's) office. The evidence showed that Mr. E. called Det. G. on August 19, 2015 to change his statement from the one given on August 18, 2015. The interviews showed that Mr. E. vacillated back and forth about witnessing shots being fired from a vehicle into Mr. M.'s home, one of which killed Jaydon. He also vacillated about whether, or not [redacted] and [redacted] were with him that night. Due to this vacillation, Det. G. told Mr. E. he could be charged with conspiracy or even murder if he wasn't truthful and was unwilling to provide information he had about the murder. He made statements that [redacted] and [redacted] were definitely in the vehicle with [redacted], from which shots were fired and that [redacted]; had a beef with Mr. M. or someone in Mr. M.'s house because [redacted] stole something valuable from Mr. M. and because Mr. M. kicked [redacted] out of a party several weeks before the homicide. Mr. E. said [redacted] has different guns, including a Tech 9 and a revolver.

The evidence showed that Det. G. did not coerce, intimidate or threaten Mr. D. or Mr. E. to give her information; rather each offered it up voluntarily. It should be noted that during these interviews, Det. G. was accompanied by another detective, and in the case of the last interview with Mr. E., in addition to the second detective, Mr. E.'s PO was also present. Recorded interviews show that neither witness appeared threatened or intimidated during their respective interviews. The evidence showed that Det. G. was professional and thorough throughout this investigation.

The CPOA finds Det. G.'s conduct **UNFOUNDED** regarding the allegations of violations of this SOP, which means the investigation determined, by clear and convincing evidence, that the alleged misconduct did not occur or did not involve the subject officer.

B) The CPOA reviewed APD SOP 1-04-4(W), which states:

1-04-4 PERSONNEL CODE OF CONDUCT – CONDUCT WHILE ON DUTY

W. Personnel shall truthfully answer all questions specifically directed to them which are related to the scope of employment and operations of the department.

Mr. _____ complained Det. G. used the fabricated information from Mr. D. and Mr. E. in her Criminal Complaint against _____, _____ and _____. He alleged that Det. G. committed perjury when she testified to the Grand Jury that the fabricated information contained in the Criminal Complaint was factual and provided independently to her by these witnesses.

The evidence revealed that Det. G. did not use fabricated information in the Criminal Complaint filed against _____ and _____. The evidence revealed that the information provided to Det. G. during interviews with Mr. D. and Mr. E. was provided freely and independently to her. Regarding the factuality of said information, Det. G. relied on the information given to her by Mr. D. and Mr. E., which was consistent with other witness statements which also named _____ and _____ as shooters and at the scene, and consistent with some of the physical evidence, and used this information in her testimony to the Grand Jury.

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

C) The CPOA reviewed APD SOP 2-24-3(B)(5)(b), which states:

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

B. Follow-up Investigations

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

b. Conduct additional interviews and interrogations, when necessary.

Mr. _____ complained that Det. G. failed to make any attempt to contact witnesses that said he was with at the time of the murder.

The evidence showed that Det. G. interviewed Mr. G., the alleged host of the pre-gaming party _____ said he attended, and Mr. G. said _____ was with him and others until

10:00 PM and then they all left and headed to another party at Western Skies and were there around 1:00 AM the next morning. Det. G. also interviewed other witnesses who told the same story; however no one was able to provide an alibi for [REDACTED] between 10:00 PM and 1:00 AM the next morning. Det. G. also interviewed [REDACTED] who corroborated the same timeline as Mr. G. but when asked who else was with him that night he refused to provide the names of any alibi witnesses.

The CPOA finds Det. G.'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.

D) The CPOA reviewed APD SOP 1-02-2(B)(2), which states:

***1-02-2 OFFICER'S DUTIES – ENFORCEMENT OF LAWS, ORDINANCES,
AND POLICE REGULATIONS***

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

2. Make only those arrests, searches, and seizures which they know or should know are legal and in accordance with departmental procedures.

Mr. [REDACTED] complained that as a result of Det. G.'s investigation, [REDACTED] and [REDACTED] were falsely arrested and wrongly incarcerated for 10 months. He stated that defense attorneys and investigators conducted their own investigation and presented the results of this investigation, along with the manner in which Det. G. conducted her investigation, to the DAO, which resulted in the dismissal of all charges against [REDACTED] and [REDACTED].

The evidence revealed that Det. G. and other APD detectives conducted interviews with dozens of witnesses, several of which provided consistent stories about [REDACTED] and [REDACTED] having fired the shots into Mr. M.'s house that killed Jaydon, and [REDACTED] and [REDACTED] being in [REDACTED]'s vehicle, from which said shots were fired. Several witnesses said [REDACTED] had a 'personal beef' with Mr. M. and others in Mr. M.'s house because [REDACTED] stole from Mr. M., and was kicked out of party at Mr. M.'s house prior to Jaydon's murder. Other witnesses said the shooting was drug-related and that people in Mr. M.'s house owed [REDACTED] a lot of money for drugs, and had ripped [REDACTED] and [REDACTED] off before. The evidence showed that [REDACTED] and [REDACTED] were known to always have guns on their persons, to include the night of the shooting.

The evidence showed that on June 7, 2015, [REDACTED] was criminally charged with Residential Burglary and Conspiracy to Commit Residential Burglary, both felony charges, and that on August 14, 2015, he was taken into custody on two warrants related to these charges. On August 14, 2015, Det. G. and Det. N. interviewed [REDACTED] about Jaydon's murder. On August 15, 2015, Det. G. used the information obtained to that point to write the Criminal Complaint for an open count of murder against [REDACTED], [REDACTED] and [REDACTED], which was reviewed and

approved by ADA C. before it was presented to the Metropolitan Court Judge who also reviewed and approved it for sufficiency of probable cause and determined probable cause was established. As a result, on August 15, 2015, _____ was booked on the two warrants and the Criminal Complaint, and _____ was arrested and booked for the Criminal Complaint. _____ was also charged on the Criminal Complaint but was already in custody following his arrest on July 12, 2015, when two firearms, one of which had been reported stolen, were located inside the vehicle in which he was driving.

The Criminal Complaint was presented by ADA R. to the Grand Jury on August 27, 2015, and Det. G. testified before the Grand Jury this same date. After reviewing the information and hearing Det. G.'s testimony, which included answers to clarifying questions asked by the Grand Jury of 12 people, the Grand Jury determined there was probable cause to indict _____ and _____ on open counts of murder. Det. G. continued her investigation into Jaydon's homicide while _____, _____ and _____ were incarcerated. In March 2016, during Pre-Trial Interviews (PTIs), several witnesses, including Mr. D. and Mr. E. changed their stories and told defense attorneys that Det. G. threatened, coerced and intimidated them in their interviews. The homicide case ADA, ADA G., informed Det. G. of the recanted/changed witness statements and the allegations against her. Additionally, in July 2016, as part of a plea deal/proffer, _____ admitted that _____ and _____ were not with him the night of the shooting but _____, _____'s girlfriend S. and Mr. B. were with him. Det. G. took this information back to ADA G. and as a result of the changed statements in the PTIs, and _____'s proffer, ADA G. decided there wasn't enough solid evidence to move forward with trial and released _____ and _____ as a result.

The evidence showed Det. G. conducted a thorough and professional homicide investigation and that based on the information available to her at the time she came to a logical conclusion that resulted in the arrests of _____ and _____

The CPOA finds Det. G.'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 Det. 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.

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

- A) The APD policy or APD policies that were considered by the POB were the wrong policies or they were used in the wrong way; or,

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

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

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

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

Sincerely,
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board

Johnny J. Armijo

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Dr. Carlotta A. Garcia, Vice Chair

Eric H. Cruz

Rev. Dr. David Z. Ring III

July 14, 2017

Via Certified Mail

Re: CPC #086-17

Dear Ms.

Our office received the complaint you filed on February 17, 2017 against Albuquerque Police Department (APD) 911 Operator S. regarding an incident which occurred on February 13, 2017. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint.

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

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

I. THE COMPLAINT

Ms. said she called APD 242-COPS to report problems with her neighbors and before she was finished telling the Operator what happened he hung up on her. She contacted the Supervisor on duty that night and complained about the operator and then subsequently filed a complaint with the CPOA.

II. THE INVESTIGATION

A CPOA Investigator reviewed your complaint and contacted you on July 5, 2017 and scheduled an interview with you for July 7, 2017 at 10:00 AM. You called the CPOA Investigator back later on July 5, 2017 stating you were considering withdrawing your complaint for fear of retaliation by Operator S. The Investigator informed you of the anti-retaliation policy. You said you wanted a day to think about it and said you would call the Investigator back on July 6, 2017 to let her know your decision and that you would like to keep the scheduled interview appointment. You did not call the Investigator back on July 6, 2017, and were a no-call, no-show for your interview appointment.

III. CONCLUSION

Based on the aforementioned information and the discussion of your desire to withdraw your complaint, the CPOA has made the decision to **ADMINISTRATIVELY CLOSE** your complaint.

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

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

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

Sincerely,
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

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Eric H. Cruz

Rev. Dr. David Z. Ring III

Edward Harness, Executive Director

July 14, 2017

Via Certified Mail

Re: CPC #111-17

Dear Ms.

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint against Officers of the Albuquerque Police Department (APD) on April 27, 2017, regarding an incident that occurred on February 14, 2017. The CPOA thoroughly and impartially investigated the complaint.

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

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

I. THE COMPLAINT AND INVESTIGATION

Ms. _____ traveled into Albuquerque coming from Edgewood. Officer F pulled her over for speeding, which she admitted she probably was. However, Officer F's behavior during the traffic stop was abusive and unacceptable.

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 citation, the Computer Aided Dispatch (CAD), Ms. _____'s interview, and Officer F's interview.

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

A) The CPOA reviewed Standard Operating Procedural Order 2-41-2A1a regarding Officer F's conduct, which states:

Officers initiating traffic stops for observed violations shall: Advise Communications of the impending stop, giving violator's vehicle information (license plate, description of the vehicle and/or occupants) and location.

Officer F stated he initiated logging out on the traffic stop via the computer system rather than the radio. However, due to the poor internet coverage of the canyon his transmission did not go through.

Officer F's unit history showed that there was no CAD for this traffic stop. The CPOA Investigator conferred with APD Communications experts regarding the transmission of data in that area. Communications personnel agreed that coverage in that area was inconsistent and spotty. It was possible that the information sent by Officer F via MDT did not register in the system due to coverage issues. The Communications Manager felt this was why it was important to log stops via radio, but acknowledged policy did not require it. There is no evidence that Officer F initiated logging on the call, but there is a possibility that he had and it did not register given the coverage issues. A policy recommendation was made regarding this issue.

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

B) The CPOA reviewed Standard Operating General Order 1-1-4D15 regarding Officer F's conduct, which states:

Personnel will treat the public with respect, courtesy, and professionalism at all times.

Ms. [redacted] stated Officer F immediately yelled at her, demanded to know what she thought she was doing, and rudely pointed his index finger in her face. Ms. [redacted] stated she did not know why Officer F said a few times they could fight about it in court when she never contested she was speeding or the ticket. Ms. [redacted] stated he accused her of lying more than once, which was very offensive. When she admonished him for calling her a liar he told her people lied all the time and why should she be different. Ms. [redacted] stated his conduct was uncalled for since she was respectful and did not challenge the ticket.

Officer F denied yelling at her, but asked her why she was driving so fast. He denied pointing his finger in her face. Officer F stated he informed Ms. [redacted] the reason for the stop and the speed she traveled. Officer F stated Ms. [redacted] became defensive and insisted she was going a lower speed. Officer F stated he told her he knew the speed she traveled and therefore she was being untruthful in her claims of a lower speed. Officer F stated he offered her a

court date a couple of times because she kept disputing his claim, but then said she would accept the ticket.

There was no recording of the contact to determine whose version is more accurate. Officer F agreed he told Ms. _____ she was being untruthful, but the manner and context was different from how Ms. _____ characterized it.

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

C) The CPOA reviewed Standard Operating Procedural Order 1-39-4E1 regarding Officer F's conduct, which states:

All Department personnel shall upload recordings to the Department's digital storage application prior to the end of the Department personnel's subsequent shift.

Officer F stated he recorded the incident with his audio recorder and retained the recording on the device. However, about a month later, his audio recorder was damaged and the recording was irrecoverable.

Policy states that traffic stops are mandatory recording incidents. Policy also states that non-evidentiary recordings should be retained for 120 days. Officer F stated he has not been instructed on where to store such recordings outside of Evidence or Evidence.com. The CPOA Investigator consulted with the APD video expert who stated the digital storage application referred to in the policy did not exclusively mean Evidence.com and could mean a department computer. It was Officer F's responsibility to have the recordings uploaded to a location not as likely to be damaged or loss. Leaving the recordings on a piece of field equipment that is highly susceptible to damage or loss does not maintain the recording in the manner the policy expects. A policy recommendation was made regarding this issue.

The CPOA finds Officer F's conduct to be a **SUSTAINED violation not based on original complaint** where the investigation determined, by a preponderance of the evidence, that misconduct did occur that was not alleged in the original complaint, but that was discovered during the misconduct investigation.

D) The CPOA reviewed Standard Operating Procedural Order 2-6-2B3 regarding Officer F's conduct, which states:

All officers will be required to wear the standard Department uniform regardless of assignment except: (Exceptions do not apply in this case)

Ms. _____ stated Officer F was in plain clothes and not in uniform. She knew he was an officer because he was in a marked police car.

Officer F stated he was in a long sleeved polo shirt with APD patches, cloth badge, and embroidered name. He had a light duty belt on, which was why he had an audio recorder and not his Taser camera.

Officer F's uniform did not comply with the requirement of wearing the standard uniform. The only units authorized to wear the uniform Officer F wore that day are Open Space or Horse Mounted Units of which Officer F is not a part. If Officer F had been in a standard uniform, he should have had his Taser camera, which would have eliminated the recording issue addressed in the other SOP.

The CPOA finds Officer F's conduct to be **Sustained** where the investigation determined, by a preponderance of the evidence, that the alleged misconduct did occur.
You have the right to appeal this decision.

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

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

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

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

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

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

Letter to Ms.
July 14, 2017
Page 5

, CPC 111-17

Sincerely,
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department Chief of Police

Civilian Police Oversight Agency

EXECUTIVE DIRECTOR'S

Recommendation Form

Employee Involved: Officer [REDACTED] F- [REDACTED]

SOP Violation(s): Procedural Order 2-41-2A1a, General Order 1-1-4D15, Procedural Order 1-39-4E1 and Procedural Order 2-6-2B3

Date and Time of Incident: February 14, 2017 0850

Investigating Officer: Diane McDermott

Date Investigation Completed: _____

Completed Case Reviewed by _____ Date: _____

Date to A/C: _____

Date Returned From Chief's Office: _____

Date to CPOA: _____

Date Returned From CPOA: _____

- 1. **Sustained** The investigation determined, by a preponderance of the evidence, the alleged misconduct occurred 2-6-2B3
- 2. **Not Sustained** The investigation was unable to determine, by a preponderance of the evidence, whether the alleged misconduct occurred. 2-41-2A1a 1-1-4015
- 3. **Sustained Violation not based on original complaint** The investigation determined, by a preponderance of the evidence, that misconduct occurred that was not alleged in the original complaint but discovered during the investigation 1-39-4E1
- 4. **Unfounded** The investigation determined, by clear and convincing evidence, that the alleged misconduct did not occur or did not involve the subject officer
- 5. **Exonerated** The investigation determined, by a preponderance of the evidence, that the alleged conduct did occur but did not violate APD policies, procedures, or training;
- 6. **Administratively Closed** The policy violations are minor, the allegations are duplicative, or investigation cannot be conducted because of lack of information in the complaint, or resolved through mediation,

7. **FIREARM DISCHARGE** Will be classified as:

- JUSTIFIED UNJUSTIFIED ACCIDENTAL

RECOMMENDATIONS

- NO DISCIPLINARY ACTION VERBAL REPRIMAND
- WRITTEN REPRIMAND SUSPENSION _____ HOURS
- TERMINATION OTHER: _____

2 LEVEL 7 VIOLATIONS WITHIN ONE EVENT

RECOMMENDATIONS

A policy recommendation regarding Procedural Order 2-41-2A1a is whenever in areas of poor coverage as defined by Communications, radio communication shall be used instead of relying on an internet connection to transmit location information. If the desire were to keep the radio lines free then an alternate recommendation would be to ensure the call is logged on the MDT before making contact. Making sure officers call out on stops and that the communication is successful is important for officer safety. If something had occurred then the officer's location would have been unknown for immediate assistance.

An additional recommendation regarding Procedural Order 1-39-4E1 (which is the same as current 2-8-5E1) is that the policy needs to address alternative recordings that are not Taser camera recordings. The policy does not contemplate well that other types of recordings exist and need to be properly stored and retained, especially when the incident does not have an APD case number attached to it. This may be moot if all personnel are issued Taser cameras, but something should be modified in the interim; especially if there will be a lag in implementation.

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board *Joanne Fine, Chair* *Dr. Carlotta A. Garcia, Vice Chair*
Johnny J. Armijo *Susanne Brown* *Eric H. Cruz*
Dr. William J. Kass *Valerie St. John* *Rev. Dr. David Z. Ring III*
Leonard Waites
Edward Harness, Executive Director

July 14, 2017
To the file

Anonymous
Response to the File

Re: CPC #112-17

Dear Anonymous:

Our office received thirteen anonymous complaints filed on February 24, 2017 against the Albuquerque Police Department (APD) regarding an incident that occurred on October 3, 2014. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate the complaints on April 27, 2017.

PO Box 1293

I. THE COMPLAINT

Albuquerque

NM 87103

www.cabq.gov

The CPOA Office received thirteen anonymous complaints; all appear to have been written by the same person. The various complaints were repetitive, but provided little detail. The outcome the complainant listed was, "truth, due process, and records 9-4-1-A SECA." The various complaints alleged several violations of APD Standard Operating Procedures (SOPs) and state statutes. The originating incident was an allegation that an Albuquerque Public School (APS) officer used a Taser on a student. The complainant wrote APD Crimes Against Children Unit (CACU) Detective J assisted APS in an investigation, but did not complete a criminal child abuse investigation. The best understanding of the various complaints was that the complainant believed the failure of APD to complete a criminal investigation violated APD policies regarding investigation of police personnel and statutes involving a duty to report child abuse. The complainant also wrote there were no records with the exception of an APS Internal Affairs file, however later acknowledged there was an APD report. The complainant alleged false statements were made on documents, but never clarified which documents or what the false statements were. The complainant mentioned a Memorandum of Understanding (MOU) regarding child abuse investigations, but CACU Sgt. E did not know what the complainant meant, there was no such MOU related to CACU activities. Some of the complaints indicated the MOU was between BCSO, APS, and Bernalillo County, without mentioning APD. The complainant referred to a Department of Justice (DOJ) letter supposedly attached to the complaints, but no such letter was attached. The complainant wrote the DOJ letter discussed inappropriate

actions and relations by School Resource Officers (SRO), but the APS officer in question was not an APD SRO.

II. INVESTIGATION

The CPOA Investigator conducted a preliminary investigation and gathered information about this incident to include an APD police report, the APD interoffice memo, and a district court complaint filed by the mother of the student against APS. The information gained is as follows. On October 3, 2014, APS contacted APD requesting their assistance in an investigation of an alleged incident between an APS student and an APS police officer. APS wanted a second set of eyes to avoid allegations of a cover-up in its investigation into the incident. Detective J worked with the APS police to investigate a student's allegation he was tased by an APS police officer. Detective J conducted interviews and reviewed evidence, all of which were submitted to APS since it was their investigation. At the conclusion of Detective J's preliminary investigation, Detective J did not find any corroborating evidence to the student's allegation. A criminal case was not opened as there was no basis to do so and it did not start as an APD investigation. Detective J documented his activities in the police report and his activities and conclusions in his interoffice memo to his supervisors.

Many of the SOPs the complainant cited are not relevant to the situation because they deal with APD investigating its own officers; the APS officer is not an APD employee. The other policies cited refer to officer conduct, but the complainant did not provide enough information about the situation to illustrate how the conduct policies were allegedly violated and further clarification was not possible. The complainant referred to documents that could not be found. The complainant mentioned state statutes that talked about an individual's duty to report child abuse or neglect. This situation was a singular incident of an APS officer taking action in the commission of his law enforcement duties, which does not fit the definitions of an "abused child" in the statute. Additionally, the available evidence did not corroborate a battery criminal investigation be conducted.

III. CONCLUSION

The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** the complaint, as the complainant has not provided adequate information to complete the investigation. Additionally, a preliminary investigation determined the incident that initiated APD involvement did not occur as the complaints described.

Letter to Anonymous, CPC 112-17
July 14, 2017
Page 3

Sincerely,
The Civilian Police Oversight Agency by

A handwritten signature in black ink, appearing to read 'EH', is positioned above the typed name of the signatory.

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

cc: Albuquerque Police Department Chief of Police