

CIVILIAN POLICE OVERSIGHT AGENCY
POLICE OVERSIGHT BOARD

POB MEETING DATE: MAY 17, 2016

Re: APD Officer Frank Tillman (Resigned in lieu of termination)

Non-Concurrence Case: CPC 013-16 as to
SOPs 1-04-4B and SOPs 1-04-4W only

1. Redacted CPOA Findings letter (See attachment “A”). The Chief and Command Staff agreed to the all of CPOA’s findings except for the following SOPs:

2. Command Staff Findings:

The Command Staff did not agree with the CPOA’s finding to sustain SOP Violation 1-04-4B: ***Personnel shall not engage in any activity or personal business that may cause them to neglect or be inattentive to duty.*** (See attachment “B”)

3. APD Chief Gorden Eden, Jr.’s Findings:

Chief Eden did not agree with the CPOA’s finding of Sustained violation not based on the original complaint regarding SOP 1-04-4W: ***Personnel shall truthfully answer all questions specifically directed to them, which are related to the scope of employment and operations of the department.*** (See attachment “C”)

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board *Beth Mohr, Chair* *Leonard Waites, Vice Chair*
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Rev. Dr. David Z. Ring III
Edward Harness, Esq., Executive Director

May 18, 2016
Via Certified Mail

Re: CPC #013-16

Dear Ms.

Our office received the complaint you filed on January 18, 2016 against Officers of the Albuquerque Police Department (APD), regarding an incident that occurred on December 8, 2015. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint on January 20, 2016. The CPOA thoroughly and impartially investigated the complaint.

PO Box 1293

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

Albuquerque

New Mexico 87103

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

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I. THE COMPLAINT AND INVESTIGATION

Ms. _____ called police to help her since she was in a dispute with her boyfriend. Ms. _____ reported her boyfriend would not allow her to leave. Ms. _____' boyfriend called police claiming that Ms. _____ struck him. Police arrived and listened to both parties. Ms. _____' boyfriend recorded a video of what transpired before police arrived, which he showed to the officers. After an investigation, Officer T decided Ms. _____ was the primary aggressor and arrested Ms. _____. Ms. _____ and Officer T started communicating, mostly through texts, on a personal level. This continued for a couple of months.

A - _____
Attachment "A"

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The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable SOPs, the complaint, the computer aided dispatch (CAD), the police report, a log of texts, a working hours report, screen shots of texts from various parties, additional information from APD such as lapel camera information and previous case information, the citizen interview, Officer T's interview, Officer H's interview, Sgt. F's interview and Sgt. R's interview, and lapel recordings from Officer H and Sgt. F.

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

A) The CPOA reviewed Standard Operating Field Services Order 3-12-3G9c regarding Officer T's conduct, which states:

It is incumbent upon the officers at the scene of a domestic violence incident to determine the predominant aggressor and then affect an arrest (or issue a summons if appropriate) for the applicable party.

Ms. felt the arrest was improper. Ms. admitted she hit her boyfriend, but only after he dug his nails into her breast. Ms. claimed her boyfriend made a misleading video that he showed to the officers. Ms. stated Officer T. told her the only reason he arrested her was that Officer T's supervisor was present, which further contributed to her opinion about the arrest. She repeatedly asked Officer T the reason for her arrest and the elements of the alleged crime. Officer T did not explain things in a manner she understood. Officer T. told her no matter what he said to her that she would not be satisfied. She agreed because the situation was not right. She did not understand how she was to be arrested when she asked for help.

Ms. boyfriend called police first and reported he was hit in the face. Ms. called second and did not mention injury, but said her boyfriend kept her from leaving. Once the officers arrived, the lapel video showed Ms. argued that the officers were messing up her life by arresting her. During the portions that were recorded there was no mention of arrest being due to the supervisor. Officer T denied he said anything about the supervisor influencing his decision. Ms. expressed she could have left and avoided arrest. Ms. did not understand that a summons would have been issued for her actions even if she had left. Officer T arrested Ms. based on the video evidence provided by Ms. boyfriend and the obvious facial swelling that Officer H observed. The arrest was based on the probable cause that Ms. was the primary aggressor and committed a battery.

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

B) The CPOA reviewed Standard Operating General Order 1-04-6C regarding Officer T's conduct, which states:

Attachment "A"

Personnel shall avoid regular or continuous associations or dealings with persons whom they know are under active criminal investigation or indictment, or who have a reputation in the community of the department for present involvement in felonious or criminal behavior, except as necessary in the performance of official duties, or where unavoidable because of other personal relationships.

Ms. stated Officer T started texting her almost every day. She was not interested in pursuing a relationship with Officer T, but admitted she would string him along to get the help he promised. Ms. also claimed she was scared and compelled to continue the conversation with Officer T.

Officer T explained he continued conversations with Ms. because he was nice guy and had no intention in dating Ms. it was just flirting.

Officer T met Ms. through the course of law enforcement duties. Officer T was the arresting officer of Ms. for a domestic violence case. The texts between Ms. and Officer T were extensive. Both talked about dating, such as movies and dinners. There was also discussion about Officer T specifically going to where Ms. worked as an adult entertainer or Ms. coming to visit Officer T while he was on overtime assignments. In his interview, Officer T acknowledged on some level he knew the communication was improper.

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

C) The CPOA reviewed Standard Operating General Order 1-04-1G1-3 regarding Officer T's conduct, which states:

Conduct unbecoming an officer or employee shall include: 1. That which could bring the department into disrepute. 2. That which interferes or compromises the efficiency of personnel. 3. That which impairs the operation or efficiency of the department.

Ms. stated within moments at the scene Officer T asked her out on a date and complimented her several times. Ms. stated Officer T asked questions about her relationship with her boyfriend, which were clearly not for investigative purposes while she was vulnerable. Officer T's entire contact with her at the scene was at minimal flirtatious and later overt when Officer T said he wanted to "eat her out" and be her first black guy. Officer T gave Ms. his phone number and later put it in her phone. Ms. stated Officer T offered to help her, but Officer T did not specify how. Officer T implied he would not show up to court, thereby having the case against her dismissed. Officer T offered to photograph her breast in the back of the police car when she complained pictures not being taken. Instead, Ms. claimed Officer T allowed her to take her own photo of her exposed breast while Officer T watched. Officer T sent her texts over the course of the next couple of months. Ms. described many of his texts as "passive aggressive." Ms.

Attachment "A"

stated Officer T expressed annoyance in texts over when Officer T went to see Ms. s at her work when she was not there. Ms. stated she felt pressured into responding to Officer T, especially about where she lived. According to Ms. Officer T dangled promises of not showing up to court to help her. Officer T acted jealous at times over possible other boyfriends. It was obvious to Ms. that Officer T wanted to have sex with her and promised to help her in her court case to get it although Officer T never blatantly said that.

Officer T denied many of Ms. allegations about their conversations. Officer T suspected Ms. filed her complaint because he was unwilling to dismiss her case.

There was no lapel video between Officer T and Ms. when they were alone at the scene to know what statements he made. While the other officers were around, Officer T did not say anything out of the ordinary. Ms. picture that she took of her breast looked like she was in the back of the patrol car, but it was inconclusive. In one of the texts, Ms. talked about tan lines on her breasts and Officer T responded he would not know since he had not seen them. She responded, "Lol of course." This conversation line could indicate Officer T was not present if in fact she exposed herself in his patrol car, but is also inconclusive. Ms. did not have a complete record of texts between her and Officer T, but she had a significant portion. Some of the texts automatically deleted out of Ms. phone. Ms. provided her cell phone for data extraction, but APD could not get the data because either her phone was too old or because it was on a prepaid plan. Officer T shared a much smaller number of texts and what he provided was heavily edited. The texts between Ms. and Officer T showed on several occasions inappropriate comments by Officer T given the nature of their relationship. Officer T, as examples, offered Ms. a hug, a kiss, to give her loving, or stated that he was sexually frustrated. The texts showed Officer T specifically asked for photos of her and appreciated when the pictures were sexier. The texts showed Officer T at times expressed jealousy about other men or disappointment about Ms. lack of response at times. Officer T during one conversation said he would help her out, but the conversation moved to being roommates; the tone was likely in jest. In another text, Officer T offered to escort Ms. to her apartment to get property. Texts from both parties indicated interest in a relationship or at least dating. Officer T called her "Hun" several times and Ms. called him "lovely." They talked often about going out, but both agreed they never did. Ms. claim of pressure or intimidation did not appear to be substantiated by the nature of the texts, but regardless Officer T's interaction with Ms. was inappropriate considering the circumstances and brought the department into disrepute. Officer T's actions likely compromised the case against Ms. although the case is still pending in court.

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

D) The CPOA reviewed Standard Operating General Order 1-04-4B regarding Officer T's conduct, which states:

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

A review of the text log obtained by Ms. cell provider and Officer T's paid work activities show Officer T engaged in personal conversations with Ms. : nineteen workdays of the thirty-four days they exchanged texts. The span of time was forty-four days total. The information gathered showed there were 638 texts between them of which 384 occurred while Officer T was on paid hours. On some of the working days, there was an almost constant string of texts back and forth lasting for hours. Officer T claimed he responded to his work in a timely fashion. Officer T's sergeant did not notice any productivity issues during this time, but given the amount of working time spent in personal conversation, proactive policing at minimum would suffer.

The CPOA finds Officer T's conduct to be a **Sustained violation not based on the original complaint** where the investigation determined that misconduct occurred that was not alleged in the original complaint, but was discovered during the investigation.

E) The CPOA reviewed Standard Operating Procedural Order 2-19-3B1 regarding Officer T's conduct, which states:

All prisoners will be handcuffed behind their backs and remain so restrained while being transported to a detention or medical facility.

Ms. stated she was able to slip in and out of her handcuffs, which Officer T allowed. When others were around, Officer T told her to make sure she slipped back in her cuffs for appearances.

Ms. said she slipped in and out of her cuffs the whole time she was with Officer T during transports. Officer T stated she moved them to the front on her own, but he corrected the issue once they arrived at their destination.

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

F) The CPOA reviewed Standard Operating Procedural Order 2-19-3F1 regarding Officer T's conduct, which states:

When it is necessary for an officer to transport a prisoner of the opposite sex, the officer will notify the dispatcher of his/her location, destination, starting mileage at the scene, and ending mileage upon arrival at the destination either by verbal communication over the air, using the Update Location (UL) function on the MDT, or adding remarks to the event on the MDT.

Officer T believed he called out the mileage on both transports and assumed dispatch did not log his call out.

Attachment "A"

The CAD showed Officer T did not use the update location function or add remarks. A review of the radio traffic recording also showed Officer T did not call out with the information from the scene to the substation. Based on the CAD, Officer T cleared the scene about 1430 and did not transport Ms. to the PTC until 1620 with no mention of the substation location.

The CPOA finds Officer T's conduct to be a **Sustained violation not based on the original complaint** where the investigation determined that misconduct occurred that was not alleged in the original complaint, but was discovered during the investigation.

G) The CPOA reviewed Standard Operating General Order 1-39-2B regarding Officer T's conduct, which states:

All sworn department personnel will record each and every contact with a citizen during their shift that is the result of a dispatched call for service, arrest warrant, search warrant service, or traffic stop. Personnel will activate the recorder prior to arriving at the call or prior to citizen contact on non-dispatched events (within the safety parameters of 1-39-1B) and will record the entirety of the citizen contact. Uniformed civilian personnel issued digital records will also comply with this section. The recordings will be saved for no less than 120 days.

Ms. stated Officer T specifically told her he turned off his camera while they were in his patrol car.

Officer T stated he had lapel camera problems and denied he told Ms. he turned off his camera.

Officer T's report indicated nothing about lapel camera problems. Neither Officer H nor Sgt. F knew there were problems with Officer T's camera until after the complaint was filed. According to the camera manufacturer, four beeps indicate a low battery and three meant the memory was full. According to the camera manufacturer, the camera will record on a low battery until it is completely drained.

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

H) The CPOA reviewed Standard Operating General Order 1-04-4W regarding Officer T's conduct, which states:

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

Officer T made untrue statements during the interview and was not forthright on many other answers.

Attachment "A"

- Officer T claimed he told Officer H about his lapel camera issues at the scene, but Officer H stated he knew nothing about it.
- Officer T denied he received a call from Ms. [REDACTED] while she was in jail. Instead, Officer T mentioned Ms. [REDACTED] asked him to text her friend for bail, which he did when they traveled to the PTC. The evidence does not support this. The CAD showed Officer T transported Ms. [REDACTED] to the PTC at 1620 on 12/8/15. The texts provided from Ms. [REDACTED] friend showed Officer T contacted Ms. [REDACTED] friend on 12/9/15 at 0114, after she was taken to jail.
- Officer T downplayed the nature of the texts between them significantly. Officer T characterized the conversation was Ms. [REDACTED] asking questions about her court case. When asked what additional contact he said there was some personal contact and that was it.
- Officer T only admitted to specifics in his interview when confronted with quotes from the texts or what was already revealed in the news story about this.
- Officer T presented a document with screen shots from his phone of their texts. Those screen shots were heavily edited. He eliminated most of his responses in between her statements, which if he had hers he would have had his too. The documents presented as a continuous string without his statements in between. Officer T's document was extremely misleading into the conversations that occurred between them.
- Officer T claimed he did not want to pursue a relationship, but the texts indicated otherwise.
- Officer T indicated he did not say he would visit her at work and that it was her request, but the texts indicated otherwise.
- Officer T only admitted he offered to meet Ms. [REDACTED] at his work when he was confronted with the information and then said it was only at his overtime assignments.
- Officer T claimed Ms. [REDACTED] was likely angry he did not volunteer to escort her to her apartment to get property, but the texts showed Officer T did offer to go with her.
- Officer T said Ms. [REDACTED] wanted to have her case dismissed, but at least in the texts provided, Ms. [REDACTED] never brought that up and instead he said he would help her out.
- Officer T's reasons for the continued contact were inconsistent.
- After Officer T was aware of the complaint, he researched recording with the camera manufacturer. He changed his explanation of why his camera did not record to one that would match why he had no recording. However, the number of beeps he claimed he heard matched his original explanation, which would have had at least some recording.
- Officer T was confident he called his mileage out when he transported Ms. [REDACTED] to the substation and blamed dispatch. A review of the radio traffic showed he only called his mileage out to the PTC and never mentioned going to the substation.

These examples demonstrate some outright untruthful statements and an overall evasiveness in answering the questions. Officer T often said he did not remember or conditionally admitted he said things when directly confronted with evidence. If Ms. [REDACTED] had not provided the number of texts she had to the CPOA, Officer T would not have revealed the information as evidenced by his initial statements when asked to provide a narrative. Then

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Commander G highlighted an almost identical response pattern from Officer T in the investigation into I-125-12, which involved almost identical circumstances.

The CPOA finds Officer T's conduct to be a **Sustained violation not based on the original complaint** where the investigation determined that misconduct occurred that was not alleged in the original complaint, but was discovered during the investigation.

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

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

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

Ms. [redacted] claimed Officer H unprofessionally and inaccurately described the videos from her boyfriend to Officer T. Officer H's description of the videos pushed for her arrest. Ms. [redacted] told the officers she wanted to see the videos on which the officers based their arrest decision. Ms. [redacted] felt it was very rude of Officer H to say he would provide the video, but then go home before she could have access to it.

The lapel video showed Officer T asked Officer H questions about what Officer H saw on the video such as how many times the video showed Ms. [redacted] striking her boyfriend. The lapel video showed Officer H stated the boyfriend's video did not support Ms. [redacted] version of what happened and described what he saw. That was when Ms. [redacted] said she wanted to see the video. Ms. [redacted] ability to see the video before she was arrested was not required and would not have changed her arrest. Court is the appropriate place for evidence to be shown.

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

B) The CPOA reviewed Standard Operating Field Services Order 3-12-3G14 regarding Officer H's conduct, which states:

Any visible injuries relating to the battery shall be documented and photographed to be used as evidence for prosecution whenever possible.

Ms. [redacted] stated Officer H asked if he could take pictures, but she did not want pictures taken right then by a male officer since she did not have a bra on and was not properly dressed. As soon as she indicated she did not want pictures, Officer H immediately walked away and did not explain anything or provide her alternatives.

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Officer H explained if a sensitive area needed to be photographed alternative arrangements would be made and would not occur in the parking lot.

In her written complaint, Ms. claimed Officer H attempted to take a picture of her injured breast in the parking lot and did not call for a female officer when she refused to let a male officer photograph her private part. In her interview, she admitted Officer H did not specifically request to photograph her breast. The lapel video showed Officer H explained he needed to take photos. Ms. asked if the pictures were only of her face. The only injury she seemed to mention at that time was her finger. Officer H explained what he was going to photograph; he never specifically mentioned her breast. The lapel video showed Ms. complained she did not have a bra on; Officer H pointed out she was wearing a shirt. Ms. concerns seemed to be centered on her appearance. When Ms. indicated she did not want photos taken, Officer H said ok. Ms. did not want pictures and the necessity for the pictures did not warrant anyone forcing her.

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

IV. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING SGT F'S CONDUCT

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

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

Ms. claimed Sgt. F was a "total d" when he told her she was being arrested. Her impression of his attitude was "shut up and go to jail," but he did not actually say that. Sgt. F did not provide an explanation for her arrest. She did not understand why she was being arrested when her boyfriend hit her first.

Sgt. F observed Ms. was trying to talk her way out of going to jail so he stepped in and explained things to Ms.

Ms. acknowledged Sgt. F was decent when he advised her to put her property in her trunk. The lapel video showed Sgt. F explained to Ms. that she was going to jail because she was the primary aggressor. Sgt. F informed her what he observed on the video that contributed to that decision. Sgt. F became sterner when she continued to argue, but the lapel video showed he was professional.

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

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CPC 013-16

Your complaint and these findings are made part of Officer T's, Officer H's, and Sgt. F's Internal Affairs records.

You have the right to appeal this decision.

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

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

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

Sincerely,
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department Chief of Police

Attachment "A"

FINDINGS:

SOP VIOLATION 3-12-3G(9) (EXONERATED)

After reviewing the facts in this case, I agree with the CPOA Investigator. I found there is sufficient evidence to demonstrate that Officer Tillman did not violate this policy. Through the investigation it was determined, via phone video, that the complainant was the primary aggressor and was arrested under state law.

Based on the facts of this case, I recommend this violation be **EXONERATED**.

SOP VIOLATION 1-04-6C (SUSTAINED)

After reviewing the facts in this case, I agree with the CPOA Investigator. I found there is more than sufficient evidence to demonstrate that Officer Tillman blatantly disregarded this policy. Under this policy, "*Officers shall avoid regular or continuous associations or dealings with persons whom they know are under active criminal investigation or indictment.*" Officer Tillman had countless text conversations, phone calls and requests with the complainant for dinner, dates and sexual favors. The investigator compiled over 14 pages of texts and phone calls (outgoing/incoming and with date/times) roughly coming out to over 99 texts and 35 phone calls from December 10th, 2015 to January 20th, 2016 alone. (Class 5 Sanction)

Based on the facts of this case, I recommend this violation be **SUSTAINED**.

SOP VIOLATION 1-04-1G (SUSTAINED)

After reviewing the facts in this case, I agree with the CPOA Investigator. I found there is sufficient evidence to demonstrate that Officer Tillman's behavior was extremely unbecoming as an officer and did bring the department into disrepute and interfered or compromised the efficiency of the personnel. It should be noted that this type of situation is not a first time event for Officer Tillman. Officer Tillman was disciplined for inappropriate contact in a similar situation (I-125-12). This will be addressed further in my recommendations. (Class 7 Sanction)

Based on the facts of this case, I recommend this violation be **SUSTAINED**.

SOP VIOLATION 1-04-4B (NOT SUSTAINED)

After reviewing the facts in this case, I disagree with the CPOA Investigator. I found there is insufficient evidence to demonstrate that Officer Tillman's inappropriate texting may have caused neglect or to be inattentive to his duty. Officer Tillman stated he conducted the texting between calls and that it did not interfere with his duties. It should also be noted that his first line supervisor stated that he did not notice any productivity issues during the time frame of this incident. The texting was extremely unbecoming;

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however I feel the investigator failed to show how the number of texts impacted his work to cause neglect or inattention to his duty.

Based on the facts of this case, I recommend this violation be **NOT SUSTAINED**.

SOP VIOLATION 2-19-3B(1) (NOT SUSTAINED)

After reviewing the facts in this case, I agree with the CPOA Investigator. I found there is insufficient evidence to demonstrate that Officer Tillman failed to handcuff the complainant with her hands behind her back. By her omission, she stated she slipped her cuffs.

Based on the facts of this case, I recommend this violation be **NOT SUSTAINED**.

SOP VIOLATION 2-19-3F(1) (SUSTAINED)

After reviewing the facts in this case, I agree with the CPOA Investigator. I found there is sufficient evidence to demonstrate that Officer Tillman failed to notify dispatch with his vehicle's mileage while transporting the complainant. There is not record on the CADs nor on the dispatch audio record. (Class 6 Sanction)

Based on the facts of this case, I recommend this violation be **SUSTAINED**.

SOP VIOLATION 1-39-2B (SUSTAINED)

After reviewing the facts in this case, I agree with the CPOA Investigator. I find there is sufficient evidence to demonstrate that Officer Tillman did fail to record the incident, nor did he document this issue in his police report or advise his supervisor, who was on scene. Officer Tillman claims his camera was full and that is why he was unable to record the interactions. According to Evidence.com, the video recorded prior to this incident, was not uploaded until January 4th, 2015. This incident occurred on December 8th, 2015. If his camera was full on the night of December 8th, I fail to understand why he waited almost 4 weeks later to download the camera into the system. (Class 6 Sanction 1-39-2A)

Based on the facts of this case, I recommend this violation be **SUSTAINED**.

SOP VIOLATION 1-04-4W (SUSTAINED)

After reviewing the facts in this case, I agree with the CPOA Investigator. I found there is sufficient evidence to demonstrate that Officer Tillman failed to answer all the questions directed to him under this investigation. There was a large amount of inconsistencies in his statements that the investigator was able to find. Some of the highlights were:

1. Officer Tillman claimed he told Officer Hollier and his supervisor that his camera was not working while on scene; however Officer Hollier and Sergeant Fincher deny this statement. Officer Tillman claims his camera was not working because its memory was full, but waited almost 4 weeks to download his camera.
2. Officer Tillman stated he did not receive a call from the complainant from jail, rather he stated he did text her friend for her while at the PTC. According to

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Officer Tillman's CADs, he was at the PTC at 1620 on December 8th. Officer Tillman's text was sent to the complainant's friend at 0114 on December 9th (almost 9 hours later).

3. Officer Tillman characterized his communication as insignificant, attempting to help her with services, answering questions about the case, **but not seeking a relationship**. The complainant turned over a large number of texts with Officer Tillman to the investigator, some causal conversations, some requesting dates, dinners, movies and sexual favors. Officer Tillman also gave the investigator copies of his texts, but they were heavily edited.
4. Officer Tillman claimed he was able to get the complainant's personal phone number from the police report; however her number is not listed on that report.
5. Officer Tillman claims he did call out his millage, but that dispatcher might have failed to document it. After reviewing the CADs and audio tapes from dispatch show he failed to contact dispatch.
6. Once Sergeant Fincher learned of the complaint he asked Officer Tillman if he had any conversation or communication with the complaint after the call. Officer Tillman told his sergeant that he only communicated about the case and it was done from the substation, never mentioned the texting.

After reviewing the investigation, reports, video, audio and interview I feel Officer Tillman was deliberately failing to truthfully answer the investigator's questions. I feel officer Tillman established a pattern throughout the investigation of untruthfulness, evasion and omitted facts, which were related to the scope of his employment and operation of the department. (Class 1-5 Sanction)

Based on the facts of this case, I recommend this violation be **SUSTAINED**.

ADDITIONAL FINDINGS:

SOP VIOLATION 1-04-4F (SUSTAINED)

After reviewing the facts in this case, I found there is sufficient evidence to demonstrate that Officer Tillman's conduct both on and off duty did reflect most unfavorably on the department. Officer Tillman had been engaged in inappropriate communication with a subject that he, himself, arrested for domestic violence. Officer Tillman had countless text conversations, phone calls and requests with the complainant for dinner, dates and sexual favors. After the complainant became unhappy with Officer Tillman, she contacted a local news media who is currently reporting on this incident on the local news. (Class 7 Sanction)

Based on the facts of this case, I recommend this violation be **SUSTAINED**.

SOP VIOLATION 1-39-3C (SUSTAINED)

After reviewing the facts in this case, I found there is sufficient evidence to demonstrate that Officer Tillman did fail to bring the issue with his lapel camera up to his immediate supervisor's attention nor did he document the lack of video on his report. (Class 7 Sanction)

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Based on the facts of this case, I recommend this violation be **SUSTAINED**.

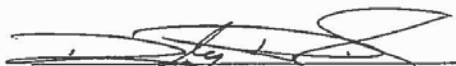
Recommendations:

I recommend Officer Frank Tillman receive the following: **Termination**. As noted above, this is not the first incident of inappropriate communications with a female that Officer Tillman had arrested and his problems with truthfulness.

Officer Tillman was investigated reference I-1-04-12 for inappropriately communicating with an underage minor and had a pattern of untruthfulness documented by his then commander. The investigation resulted in discipline and removal from the DWI unit. Now again Officer Tillman is having inappropriate communications with someone he had arrested and has is lying, evading and omitting facts to the investigator and his direct supervisor.

I feel Officer Tillman has failed to learn or correct his behavior and has established a pattern of inappropriate communications with females and even more disturbing, a continued pattern of untruthfulness.

I feel these patterns are an aggravating circumstance and needs to be seriously taken into consideration. I do believe he is a liability for the Albuquerque Police Department and should be termination from employment at this time.



Randy N. Remiker, Commander
Northeast Area Command

Attachment "B"

POB MEETING DATE: MAY 17, 2016

Re: APD Officer Frank Tillman (Resigned in lieu of termination)

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Employee Name: TILLMAN, Frank


Case#: CPC 013-16

After reviewing the investigation and taking into consideration Officer Tillman's response at his pre-disciplinary hearing, I find that the allegation that Officer Tillman violated Standard Operating General Order 1-04-4W is unsubstantiated. Upon review of the investigation, which included a review of the audio of Officer Tillman's investigative interview, I find that the alleged instances of untruthfulness identified in the investigatory report derive from non-specific and vague questions posed by the investigator. For many of the claimed instances of untruthfulness there is nothing other than the investigator's subjective opinion to indicate that Officer Tillman was untruthful. The investigation itself fails to present sufficient information to contradict Officer Tillman's statements to show by a preponderance of the evidence that he was untruthful. Without direct information to show a lack of truthfulness, I do not find that a preponderance of the evidence supports a claim that he was untruthful.

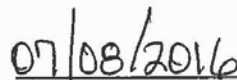
Officer Tillman has accepted responsibility for all other code of conduct violations, including General Orders 1-04-6C, 1-04-1G1-3, and 1-04-4B, as well as Standard Operating Procedures 2-19-3B1 and 2-19-3F1 and Standard Operating General Order 1-39-2B. While his conduct was inappropriate, the preponderance of the evidence does not support a finding that he made untrue statements and was not forthright in his answers.

FINAL Decision on Discipline and Action to be taken:

TERMINATION



Chief Gordon E. Eden, Jr



DATE

Attachment "C"

POB MEETING DATE: MAY 17, 2016

Re: APD Officer Frank Tillman (Resigned in lieu of termination)

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