

Civilian Police Oversight Agency Board

Eric Olivas, Chair

Chantal M. Galloway, Vice Chair

Tara Armijo-Prewitt

Dr. William J. Kass

Doug Mitchell

Eric Nixon

Edward Harness, Executive Director

BOARD AGENDA

Thursday, April 8, 2021 - 5:00 p.m.

Attendance: In response to the Governor's declaration of a Public Health Emergency and ban on large public gatherings, the Civilian Police Oversight (CPOA) Board meeting on Thursday, April 8, 2021 at 5:00 pm will be held via Zoom video conference.

Viewing: Members of the public will have the ability to view the meeting through GOVTV on Comcast Channel 16, or to stream live on the GOVTV website at:

<https://www.cabq.gov/culturalservices/govtv>, or on YouTube at:

<https://www.cabq.gov/cpoa/events/cpoa-board-meeting-april-8-2021>.

(Please note that the link for YouTube has not yet been generated, however, the link could easily be found on the link provided above prior to the start of the meeting). The GOVTV live stream can be accessed at these addresses from most smartphones, tablets, or computers.

The video recording of this and all past meetings of the CPOA Board will also remain available for viewing at any time on the CPOA's website. CPOA Staff is available to help members of the public access pre-recorded CPOA meetings on-line at any time during normal business hours. Please email CPOA@cabq.gov for assistance.

Public Comment: The agenda for the meeting will be posted on the CPOA website by 5:00 pm, Monday, April 5, 2021 at www.cabq.gov/cpoa.

The CPOA Board will take general public comment and comment on the meeting's specific agenda items in written form via email through 4:00 pm on Thursday, April 8, 2021. Submit your public comments to: POB@cabq.gov. These comments will be distributed to all CPOA Board members for review.

- I. Welcome and call to order**
- II. Mission Statement – *Eric Olivas, Chair***

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

- III. Approval of the Agenda**
- IV. Public Comments**

- V. **Review and Approval of Minutes from March 11, 2021**
- VI. **Reports from City Departments**
 - a. **APD**
 - 1. **IA Professional Standards Division (SOP 7-1, SOP 3-41, SOP 3-46) – *Commander Zak Cottrell***
 - 2. **IA Force Division (SOP 2-52 through SOP 2-57) – *Commander Cori Lowe***
 - 3. **APD Crash Review Board Presentation (SOP 2-50) – *Acting Commander Joseph Viers***
 - 4. **Crimes Against Children Unit (SOP 2-92, SOP 5-4) – *Commander Dennis Tafoya or Lieutenant Nicholas Sanders***
 - b. **City Council – *Chris Sylvan***
 - c. **Public Safety Committee - *Chris Sylvan***
 - d. **Mayor’s Office**
 - e. **City Attorney**
 - f. **CPC – *Kelly Mensah***
 - g. **APOA**
 - h. **CPOA – *Edward Harness, Executive Director***
- VII. **Hearing on Requests for Reconsideration**
 - a. **242-20**
- VIII. **Review of Cases:**
 - a. **Administratively Closed**
303-20 059-21
 - b. **Exonerated and Sustained**
249-20 280-20
 - c. **Exonerated, Sustained and Unfounded**
250-20
 - d. **Exonerated, Sustained, Unfounded and Not Sustained**
255-20
 - e. **Exonerated, Not Sustained and Administratively Closed**
210-20
 - f. **Not Sustained**
266-20

IX. Serious Use of Force Cases/Officer Involved Shooting

- a. 18-0068735
- b. 19-0056389
- c. 19-0077270
- d. 19-0080914
- e. 19-0096461
- f. 19-0105587
- g. 20-0000295

X. Reports from Subcommittees

- a. **Community Outreach Subcommittee – Chantal Galloway**
 - 1. Met March 23, 2021 at 3:00 p.m. (video conference)
 - 2. Next meeting April 27, 2021 at 3:00 p.m.
- b. **Policy and Procedure Review Subcommittee – Dr. William Kass**
 - 1. Met April 1, 2021 at 4:30 pm (video conference)
 - 2. Next meeting May 6, 2021 at 4:30 p.m.
- c. **Case Review Subcommittee – Eric Nixon**
 - 1. Next meeting April 27, 2021 at 4:30 p.m.
- d. **Personnel Subcommittee – Eric Olivas**
 - 1. Met March 29, 2021 at 4:00 p.m. (video conference)
 - 2. Next meeting April 26, 2021 at 4:00 p.m.

XI. Discussion and Possible Action

- a. **Diversity and Inclusion Training Request – Chantal Galloway and Eric Olivas**
- b. **Board Member Responsibilities – Eric Olivas**
- c. **Contact with Board Staff – Eric Olivas**
- d. **CPOA Legal Services Contract – Eric Olivas**
- e. **Request for CPOA Legal Services: Use of Zoom – Eric Olivas**
- f. **Board Public Relations Policy - Chantal Galloway**
- g. **Update on Board Vacancies – Director Harness**
- h. **CPOA Board Subcommittee Assignments – Eric Olivas**
- i. **Update on of Serious Use of Force Cases and Officer Involved Shooting Case Materials – Tina Gooch, CPOA Counsel**
- j. **Serious Use of Force Cases: Proposed Board Review Process – Dr. William Kass**
- k. **Changes to 2021 CPOA Executive Director’s Evaluation – Eric Olivas**
- l. **Subpoena Issuance and Consideration CPC 030-21 – Director Harness**
- m. **Delegation of a CPOA Board Representative to Submit PPRB Policy Recommendations - Dr. William Kass**
- n. **Consideration of PPRB Policies with No Recommendation: Dr. William Kass**
 - SOP 1-50 Gun Violence Reduction Unit
 - SOP 2-36 Police Press Relations
 - SOP 2-64 VIP Custom Notifications
- o. **Board Rotation for Stakeholder Meetings**

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

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

**a. Limited personnel matters pursuant to NMSA 1978, Section
10-15-1(H)(2)**

1. Executive Director

XIII. Other Business

**XIV. Adjournment- *Next Regularly scheduled CPOA Board meeting will be on
May 20, 2021 at 5:00 p.m.***

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Civilian Police Oversight Agency Board

Eric Olivas, Chair

Chantal M. Galloway, Vice-Chair

Tara Armijo-Prewitt

William J. Kass

Doug Mitchell

Eric Nixon

Edward Harness, Executive Director

April 14, 2021

Via Email

Re: CPC# 242-20

Dear Ms. F

The Board may grant an Appeal only upon the complainant's timely request offering proof that:

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

PO Box 1293

Albuquerque

NM 87103

On April 8, 2021 the Board considered your submission for Appeal and request for hearing. The Board deemed your request did not meet the standards set forth in City of Albuquerque' Oversight Ordinance. Therefore, your request for hearing in front of the Board has been denied.

www.cabq.gov

Sincerely,
The Civilian Police Oversight Agency by

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

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



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Edward Harness, Executive Director

April 9, 2021

To File

Re: CPC# 303-20

Dear _____ :

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint on 12/29/2020 regarding an incident that occurred on 10/21/2020.

I. THE COMPLAINT

PO Box 1293 On 12/22/2020, a complainant by the name of _____ submitted a complaint which stated regarding bitches B and M from the following video, <https://youtu.be/RWad9ZXf5zY>. _____ reported, bad cops like them get good cops shot in the face. _____ reported "Like you fucks are going to do anything anyway."
Albuquerque

II. INVESTIGATION

NM 87103 _____ was not interviewed as _____ did not provide any contact information on their complaint.

Officers were not interviewed as the entire incident was recorded and a review of the _____
www.cabq.gov lapel videos and YouTube video did not show any observable violations of SOP's.

III. CONCLUSION

The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** as the complainant did not list a specific complaint against APD Personnel. Without a specific complaint, it was unknown which SOP's the complainant had concerns over. CPOA Investigator was unable to gather further details from the complainant as there was no contact information listed for the complainant. A review of the videos did not show any observable violations of SOP's from APD Personnel.

**Letter to
April 9, 2021
Page 2**

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

You have the right to appeal this decision.

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

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

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

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

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



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Edward Harness, Executive Director

April 9, 2021

Via Certified Mail

7018 1130 0002 3429 0975

Re: CPC #059-21

Dear Mr. T:

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint against Officers of the Albuquerque Police Department (APD) on March 3, 2021, regarding an incident that occurred on or about February 26, 2021.

I. THE COMPLAINT

PO Box 1293

Mr. L T reported over the phone his complaint that an officer was too near his wife's bedroom window when the officer used their radio. The radio was so loud it woke his wife up and woke their dogs up. Originally Mr. T said this occurred at 0200. Mr. T contacted admin staff and corrected the time being 2300 that this incident occurred.

Albuquerque

II. INVESTIGATION

NM 87103

The CPOA Investigator talked to Mr. T over the phone and he said the officers should understand how loud their radio is and be more considerate. Mr. T said the radio caused his dog to become injured. As Mr. T and the CPOA Investigator were talking, he was at the vet and it was revealed the dog required its leg to be amputated. Since Mr. T claimed it was the officer's fault his dog was injured the CPOA Investigator provided Mr. T the number for risk management. Mr. T stated neither he nor his wife saw an officer so he did not have any information to identify the officer.

www.cabq.gov

The CPOA Investigator contacted APD records to find a CAD anywhere near the address to attempt to identify the officer. Both times Mr. T provided were given to personnel to find the incident. APD records could not find any incident near their address. The only thing that came up was in the 300 block three days earlier than the date Mr. T reported and was at about six in the evening.

III. CONCLUSION

The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** the complaint, as there was not enough information to identify the officer or locate the incident.

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.

You have the right to appeal this decision.

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

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

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

Letter to Mr. T
April 9, 2021
Page 3

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

A handwritten signature in blue ink, appearing to read 'E. Harness', is positioned above the typed name.

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

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



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Civilian Police Oversight Agency Board

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Chantal M. Galloway, Vice-Chair

Tara Armijo-Prewitt

William J. Kass

Doug Mitchell

Eric Nixon

Edward Harness, Executive Director

April 9, 2021

Via Certified Mail

7018 1130 0002 3429 0999

Re: CPC# 249-20

Dear Mr. A

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint against Officers of the Albuquerque Police Department (APD) on November 12, 2020, regarding an incident that occurred on November 05, 2020. 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

On 11/05/2020, CPOA received a complaint from Mr. J A who reported both officers walked up on him because he had been watching them. Mr. A reported he was detained because he did not provide his address and the officers did not want to let him go because they did not believe he lived in those apartments. Mr. A reported the officers yelled at him, checked his pockets and put his hands behind his back. Mr. A reported he was not handcuffed but the officers stated they would use physical force if he

stood up. Mr. A reported officers stood on each side of him and persisted for him to answer their questions.

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, the lapel videos, and interviews with Officer L, Officer C and Mr. A.

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

A) The CPOA reviewed Procedural Order 2-71-3B.1.f, regarding Officer L's conduct, which states:

A Terry Stop consists of a brief investigative detention, field interview, and, if warranted, a pat-down of a persons' outer garments if based on the officer's training and experience, the person detained poses an immediate danger to the safety of officers or others. Factors to consider when determining whether to perform a Terry Stop should include but not be limited to: The suspect is located in proximate place and time to the alleged crime.

Mr. A reported both officers walked up on him because he had been watching them. Mr. A reported he was detained because he did not provide his address and the officers did not want to let him go because they did not believe he lived in those apartments. Mr. A reported the officers checked his pockets and put his hands behind his back.

During the interview with Mr. A he stated the cops were out there on a different call and they stopped him because they wanted to. Mr. A stated while he was walking the officers asked him to take his headphones out. Mr. A stated he had just got a call and when he reached into his pocket, the officers grabbed his hand and checked his pockets. Mr. A stated that the officers told him he was detained so they could make sure he was not trespassing. Mr. A told the officers anyone could be walking through there and the officers stated no, he was detained. Mr. A stated his biggest concern was the officers approached him and talked to him for no reason.

During the interview with Officer L, he stated himself and his partner Officer C were at the Aztec Village Apartments responding to a separate call there. Officer L stated as they approached the location of their primary call a bunch of the residents in the area began to yell towards them stating there he was as they yelled at an individual. Officer L stated they had tried to ascertain what was going on as they had been dispatched there for another call. Officer L stated they spoke to some of the people there and they stated that guy was looking into cars, gesturing to a male that was leaving the parking lot and basically had ran around the corner of a building. Officer L stated they verified really quick that nothing was broken into and went to handle their primary call.

Officer L stated as they were leaving their primary call, they saw the same individual walking back to the same area where he had earlier fled from. When asked why Mr. A was detained, Officer L confirmed Mr. A was detained because they were trying to figure out if Mr. A was trying to break into cars. When asked if Mr. A was yelled at, padded down, and made to put his hands behind his back, Officer L stated when Mr. A turned around to talk, they asked him to take his hands out of his pockets and informed Mr. A what was going on. Officer L stated they started their investigation and Mr. A was padded down as due to Officer L's experience, anyone they encounter dealing with auto thefts, they may have tools with them that could potentially be used as a weapon. Officer L stated Mr. A hands were moved to the rear of his back which is normal procedure for them to conduct a pat down. Officer L stated Mr. A was never handcuffed.

Per Officer L's the lapel video, Officer L and Officer C arrive to the apartment complex. As officers walk around the apartment neighbors begin to yell about someone looking in their cars and ducking behind their vehicles.

While officers walked through the apartment complex, they see Mr. A and announce police department and asked Mr. A to stop. Officer L asked Mr. A what was going on, as when they walked up earlier, Mr. A was ducking behind a car and people were yelling at him. Officer L asked why Mr. A was ducking behind a car, Mr. A stated because he was scared of cops. Officer L asked Mr. A if he could see how his behavior could lead them to believe that he was up to something nefarious. Mr. A stated he did not think they saw him. Officer L stated they were on the way to a different call and all the neighbors were yelling at him. Officer L asked for Mr. A name and Mr. A hesitated then stated his name was Juan Armas. Mr. A then put his right hand into his right pocket. Officer C reached for Mr. A right hand and Officer L reached for Mr. A left hand and asked if he had any weapons. Mr. A stated "na, na, check my pockets." Officers began to pat down Mr. A. Mr. A asked why were they arresting him, Officer L stated they were not arresting him, they were checking him for weapons as he was acting very suspicious reaching into his pockets. Officer L stated the way Mr. A was acting, he believed Mr. A may be armed and they wanted to make sure he was not. Officers asked Mr. A to sit down which he did. Officer C told Mr. A to lay his hands behind him on the ground and to lean back which Mr. A complied with.

Officer L informed Mr. A he was detained and not free to leave as they were conducting an investigation on whether or not he was a wanted person or whether or not he was committing a burglary. Officer L asked again what Mr. A was doing ducking behind the car, Mr. A stated hiding from the police officers. Mr. A stated he was going to get up and leave and if they touched him, he would make a complaint.

Officer L stated they needed to verify if he was allowed to be on this property. Officer L stated if Mr. A was a resident he was allowed to be on property. Officer C asked what the address to the apartments was, Mr. A stated 4051 Montgomery, Officers asked what building did he live in. Mr. A stated he was not going to tell them. Officer L stated if Mr. A told them what building Mr. A lived in, they would be out of there because they wouldn't charge him with criminal trespassing. Mr. A asked again why he was being detained and Officer L stated they had reasonable suspicion. Officer L stated again it was as simple as telling them where he lived and when they verified he belonged on the property they would leave. Mr. A did not state anything. Officer C asked who Mr. A lived with, Mr. A did not answer. Mr. A stated he lived in the A block and that was all he would tell them. Officers asked which apartment, Mr. A stated he would not tell them and they would have to knock on every single door. Officers again ask what was the number of the apartment, Mr. A stated he was going to make them work.

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

B) The CPOA reviewed Standard Operating General Order 1-1-4D.14, regarding Officer L's conduct, which states:

Personnel must not act officiously, abuse their lawful authority, or permit their personal feelings, animosities, or friendships to influence their official decisions

Mr. A reported the officers yelled at him. Mr. A reported he was not handcuffed but the officers stated they would use physical force if he stood up. Mr. A reported officers stood on each side of him and persisted for him to answer their questions.

During the interview with Mr. A, he stated he was detained and was told if he got up they would use force. Mr. A stated the cops were disrespectful and were getting in to his face and stuff. Mr. A stated when he started to speak Spanish, one of the officers got in his face and stated to speak English.

During the interview with Officer L, he was asked if Officers stated they would use physical force if Mr. A stood up, Officer L stated Mr. A was doing target glances as if he were looking for an avenue to run. Officer L stated Mr. A was arguing with them whether or not he could leave and they told him no as he was detained. Officer L stated if Mr. A attempted to leave, force may be used against him to keep him detained. When asked which officer made that comment, Officer L stated he thinks both of them gave Mr. A statements to that effect. When asked if any of the officers got into Mr. A face and told him to speak English, Officer L stated he did ask Mr.

A to speak English as they had already been conversing in English and Mr. A switched over to Spanish to start cursing at them. Officer L stated they had already been conducting the investigation in English and it was very apparent that Mr. A was fluent and he had switched over to Spanish to impede their investigation. Officer L denied the allegations of getting into Mr. A face and yelling at him.

Per Officer L's Lapel Video, Mr. A begins to speak Spanish. Officer L leans slightly over and in a raised voice stated "necessita habla ingles." Mr. A continued to speak Spanish, Officer L stated to callate la boca.

Per Officer C's Lapel video, Officer C (not Officer L) stated that if Mr. A stood up force could be used against Mr. A

A review of the Lapel Video's showed Officer L did lean towards Mr. A ; while talking but he was not in Mr. A face. Officer L did speak in a raised voice at times towards Mr. A but CPOA Investigator did not feel it reached the point of yelling. It should be noted both officers asked Mr. A ' on many different occasions where he lived as they wanted to verify he was supposed to be on the property, however Mr. A ' would often not answer their questions and used foul language towards the officers.

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

C.) The CPOA reviewed Standard Operating General Order 1-1-4D.15, regarding Officer L's conduct, which states:

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

During the interview with Mr. A , he stated the cops were disrespectful.

Per the Lapel video, Mr. A stated he was hiding from the officers as he was scared of officers because they shoot everybody. Officer L stated, Mr. A was the one on probation for shooting people and stated Officer L should be afraid of Mr. A .

Mr. A asked again why he was being detained and Officer L stated they had reasonable suspicion. Officer L stated Officer L knew that was a three-syllable word so it would be hard for Mr. A

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

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

A) The CPOA reviewed Procedural Order 2-71-3B.1.f, regarding Officer C's conduct, which states:

A Terry Stop consists of a brief investigative detention, field interview, and, if warranted, a pat-down of a persons' outer garments if based on the officer's training and experience, the person detained poses an immediate danger to the safety of officers or others. Factors to consider when determining whether to perform a Terry Stop should include but not be limited to: The suspect is located in proximate place and time to the alleged crime.

Mr. A reported both officers walked up on him because he had been watching them. Mr. A reported he was detained because he did not provide his address and the officers did not want to let him go because they did not believe he lived in those apartments. Mr. A reported the officers checked his pockets and put his hands behind his back.

During the interview with Mr. A he stated the cops were out there on a different call and they stopped him because they wanted to. Mr. A stated while he was walking the Officers asked him to take his headphones out. Mr. A stated he had just got a call and when he reached into his pocket, the officers grabbed his hand and checked his pockets. Mr. A stated that the officers told him he was detained so they could make sure he was not trespassing. Mr. A told the officers anyone could be walking through there and the officers stated no, he was detained. Mr. A stated his biggest concern was the officers approached him and talked to him for no reason.

During the interview with Officer C, he stated they responded to the apartment complex on a separate call. Officer C stated as they were walking through the complex people were pointing towards them stating he was right there. Officer C asked who and what were they doing. Officer C stated they informed him that some guy was looking into cars. Officer C stated the guy, later identified as J A₁ walked away from them. Officer C stated they let it be and continued onto their call. Officer C stated after they did what they needed to do, they were walking back and they spotted Mr. Ar

Officer C stated they identified themselves and went to speak with Mr. A Officer C stated they informed Mr. A that he was detained and they asked him what he was doing. Officer C stated Mr. A kept reaching for his pockets so they conducted a pat down and Officer C had Mr. A₁ sit down. Officer C asked Mr. A what he was doing and Mr. A stated he was watching them because he was afraid of them as they had guns. Officer C asked Mr. A if he lived at those apartments, he stated yes, they asked where and he refused to provide an apartment number. Officer C stated all Mr. A had to do was inform them where he lived and he was free to go. Mr. A stated no, he wanted them to work for it.

Per the lapel video, Officer L and Officer C arrive to the apartment complex. As officers walk around the apartment, residents of the apartment begin to yell about someone looking in their cars and ducking behind their vehicles.

While officers walked through the apartment complex, they see Mr. A and announce police department and asked Mr. A to stop. Officer L asked Mr. A what was going on, as when they walked up earlier, Mr. A was ducking behind a car and people were yelling at him. Officer L asked why Mr. A was ducking behind a car, Mr. A stated because he was scared of cops. Officer L asked Mr. A if he could see how his behavior could lead them to believe that he was up to something nefarious. Mr. A stated he did not think they saw him. Officer L stated they were on the way to a different call and all the neighbors were yelling at him. Officer L asked for Mr. A name and Mr. A hesitated then stated his name was Juan A. Mr. A then put his right hand into his right pocket. Officer C stated get your hands out of your pocket in which Mr. A complied. Officer C reached for Mr. A right hand and Officer L reached for Mr. A left hand and asked if he had any weapons. Mr. A stated "na, na, check my pockets." Officers began to pat down Mr. A. Mr. A asked why were they arresting him, Officer L stated they were not arresting him, they were checking him for weapons as he was acting very suspicious reaching into his pockets. Officer L stated the way Mr. A was acting, he believed Mr. A may be armed and they wanted to make sure he was not. Officers asked Mr. A to sit down which he did. Officer C told Mr. A to lay his hands behind him on the ground and to lean back which Mr. A complied with.

Officer L informed Mr. A he was detained and not free to leave as they were conducting an investigation on whether or not he was a wanted person or whether or not he was committing a burglary. Officer L asked again what Mr. A was doing ducking behind the car, Mr. A stated hiding from the police officers. Mr. A stated he was going to get up and leave and if they touched him, he would make a complaint. Officer L stated they needed to verify if he was allowed to be on this property. Officer L stated if Mr. A was a resident he was allowed to be on property. Officer C asked what the address to the apartments was, Mr. A stated 4051 Montgomery, Officers asked what building did he live in. Mr. A stated he was not going to tell them. Officer L stated if Mr. A told them what building Mr. A lived in, they would be out of there because they wouldn't charge him with criminal trespassing. Mr. A asked again why he was being detained and Officer L stated they had reasonable suspicion. Officer L stated Officer L knew that was a 3-syllable word so it would be hard for Mr. A. Mr. A stated hiding behind a car from the police? Officer L stated yes, that was odd behavior, which lead him to believe that Mr. A was up to something nefarious and that he was going to try to break into the property and Mr. A did not want them to spot him. Officer L stated again it was as simple as telling

them where he lived and when they verified he belonged on the property they would leave. Mr. A did not state anything. Officer C asked who Mr. A lived with, Mr. A did not answer. Mr. A stated he lived in the A block and that was all he would tell them. Officers asked which apartment, Mr. A stated he would not tell them and they would have to knock on every single door. Officers again ask what was the number of the apartment, Mr. A stated he was going to make them work.

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

B) The CPOA reviewed General Order 1-1-4D.14, regarding Officer C's conduct, which states:

Personnel must not act officiously, abuse their lawful authority, or permit their personal feelings, animosities, or friendships to influence their official decisions

Mr. Armas reported the officers yelled at him. Mr. A reported he was not handcuffed but the officers stated they would use physical force if he stood up. Mr. A reported officers stood on each side of him and persisted for him to answer their questions.

During the interview with Mr. A he stated he was detained and was told if he got up they would use force. Mr. A stated the cops were disrespectful and were getting in to his face and stuff. Mr. A stated when he started to speak Spanish, one of the officers got in his face and stated to speak English.

During the interview with Officer C, he was asked if there was any yelling involved during the incident, Officer C stated he could not recall. When asked if anybody got into Mr. A's face and yelled at him for speaking Spanish, Officer C stated Officer L leaned down towards Mr. A as he was sitting down speaking Spanish and Officer L told Mr. A he needed to speak English.

Per the Lapel Video, Mr. A began to speak Spanish. Officer L leans slightly over and in a raised voice stated "necessita habla ingles." Mr. A continued to speak Spanish, Officer L stated to callate la boca.

Per Officer C's Lapel video, Mr. A stated he knew he was not detained and Officer C informed him that he was detained. Mr. A stated if they touched him one more time he was pressing charges. Officer C stated Mr. A was still detained and was not free to leave. Officer C stated if Mr. A stood up, force would be used against him. Mr. A stated "I could stand up?" Officer C stated no. Officer C stated again, if Mr. A stood up force would be used against him.

A review of the Lapel Videos showed at no time did Officer C yell at or get into Mr. A's face. It should be noted both officers asked Mr. A on many different occasions where he lived as they wanted to verify he was supposed to be on the property, however Mr. A would often not answer their questions and used foul language towards the officers.

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

You have the right to appeal this decision.

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

The Civilian Police Oversight Board 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 Board were the wrong policies or they were used in the wrong way; or,
- B) The APD policy or APD policies considered by the Board were chosen randomly or they do not address the issues in your complaint; or,
- C) The findings of the Board had no explanation that would lead to the conclusion made by the Board; or,
- D) The findings by the Board were not supported by evidence that was available to the Board 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. Al
April 9, 2021
Page 10

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

A handwritten signature in blue ink, appearing to read 'E. Harness', is positioned above the typed name.

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

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Civilian Police Oversight Agency Board

Eric Olivas, Chair

Chantal M. Galloway, Vice-Chair

Tara Armijo-Prewitt

William J. Kass

Doug Mitchell

Eric Nixon

Edward Harness, Executive Director

April 9, 2021

Via Email

Re: CPC# 280-20

Dear Mr. :

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint against Officers of the Albuquerque Police Department (APD) on December 07, 2020, regarding an incident that occurred on November 20, 2020. The CPOA thoroughly and impartially investigated the complaint.

PO Box 1293

Albuquerque

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

NM 87103

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

www.cabq.gov

I. THE COMPLAINT AND INVESTIGATION

On 11/30/2020, A citizen identifying himself as _____ submitted a complaint which stated Sergeant C approached him with the intent to dissuade him from recording the incident. _____ reported when Sergeant C realized that his fake laws and unlawful directives were not going to work on him, Sergeant C stood directly behind _____ approximately 12 inches away from _____ making comments such as "does this bother you," and "it's in public." _____ reported Sergeant C began to yell at two drunk people across the street and inform them that _____ was recording evidence and was interfering. _____ reported the two drunk people became extremely hostile towards him, threatened to shoot him, all while Sergeant C stood there and thanked them for being good citizens encouraging their behavior.

reported Sergeant C put him in real danger all in an effort to block his first amendment right to film the police
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, the Incident Reports, the Lapel Videos, and Interviews with Officer G and Sergeant C. CPOA Investigator reached out to the complainant who never got back to the CPOA Investigator. Officer M was not interviewed as his lapel video showed he did not have any interaction with the complainant as he was focused on his own suspect and no observable SOP's were noted in reference to Officer M.

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

A) The CPOA reviewed Procedural Order 2-33-4c.2, regarding Sergeant C's conduct, which states:

An officer may view or seize an onlooker recording if consent is provided. If consent is not granted, an officer shall not compel or otherwise coerce production of these onlooker recordings by any means, without first obtaining a warrant pursuant to the Electronic Communications Privacy Act or unless exigent circumstances exist.

reported Sergeant C approached him with the intent to dissuade him from recording the incident. . reported Sergeant C's fake laws and unlawful directives were not going to work on him.

was not interviewed as the only contact information provided in the complaint was an email address. CPOA Investigator emailed to inquire if he had any more information to provide. never responded to the CPOA Investigator.

During the interview with Sergeant C, he stated he tried to explain to the complainant if he filmed the incident they would need a copy of the video as it would be evidence. Sergeant C stated the DWI suspect had the right in his defense to have all camera angles. Sergeant C stated when the DWI suspect would go to court, he would state there was another camera angle and they would not be able to provide it and the case would be dismissed.

When asked how Sergeant C informed the complainant about providing his video footage, Sergeant C stated sometimes they use words a certain way hoping to get compliance but often times there was not a lot of teeth behind their words. Sergeant C stated in the police academy they were told that they were allowed to lie to people, say certain things to gain information or gain compliance. Sergeant C stated it was when they used it in a physical way stating they need something and if they did not comply then it became an unlawful order. Sergeant C stated in this case, he did not force the complainant to do anything after the fact.

Letter to Mr.

April 9, 2021

Page 3

Per the Lapel Video, Sergeant C told the complainant, that he wanted advise the complainant that if he did film this, the video would become evidence as he would need to give the officers his name and information for the defense attorney. The complainant stated that was not true as APD's policy stated officers cannot confiscate his phone or take his ID unless the officer could prove there was evidence of a crime on the phone. The complainant stated APD policy stated that if an officer had a conversation with an individual in public, that officers would need to give him the same rights afforded to somebody that was not recording. The complainant stated he was not evidencing a crime as he was allowed to record this as Sergeant C could not take his phone or identity. Sergeant C stated if the complainant recorded what was happening right now, it would become evidence. The complainant stated they had no expectation of privacy in public and Sergeant C was wrong. Sergeant C stated to continue to film if he wanted to and the complainant stated he would. Sergeant C stated they would need his information after this and the complainant stated he would not give it.

The complainant stated they could not take his phone unless they had a warrant that proved there was evidence on his phone. Sergeant C stated he was recording the complainant record evidence. The complainant stated he needed a warrant to take his phone. Sergeant C stated a warrant to take what's off the complainant's phone. The complainant informed Sergeant C to check his policy and go get his books and stated 3-22-4 which stated they needed a warrant to take his phone and they could not seize his phone. Sergeant C stated the content of the phone. Sergeant C stated they would find out in the end.

Per the policy, exigent circumstances to seize a recording or warrant to seize a recording must be based on probable cause to believe that a recording has captured evidence of a crime.

Per this incident, exigent circumstances did not apply due to the sobriety tests were captured by lapel video and the complainant's video did not capture the actual act of driving by the DWI suspect.

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

B) The CPOA reviewed Standard Operating General Order 1-1-4D.15, regarding Sergeant C's conduct, which states:

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

reported Sergeant C stood directly behind approximately
12 inches away making comments such as "does this bother you," and "it's in public.
reported Sergeant C began to yell at two drunk people across the street
and inform them that . was recording evidence and was interfering.

reported Sergeant C put him in real danger all in an effort to block his first amendment right to film the police.

was not interviewed as the only contact information provided in the complaint was an email address. CPOA Investigator emailed to inquire if he had any more information to provide. never responded to the CPOA Investigator.

During the interview with Sergeant C, he stated he stood 3-5 feet away from the complainant not 1 foot per the complaint. Sergeant C stated he just stood out there to keep an eye out for scene safety as he did not want to be involved in the field so he did not have to testify to that.

Sergeant C stated two unidentified citizens (1 male and 1 female) who lived across the street began to yell at the complainant stating to leave the officers alone as it was obvious the complainant was filming them. Sergeant C stated that person and the complainant got into a shouting match. Sergeant C stated the complaint indicated that Sergeant C encouraged them to fight the complainant and which Sergeant C denied.

When asked how far away was the complainant from the initial incident (DWI suspect.) Sergeant C stated about 50 feet away but they could not see him that well. CPOA Investigator asked if the complainant was giving any indication why the officers would be worried about safety for example yelling? Sergeant C stated no not at that time but earlier in the night the complainant was bothering people.

When asked why Sergeant C continued to stand behind the complainant, Sergeant C stated he wanted the complainant to film him as the DWI suspect was already going to jail and he did not need to be on the internet.

Per the Lapel Video, Sergeant C informed Officer G that they were being filmed and she stated alright. Sergeant C informed Officer G if the complainant filming them records the field they can take his camera as evidence. Sergeant C stated when the other officer got there, he was going to stand behind the guy who was recording them so he would have to decide if he wanted to record them or Sergeant C. Sergeant C stated he thinks that would be funny.

Later in the incident, Sergeant C stood approximately two feet behind the complainant and stated "sorry is this bothering you?" The complainant turned around and stated "it is, yes sir, I don't stand behind you, I didn't stand directly behind you, did i?" The complainant asked why Sergeant C had did that to him. Sergeant C stated "you said public area." Sergeant C continued to stand behind the complainant.

The complainant takes several steps forward and to the right and Sergeant C followed him. The complainant turned around and stated that Sergeant C could not do what he was

doing. Sergeant C stated says who, the complainant stated he would file a complaint on Sergeant C.

Citizens from across the street state something that was unclear, Sergeant C stated "huh, I know he is filming us." The complainant takes a few more steps forward and continued to film the other officers and the DWI suspect. Sergeant C followed the complainant and continued to stand approximately 2-3 feet behind him. Citizens across the street continued to make comments that were unclear. Sergeant C informed the complainant the guy over there wanted to talk to him (alluding to the citizens across the street.) Sergeant C informed the complainant the people across the street called him a bad name. The complainant asked who he was, Sergeant C stated he did not know let's go find out. Sergeant C yelled across the street that the complainant did not want to talk to them. Citizen from across the street stated "I know he doesn't." The citizen from across the street was heard stating something about an investigation and Sergeant C responded to him by stating "no, he does not think it is interfering, he doesn't realize he is recording evidence." The complainant turned around and stated the supreme court ruled that he could be within 10 feet of officers and he was way further away than that. Sergeant C stated ok.

The complainant asked Sergeant C if he was going to do anything about that (referring to the citizen that was yelling from across the street.) Sergeant C stated do what about it? Citizen from across the street yelled "Do you want to hear the real story, come talk to me bitch, Jesus Christ, the Officers were doing their job" Citizen from across the street stated, APD was just doing their job and you got to be a dick. The CPOA finds Sergeant C's conduct to be **SUSTAINED** where the investigation determines by preponderance of the evidence, that the alleged misconduct did occur.

C.) The CPOA reviewed Standard Operating General Order 3-13-3B.4a.b, regarding Sergeant C's conduct, which states:

During the performance of their law enforcement duties, officers shall also abide by the following guidelines: a. When sworn employees are faced with a situation where they can exercise discretion, they must evaluate the circumstances, consider the available resources, and rely on their training, department policies and procedures, statutory law, and supervisory orders in making what they believe and understand to be an appropriate decision, given the specific circumstances.
b. In addition, and with recognition that each unique situation will require specific actions, the appropriate decision should be the least restrictive decision, which, once made, will not compromise either officer safety or result in unlawful action, and which will result in an outcome that remains in accordance with departmental policy and procedures.

i reported the two drunk people became extremely hostile towards him, threatened to shoot him, all while Sergeant C stood there and thanked them for being good citizens encouraging their behavior.

was not interviewed as the only contact information provided in the complaint was an email address. CPOA Investigator emailed h to inquire if he had any more information to provide. never responded to the Investigator.

During the interview with Sergeant C, he was asked if the citizens threatened to shoot the complainant with a gun and asked if Sergeant C thanked them for being good citizens after that comment was made. Sergeant C stated he did not recall that threat happening. Sergeant C stated he did not recall anyone stating they would get a gun to shoot anybody. Sergeant C stated he might have thanked them for being good citizens but he did not remember specifically.

When asked what was done when the citizens were threatening each other. Sergeant C stated the law required one of them to become a victim. Sergeant C stated none of them went to him and stated they were being threatened and asked him to do anything about it. Sergeant C stated they were both shouting back and forth and were at least 25 feet apart from each other. Sergeant C stated he was not going to let them touch each other but words were words.

Per the Lapel Video, the complainant stated these mother fuckers, turned around and started to walk towards the citizens from across the street. Sergeant C followed the complainant as he walked towards the citizens from across the street. The citizens from across the street and the complainant continue to argue with the road between both of them. The complainant stated the self-defense law if the citizen across the street came over he would fight him. The citizen from across the street stated he was a legal gun owner and he would shoot his ass. The citizen across the street stated they appreciated APD, Sergeant C stated they appreciated them and thanked them for being good citizens. Citizen from across the street walked towards the middle of the road and the complainant and him continue to argue back and forth. The complainant walked closer to the other male citizen and began recording him. The complainant and the male citizen were still approximately 6-7 feet apart. The other male citizen eventually walked back across the street away from the complainant.

The CPOA finds Sergeant C's conduct to be **EXONERATED** where the investigation determined 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 G's CONDUCT

A) The CPOA reviewed Standard Operating General Order 3-13-3B.4a.b, regarding Officer G's conduct, which states:

During the performance of their law enforcement duties, officers shall also abide by the following guidelines: a. When sworn employees are faced with a situation where

they can exercise discretion, they must evaluate the circumstances, consider the available resources, and rely on their training, department policies and procedures, statutory law, and supervisory orders in making what they believe and understand to be an appropriate decision, given the specific circumstances.

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

reported the two drunk people became extremely hostile towards him, threatened to shoot him, all while Sergeant C stood there and thanked them for being good citizens encouraging their behavior.

was not interviewed as the only contact information provided in the complaint was an email address. CPOA Investigator emailed to inquire if he had any more information to provide. never responded to the CPOA Investigator.

Officer G stated she heard the words getting louder from the direction of Sergeant C and the complainant, so walked towards that direction (a little south.) Officer G stated she observed Sergeant C standing behind the complainant and stated she only saw the complainant and the other male subject having words with each other. Officer G stated she was trying to monitor that issue with Sergeant C and also trying to monitor her initial investigation with Officer M and the DWI suspect. Officer G stated she did not hear Sergeant C say anything it was just the complainant and the other male subject were cursing and using slur words at each other.

Officer G stated she did not witness any of the conversation between Sergeant C and the complainant.

CPOA Investigator asked if Officer G heard any threats being said between the complainant and the individuals across the street. Officer G stated they both made threats but complainant was obviously not in fear as he maintained his position. Officer G stated if the complainant was in fear of any imminent injury he should have left but he stayed and continued to argue with the other male subject. Officer G stated it was just back and forth words.

When asked about the complaint where the other male subject threatened to shoot the complainant, Officer G stated there was some kind of verbiage which she could not recall exactly about the gun or how it was worded. Officer G stated again, the complainant maintained his position and obviously he was not afraid of imminent battery as neither one of them were, as they continued to just argue. When asked at what point do officers intervene, Officer G stated if that was a threat that was taken seriously the complainant should have retreated and made a formal criminal complaint to officers which was never

done. Officer G stated the way the law dictates he would have had to have been in fear of immediate battery which again the complainant's actions dictated to her that he was not in fear as he continued to argue and did not retreat.

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

You have the right to appeal this decision.

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

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

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

Civilian Police Oversight Agency Board

Eric Olivas, Chair

Chantal M. Galloway, Vice-Chair

Tara Armijo-Prewitt

William J. Kass

Doug Mitchell

Eric Nixon

Edward Harness, Executive Director

April 9, 2021

Via Certified Mail

7018 1130 0002 3429 0982

Re: CPC# 250-20

Dear Ms. C

PO Box 1293
Albuquerque
NM 87103

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint against Officers of the Albuquerque Police Department (APD) on November 18, 2020, regarding an incident that occurred on September 29, 2020. The CPOA thoroughly and impartially investigated the complaint.

Albuquerque
NM 87103

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

www.cabq.gov

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

I. THE COMPLAINT AND INVESTIGATION

On 11/11/2020, CPOA received a complaint from either Ms. T. A. or C. C. The complaint listed Ms. A. initially but was signed and based on the incident with Ms. C. CPOA Investigator was unable to officially speak with either Ms. A. or Ms. C. about the allegation and due to the complaint written in first person, it was assumed Ms. C. submitted the complaint.

Ms. C reported officers went into her home without her invite and while in her home the officers were very disrespectful with her and claimed they were on a welfare check. Ms. C reported after she called her mom (Ms. A) to let her know what was going on, her mom confirmed she was on the way. Ms. C reported she was placed in handcuffs, screamed at and officers stated that she was told not to have anyone else come over. Ms. C reported the officers stated they were going to question her kids without an adult present. Ms. C reported when she was taken outside, as the officer was holding her hand, the officer squeezed her finger really tight and was being really nasty with Ms. C.

Ms. C reported Sergeant H informed her that they would speak with her children without her present and when Ms. C replied that was against the law, Sergeant H did not like that she said that, so he placed her in the back of a police cruiser. Ms. C reported that one of the officers lied when they made their statement to CYFD as they told them that Ms. C refused to give them any information and had not been cooperative with them. Ms. C reported she felt every officer was disrespectful towards her because her spouse was F G.

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, the Incident Reports, the Lapel videos, and interviews with Officer L, Officer M, Sergeant H and Sergeant L. Ms. A was not interviewed as she did not respond to CPOA Investigators voicemail. Ms. C was not interviewed as she never reached back out to the CPOA Investigator after she missed the scheduled phone interview. Officers R and Officer V were not interviewed as they were not directly mentioned in the complaint and a review of both their lapel videos did not show any observable violations of SOP's by either officer.

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

A.) The CPOA reviewed General Order 3-13-3B.3.b, regarding Officer L's conduct, which states:

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

Ms. C reported officers went into her home without her invite.

Ms. C was not interviewed as she did not get back to the CPOA Investigator after she missed the scheduled phone interview.

During the interview with Officer L, she stated when they arrived on scene, Officer L stated they explained to them why they were there and explained that they needed to go

inside to check on the kids. Officer L stated Ms. C was being very uncooperative and did not want the officers to talk with her or the children as she believed she was being harassed. Officer L stated Ms. C did not want to allow officers inside to check on the kids or conduct their investigation. Officer L stated there was a state statute against intervening with an investigation for child abuse. Officer L explained to them that they would be charged if they intervened. Officer L stated Ms. C then walked off and often times when somebody walked back into their house away from officers, it put them in danger as often times people would go and retreat a weapon or something like that. Officer L stated Ms. C walking off made all of the officers feel very uncomfortable. Officer L stated they told them they were going to go inside as they were not going to allow Ms. C to walk around the house.

Officer L stated they needed to act in a community care taker role with the kids, they needed to check on them and Ms. C was not going to allow them to. Officer L stated they couldn't just allow Ms. C to go back into that house and potentially put those kids into danger. Officer L stated at that point the community care taker role took over and they had to make sure that they were taking care of those kids. Officer L confirmed the way Ms. C was acting, triggered the importance to go into the apartment.

Per the Lapel Video, Officer L, Officer M and Officer R arrived to the apartment complex and walked towards Ms. C's apartment. Officers observed Mr. G and two children entering the apartment door and they stated stop they needed talk to them. Officers walked up to the apartment door and informed Mr. G, Ms. C and the two children that officers needed to speak with them. Officer L informed Ms. C they received a call and Ms. C stated you're not going to just walk up on us like that and advised Mr. G to call his lawyer ASAP. Officer L stated they were going in and were going to check on the kids. Ms. C stated that was fine, they were right there and they were currently moving out of that apartment. Ms. Covington stated to hold on one second and began to walk towards another room and officers stated "no, no no, lets go," and began walking into the apartment. Ms. C walked back to the doorway and stated they were not invited in, Officer L stated in a raised voice "you guys are going to invite us in or go to jail, go in and sit on the couch now."

Per SOP 2-71-2J. Community Caretaker/ Welfare Check- An officer may stop a vehicle or enter a premises or curtilage without a warrant or probable cause when the officer has specific articulable safety concerns that an individual might be in physical danger or in need of immediate assistance. Such encounters must be done in good faith without the intent to investigate criminal activity or effect an arrest or detention. In those instances where an officer is conducting a welfare check on an individual based on a request by that individual's treating mental health professional or the individual's family, officers should contact a Mobile Crisis Team if available. These encounters are not for the purposes of investigating criminal activity or to effect an arrest.

Per NM Statute 30-6-4 stated in part: Obstruction of reporting or investigation of child abuse or neglect consists of:

B. knowingly obstructing, delaying, interfering with or denying access to a law enforcement officer or child protective services social worker in the investigation of a report of child abuse or sexual abuse.

Whoever commits obstruction of reporting or investigation of child abuse or neglect is guilty of a misdemeanor.

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

B.) The CPOA reviewed Standard Operating General Order 1-1-4D.15, regarding Officer L's conduct, which states:

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

Ms. C reported officers were disrespectful to her and she was screamed at by officers.

Ms. C was not interviewed as she did not get back to the CPOA Investigator after she missed the scheduled phone interview.

During the interview with Officer L, she stated at no point in time did they belittle Ms. C as they tried to explain everything to her. Officer L stated at the most, which was not disrespectful, but they had to raise their voice because Ms. C was not listening. Officer L stated at no point did they curse, belittle or demean Ms. C.

When asked about if anyone screamed at Ms. C, Officer L stated voices were raised but no one screamed at Ms. C.

Per the Lapel Video, while standing outside in front of the apartment, Officer L stated to Mr. G and Ms. C in a raised voice "you guys are going to let us in or go to jail, you decide, go in and sit on the couch now." While walking into the apartment, Officer L tells Ms. C to "go" while they walk towards the living room. Officer L stated "it was very simple, they had a job to do, now go, sit down."

As described in policy, some de-escalation techniques to be used to prevent situations from escalating were verbal/nonverbal techniques, listening skills and tone of voice.

Per the video, Officer L did not appear to use de-escalation techniques prior to entering the apartment as Officer L used a harsh tone of voice towards Mr. G and Ms. C almost immediately after initially interacting with Mr. G and Ms. C.

The CPOA finds Officer L's conduct to be **SUSTAINED** where the investigation determines by preponderance of the evidence, that the alleged misconduct did occur

C.) The CPOA reviewed Standard Operating General Order 1-1-4D.14, regarding Officer L's conduct, which states:

Personnel must not act officiously, abuse their lawful authority, or permit their personal feelings, animosities, or friendships to influence their official decisions

Ms. C reported after she called her mom (Ms. A to let her know what was going on, her mom confirmed she was on the way. Ms. C reported she was placed in handcuffs, and officers stated that she was told not to have anyone else come over. Ms. C reported the officers stated they were going to question her kids without an adult present. Ms. C reported that one of the officers lied when they made their statement to CYFD as they told them that Ms. C refused to give them any information and had not been cooperative with them. Ms. C reported she felt every officer was disrespectful towards her because her spouse was F 1 G

Ms. C was not interviewed as she did not get back to the CPOA Investigator after she missed the scheduled phone interview.

During the interview with Officer L, she stated while she was trying to explain to them why they were there, Ms. C called her mother in which Officer M had already told her not to call anybody to come over to the house. Officer L stated Ms. C told her mom to come over to protect Ms. C's kids. Officer L stated because Ms. C had been acting so irrational, argumentative and calling people over even when she was asked not to they decided to put Ms. C into handcuffs as she was not going to allow them to interview the kids without her present. Officer L stated in a child abuse investigation or any investigation at that they were trained not to interview the victim in front of the offender.

When asked where they received this kind of training, Officer L stated they get training in the academy and bi-annual training for the CACU trainings.

When asked about the complaint where someone told CYFD that Ms. C was being uncooperative, Officer L stated she may have told CYFD that Ms. C was being uncooperative at the beginning.

When asked if officers acted a certain way due to who Ms. C's spouse was. Officer L denied that allegations.

During the interview with Sergeant L (Sergeant at Crimes Against Children's Unit) when asked if interviewing a child (alleged victim of abuse/neglect) separately from their parents (Alleged suspects of abuse/neglects) was taught to officers. Sergeant L stated if

the parents were the potential abusing party or the ones creating the neglectful or abusive situation, you don't want to have the interview with the child in the presence of the parents because the parents could influence the answers for example intimidate their children or answer for them. Sergeant L stated he does know they do teach interviewing the victim away from the target in their CARE class.

Per the Lapel Video, while inside the apartment, Ms. C got on the phone, Officer M stated if you get more people over here, it's going to be (unable to hear the last word in the video.) Ms. C stated that was her mother, because Ms. C had two children over there.

Officer L informed Ms. C that she was going to check on the kids and Ms. C stated go ahead and check on them. Ms. C stated her kids could not be interviewed without her or her mother present, Officer M informed Ms. C that they would be interviewed separately. Ms. C stated they cannot, Officer M stated yes, they could.

Ms. C got on her phone and told her mom to get over there for the boys, Officer L approached Ms. C told her to get up and Officer L and Officer M handcuffed Ms. C informing her that she was being put in handcuffs because she was not being cool. Ms. C stated they were disrespecting her because she asked her mother to come over to protect her children, Officer M stated did she not tell Ms. C to not have anyone go over there. Officer L asked Officer M and Officer R to take Ms. C outside in which they did.

A review of the Lapel Video there was no indication that Ms. C was treated disrespectful due to who Mr. G was as Mr. G was never detained as he appeared to cooperate with the officers during the entire incident.

Per the New Mexico Statutes Chapter 32A. Children's Code § 32A-4-5: It was noted in part; the alleged victim shall be interviewed with the consideration of the safety of the child/alleged victim. Interviews shall be conducted in a place where the child feels secure.

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

D.) The CPOA reviewed Standard Operating Procedural Order 2-52-4F.1.a, regarding Officer L's conduct, which states:

Officers shall only use force to achieve a lawful objective. Officers are authorized to use force: a. To effect a lawful arrest or detention of a person

Ms. C reported when she was taken outside, as the officer was holding her hand, the officer was squeezing her finger really tight and being really nasty with Ms. Covington.

Ms. C was not interviewed as she did not get back to the CPOA Investigator after she missed the scheduled phone interview.

During the interview with Officer L, she stated while they were inside, she patted both Ms. C and Mr. G down for weapons. Officer L stated when she asked Ms. C to walk towards her, Ms. C kind of pushed her body against Officer L. Officer L stated they hold their fingers when the conduct a pat down. Officer L denied squeezing Ms. C's fingers as she was just holding them.

Per Officer L's the Lapel Video, Officer L was observed to be holding Ms. C fingers, per the video, CPOA Investigator was unable to determine if Officer L was squeezing Ms. C's fingers per the complaint.

Per Officer M's Lapel Video, Officer L was holding Ms. C hands/fingers while patting her down. Ms. C stated to Officer L that she was not going to squeeze her (Unable to make out next word from Ms. C) Officer L stated she would if she felt Ms. C was wiggling around and Officer L shakes Ms. C's hands while still holding onto the fingers.

Officer M and Officer R escort Ms. C outside by her arms and stated if Ms. C would just cooperate with them, they would not need to take it to this level. Officer M asked Ms. C to sit on the stairs.

The Lapel Videos showed the only officer that had Ms. C by the fingers was Officer L and that incident did not take place while being escorted outside per the complaint.

The CPOA finds Officer L's conduct to be **EXONERATED** where the investigation determined 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 M's CONDUCT

A) The CPOA reviewed General Order 3-13-3B.3.b, regarding Officer M's conduct, which states:

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

Ms. C reported officers went into her home without her invite

Ms. C was not interviewed as she did not get back to the CPOA Investigator after she missed the scheduled phone interview.

During the interview with Officer M, she stated on the date of the incident they were dispatched to allegations of possible child abuse. Officer M stated Officer L informed them that they were there to conduct a child investigation and had to go in to make sure everything was ok. Officer M stated at that point Ms. C came out to the threshold of the doorway and did not allow the officers inside to check on the kids. Officer M stated they had to go in, whether Ms. C liked it or not, it was a child abuse investigation that they had to check up on. Officer M stated in the Crime Against Children Policy it stated that they had to conduct a full investigation to ensure that there was no child abuse going on when it was alleged. Officer M stated it was against the law to impede a child abuse investigation whether you were as parent or not.

Per the Lapel Video, Officer L, Officer M and Officer Recruit R arrived to the apartment complex and walked towards Ms. C's apartment. Officers observed Mr. G and two children entering the apartment door and they stated stop they needed talk to them. Officers walked up to the apartment door and informed Mr. G, Ms. C and the two children that officers needed to speak with them. Officer L informed Ms. C they received a call and Ms. C stated you're not going to just walk up on us like that and advised Mr. C to call his lawyer ASAP. Officer L stated they were going in and were going to check on the kids. Ms. C stated that was fine, they were right there and they were currently moving out of that apartment. Ms. C stated to hold on one second and began to walk towards another room and officers stated "no, no no, lets go," and began walking into the apartment. Ms. C walked back to the doorway and stated they were not invited in, Officer L stated in a raised voice "you guys are going to invite us in or go to jail, go in and sit on the couch now."

Per SOP 2-71-2J. Community Caretaker/ Welfare Check- An officer may stop a vehicle or enter a premises or curtilage without a warrant or probable cause when the officer has specific articulable safety concerns that an individual might be in physical danger or in need of immediate assistance. Such encounters must be done in good faith without the intent to investigate criminal activity or effect an arrest or detention. In those instances where an officer is conducting a welfare check on an individual based on a request by that individual's treating mental health professional or the individual's family, officers should contact a Mobile Crisis Team if available. These encounters are not for the purposes of investigating criminal activity or to effect an arrest.

Per NM Statute 30-6-4 stated in part: Obstruction of reporting or investigation of child abuse or neglect consists of:

B. knowingly obstructing, delaying, interfering with or denying access to a law enforcement officer or child protective services social worker in the investigation of a report of child abuse or sexual abuse.

Whoever commits obstruction of reporting or investigation of child abuse or neglect is guilty of a misdemeanor.

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

B.) The CPOA reviewed Standard Operating General Order 1-1-4D.15, regarding Officer M's conduct, which states:

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

Ms. C reported officers were disrespectful to her and she was screamed at by officers.

Ms. C was not interviewed as she did not get back to the CPOA Investigator after she missed the scheduled phone interview.

During the interview with Officer M, she was asked if Ms. C was screamed at per the complaint. Officer M denied any screaming occurred but stated voices were definitely raised. Officer M denied disrespecting Ms. C per the complaint. Officer M was asked about the allegation where officers were aggressive with Ms. C. Officer M stated they were not aggressive but were stern in their voices as Ms. C was not listening to what they were telling her.

Per the Lapel Video, after officers escorted Ms. C on outside and asked her to sit on the stairs, Ms. C asked if she was under arrest. Officer M stated Ms. C was being detained because she was not being cool. Officer M stated Ms. C was not letting them talk, Ms. C continued to talk, Officer M raised her voice and stated listen, that was her issue. Officer M then advised Ms. C to stop talking to her child until officers interviewed him.

Per the Lapel Video, Ms. C was argumentative with officers during the incident, which impeded the child abuse investigation at that time.

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

C.) The CPOA reviewed General Order 1-1-4D.14, regarding Officer M's conduct, which states:

Personnel must not act officiously, abuse their lawful authority, or permit their personal feelings, animosities, or friendships to influence their official decisions

Ms. C reported after she called her mom (Ms. A) to let her know what was going on, her mom confirmed she was on the way. Ms. C reported she was placed in handcuffs, and officers stated that she was told not to have anyone else come over. Ms. C reported the officers stated they were going to question her kids without an adult present. Ms. C reported that one of the officers lied when they made their statement to CYFD as they told them that Ms. C refused to give them any information and had not been cooperative with them. Ms. C reported she felt every officer was disrespectful towards her because her spouse was F G

Ms. C was not interviewed as she did not get back to the CPOA Investigator after she missed the scheduled phone interview.

Officer M denied the allegation of officers disrespecting Ms. C. Officer M stated they ended up having to put Ms. C into handcuffs as she kept calling her mom to try and have her come over. Officer M stated they could not have more people coming over and impeding their investigation until they figured out if there was abuse going on. Officer M stated they had to stop Ms. C from letting the scene go out of control, so they had to put her in handcuffs and take Ms. C out of the home.

Officer M stated in reference to Ms. C's phone call to her mother, Officer M had previously told Ms. C that she did not want anyone else to come over to disrupt the investigation. When asked about interviewing Ms. C's children without Ms. C present, Officer M stated that was just the way they did things with child abuse investigations, they do not interview the victim in front of the perpetrator. Officer M stated that was standard procedure to interview the children away from the parents to make sure there was no abuse going on. Officer M stated it was just in their training and experience. Officer M stated everyone gets this kind of training, going all the way back the academy.

During the interview with Sergeant L (Sergeant at Crimes Against Children's Unit) when asked if interviewing a child (alleged victim of abuse/neglect) separately from their parents (Alleged suspects of abuse/neglects) was taught to officers. Sergeant L stated if the parents were the potential abusing party or the ones creating the neglectful or abusive situation, you don't want to have the interview with the child in the presence of the parents because the parents could influence the answers for example intimidate their children or answer for them. Sergeant L stated he does know they do teach interviewing the victim away from the target in their CARE class.

Per the Lapel Video, while inside the apartment, Ms. C got on the phone, Officer M stated if you get more people over here, it's going to be (unable to hear the last word in

the video.) Ms. C stated that was her mother, because Ms. C had two children over there.

Officer L informed Ms. C that she was going to check on the kids and Ms. Covington stated go ahead and check on them. Ms. C stated her kids could not be interviewed without her or her mother present, Officer M informed Ms. C that they would be interviewed separately. Ms. C stated they cannot, Officer M stated yes, they could.

Ms. C got on her phone and told her mom to get over there for the boys, Officer L approached Ms. C, told her to get up and Officer L and Officer M handcuffed Ms. C informing her that she was being put in handcuffs because she was not being cool. Ms. C stated they were disrespecting her because she asked her mother to come over to protect her children, Officer M stated did she not tell Ms. C to not have anyone go over there. Officer L asked Officer M and Officer R to take Ms. C outside in which they did.

A review of the Lapel Video there was no indication that Ms. C was treated disrespectful due to who Mr. C was as Mr. G was never detained as he appeared to cooperate with the officers during the entire incident.

Per the New Mexico Statutes Chapter 32A. Children's Code § 32A-4-5: It was noted in part; the alleged victim shall be interviewed with the consideration of the safety of the child/alleged victim. Interviews shall be conducted in a place where the child feels secure.

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

D.) The CPOA reviewed Standard Operating Procedural Order 2-52-4F.1.a, regarding Officer M's conduct, which states:

Officers shall only use force to achieve a lawful objective. Officers are authorized to use force: a. To effect a lawful arrest or detention of a person.

Ms. C reported when she was taken outside, as the officer was holding her hand, the officer was squeezing her finger really tight and being really nasty with Ms. Covington.

Ms. C was not interviewed as she did not get back to the CPOA Investigator after she missed the scheduled phone interview.

During the interview with Officer M, she stated it was her and her recruit Officer R who escorted Ms. C outside. When asked if any of the officers squeezed Ms.

C's finger per the complaint, Officer M stated when they walked Ms. C out, she was not holding on to her hands at all as she was holding on to her arm. Officer M stated when Officer L was either patting down or handcuffing Ms. C, Officer L was holding onto Ms. C's hands to handcuff her to keep control of Ms. C. Officer M stated she recalled Ms. C stating at that time that Officer L did not need to squeeze her fingers so tight and she felt that Ms. C was referring to that in regards to her complaint. Officer M stated she herself never squeezed Ms. Covington's fingers.

Per Officer M's the Lapel Video, Officer L was holding Ms. C hands/fingers while patting her down. Ms. C stated to Officer L that she was not going to squeeze her (Unable to make out next word from Ms. C) Officer L stated she would if she felt Ms. C was wiggling around and Officer L shakes Ms. C's hands while still holding onto the fingers.

Officer M and Officer R escort Ms. C outside by her arms and stated if Ms. C would just cooperate with them, they would not need to take it to this level. Officer M asked Ms. C to sit on the stairs.

The Lapel Video showed the only officer that had Ms. C by the fingers during this incident was Officer L and that incident did not take place while being escorted outside per the complaint.

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

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

A.) The CPOA reviewed General Order 1-1-4D.14, regarding Sergeant H's conduct, which states:

Personnel must not act officiously, abuse their lawful authority, or permit their personal feelings, animosities, or friendships to influence their official decisions

Ms. C reported Sergeant H informed her that they would speak with her children without her present and when Ms. C replied that was against the law, Sergeant H did not like that she said that so he placed her in the back of a police cruiser. Ms. C reported she felt every officer was disrespectful towards her because her spouse was F G

Ms. C was not interviewed as she did not get back to the CPOA Investigator after she missed the scheduled phone interview.

During the interview with Sergeant H, he stated he was not there initially as the two female officers asked for back up on the call. Sergeant H stated he was close by so he went. Sergeant H stated when he walked into the court yard Ms. C [redacted] was in the courtyard sitting on the steps in handcuffs. Sergeant H stated there was a form of verbal altercation going on between Ms. C [redacted] and the female officers, so he spoke with Ms. C [redacted] and asked her to calm down. Sergeant H advised Ms. C [redacted] that the officers needed to complete their investigation and Ms. C [redacted] continued to be verbally aggressive with the officers so he asked her to stand up and she complied with him.

Sergeant H stated he walked Ms. C [redacted] out to the parking lot where Officer V had pulled in and had Ms. C [redacted] have a seat in Officer V's car. Sergeant H stated he put Ms. C [redacted] in the car because the officers were trying to conduct a child abuse investigation where Ms. C [redacted] was one of the suspects. Sergeant H stated if Ms. C [redacted] continued to get more upset, he felt it could be a danger to Ms. C [redacted] and/or escalate the children while his officers were trying to complete the child abuse investigation and that was why he had Ms. C [redacted] sit in the back of Officer V's car.

Sergeant H denied hearing any of the officers scream and Ms. C [redacted]. When asked if officers were allowed to interview children without their parent present, Sergeant H stated officers were allowed to do that as Ms. C [redacted] was possibly the suspect of a crime and the children were the victims.

Sergeant H stated he did not have much to do with the investigation other than escorting Ms. C [redacted] to the police vehicle so she did not escalate any further.

When asked why Ms. C [redacted] was placed in the car by Sergeant H, he stated because Ms. C [redacted] was being uncooperative, caused a disturbance, so his officers could complete their investigation safely and so the alleged suspect would be away from the alleged victims.

When asked if officers were being disrespectful due to who Ms. C [redacted] spouse was per the complaint. Sergeant H denied that allegation.

During the interview with Sergeant L (Sergeant at Crimes Against Children's Unit) when asked if interviewing a child (alleged victim of abuse/neglect) separately from their parents (Alleged suspects of abuse/neglects) was taught to officers. Sergeant L stated if the parents were the potential abusing party or the ones creating the neglectful or abusive situation, you don't want to have the interview with the child in the presence of the parents because the parents could influence the answers for example intimidate their children or answer for them. Sergeant L stated he does know they do teach interviewing the victim away from the target in their CARE class.

Per the Lapel Video, Sergeant H arrived to the scene and spoke briefly with Ms. C [redacted] advising her that he would talk to her but she needs to be respectful and not

talk over him, the two officers or she would sit in a police car. Sergeant H stated to Ms. C he would be respectful to her but she needed to treat himself and the officers with respect as well. Sergeant H stated to give him a moment to speak with Officer M and then he would speak with Ms. C

Sergeant H asked Ms. C to stand up and speak with him. Sergeant H informed Ms. C if she could be cooperative with him, he may take off her handcuffs. Sergeant H introduced himself to Ms. C again and stated they she was dealing with Law Enforcement right now and their main priority was her and her children's safety. Sergeant H stated to Ms. C when she was not cooperative, Ms. C interjects and stated she was being cooperative. Sergeant H stated he spoke with the officers and looked at the video on the way over there and they stated Ms. C was not being cooperative.

Ms. C explained to Sergeant H what happened prior to his arrival. Ms. Covington stated then officers told her they were going to interview her children alone, which was against the law. Sergeant H informed Ms. C not it was not against the law, Ms. C stated yes it was and Sergeant H stated it was not. Sergeant H advised Ms. C that he was going to place her in a police car. Sergeant H stated right now Ms. C was being detained for a child abuse investigation. Sergeant H stated Ms. C was going to have a seat in a police car until they were done.

Sergeant H advised Ms. C when they were called there to complete an investigation and that was what officers were doing. Sergeant H stated they did have the authority to talk to her children and inspect them for injuries. Ms. C asked alone? Sergeant H stated absolutely as they were being recorded and they were law enforcement officers and it was an authority giving to them as a state. Sergeant H stated Ms. C interfering with a police officer was a crime and that was why she was being detained.

A review of the Lapel Video, there was no indication that Ms. C was treated disrespectful due to who Mr. G was as Mr. G was never detained as he appeared to cooperate with the officers during the entire incident.

Per the New Mexico Statutes Chapter 32A. Children's Code § 32A-4-5: It was noted in part; the alleged victim shall be interviewed with the consideration of the safety of the child/alleged victim. Interviews shall be conducted in a place where the child feels secure.

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

You have the right to appeal this decision.

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

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

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

Civilian Police Oversight Agency Board

Eric Olivas, Chair

Chantal M. Galloway, Vice-Chair

Tara Armijo-Prewitt

William J. Kass

Doug Mitchell

Eric Nixon

Edward Harness, Executive Director

April 9, 2021

Via Certified Mail

7018 1130 0002 3429 0968

Re: CPC# 255-20

Dear Ms. W

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 November 16, 2020, regarding an incident that occurred on November 11, 2020. 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 Please be aware, the contract between the Albuquerque Police Officers' Association (APOA) and the City of Albuquerque requires that officers cooperate in the investigation; therefore, the officer's statements may not be made public. Below is a summary of the complaint, the CPOA's investigation, and findings.

www.cabq.gov

I. THE COMPLAINT AND INVESTIGATION

On 11/13/2020, Ms. C W submitted a complaint that stated while at the Prisoner Transport Center several officers tried to break into the bathroom where she was dressing and while she was indecent. Ms. W reported the PTU Officers handcuffed her wrists so tight that it caused extreme bruising on her wrists and her right hand to swell twice its original size. Ms. W reported she sustained injury to her head, neck and the skin was broken in her right ear where she later found blood. Ms. W stated she cried out and screamed as she was in so much pain. Ms. W reported she informed

them that the handcuffs were on so tight that she was losing sensation in her hands and her hands were numb for over an hour. Ms. W reported she kicked the door to get PTU staff's attention because they were ignoring her even though she was in agony. 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 Lapel Videos, PTC Videos and interviews with PTU Officer D, PTU Officer H, PTU Officer S, PTU Officer P, PTU Officer S, PTU Officer C and Ms. W

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

A.) The CPOA reviewed General Order 1-1-4D.14, regarding Officer D's conduct, which states:

Personnel must not act officiously, abuse their lawful authority, or permit their personal feelings, animosities, or friendships to influence their official decisions

Ms. W reported while at the Prisoner Transport Center several officers tried to break into the bathroom where she was dressing and while she was indecent.

During the interview with Ms. Ward, CPOA Investigator asked Ms. W about the allegation of officers breaking into the restroom while she was dressing. Ms. W stated apparently PTU staff did not like what she was wearing, so they gave her something else to wear (later identified as a Tyvex Suit/bunny suit) and told her to go into the restroom and put it on. Ms. W stated the shoes she was wearing made it difficult to slip on the outfit they gave her to wear. Ms. W stated while in the restroom, she was having difficulty with the outfit and staff kept asking if she was done, in which she replied that she was not. Ms. W stated staff kept trying to push their way into the restroom even though she told them that she was not appropriate. Ms. W stated PTU staff eventually went into the bathroom and luckily, she had pretty much got the outfit on. Ms. W stated she was putting her weight against the door so she could finish getting ready and the PTU staff still got into the restroom.

During the interview with Officer D, he stated he was not present for that and had not heard anything about that.

Per the PTC Video, Ms. W's handcuffs were removed and she was given a bunny suit. Ms. W walked into the restroom and walked out of the restroom less than two minutes later wearing the bunny suit. (There were no officers in or around the restroom while Ms. W was changing into her bunny suit.)

The CPOA finds Officer D's conduct to be **UNFOUNDED** where the investigation determines, by clear and convincing evidence, that the alleged misconduct did not occur.

B.) The CPOA reviewed Standard Operating Procedural Order 2-56-4A.3 regarding Officer D's conduct, which states:

Any officer who witnesses or is involved in a use of force or show of force shall notify another field supervisor when their immediate, on-duty supervisor is unavailable

During the interview with Officer D, he denied force was used on Ms. W. When asked if Officer D advised a supervisor to determine if the force was used, Officer D stated not to his recollection. Officer D confirmed he could not recall Ms. W. complaining of pain or injury.

Per the PTC Video, while Ms. W. was laying down in her cell, Ms. W. moved the handcuffs to the front of her.

Approximately 6 minutes later, Ms. W. stood up and appeared to call for something. Approximately 2 minutes later, Ms. W. was able to remove her handcuff that was on her left hand.

Approximately 30 seconds later, PTU Officers H and C open Ms. W.'s cell door to place the handcuffs back onto Ms. W. A set of arm shackles were also placed on Ms. W.'s arm in addition to the handcuffs being reapplied to Ms. W. behind her back. Ms. W. struggled a bit but PTU Officers successfully place both the handcuffs and shackles onto Ms. W. Approximately 3 minutes later, PTU Officers escort Ms. W. back into the cell. (Investigator note: Per Sergeant M, at the time of this incident, the audio in the PTC camera was not working.)

Per Lapel Video, Officers C and H attempted to place the handcuffs back onto Ms. W. Ms. W. stated do not touch her like that and moved around/pulled away while Officers C and H held onto her hands. Ms. W. stated not to touch her like that as she did have rights and if they were not going to fuck with her like that, she swore to God that she would fucking come after them. Handcuffs were then secured. Ms. W. yelled they were fucking hurting her, Officers asked her to stop moving as they attempt to adjust the handcuffs. Officer H stated he was putting on the handcuffs properly as Ms. W. stated how the fuck were they on properly if they were fucking hurting her. Ms. W. turned towards Officer C and yelled to let her the fuck go, Officer H grabbed her right arm, pulled her until she faced forward and asked her to stop turning around.

Level 1 Use of Force: Force that is likely to cause only transitory pain, disorientation and/or discomfort during its application as a means of gaining compliance.

1. This includes techniques that are not reasonably expected to cause injury, do not result in an actual injury, and are not likely to result in a complaint of injury (i.e., pain compliance techniques and resisted handcuffing).

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

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

A.) The CPOA reviewed General Order 1-1-4D.14, regarding Officer H's conduct, which states:

Personnel must not act officiously, abuse their lawful authority, or permit their personal feelings, animosities, or friendships to influence their official decisions

Ms. W reported while at the Prisoner Transport Center several officers tried to break into the bathroom where she was dressing and while she was indecent.

During the interview with Ms. W, CPOA Investigator asked Ms. W about the allegation of officers breaking into the restroom while she was dressing. Ms. W stated apparently PTU staff did not like what she was wearing, so they gave her something else to wear (later identified as a Tyvex Suit/bunny suit) and told her to go into the restroom and put it on. Ms. W stated the shoes she was wearing made it difficult to slip on the outfit they gave her to wear. Ms. W stated while in the restroom, she was having difficulty with the outfit and staff kept asking if she was done, in which she replied that she was not. Ms. W stated staff kept trying to push their way into the restroom even though she told them that she was not appropriate. Ms. W stated PTU staff eventually went into the bathroom and luckily, she had pretty much got the outfit on. Ms. W stated she was putting her weight against the door so she could finish getting ready and the PTU staff still got into the restroom.

During the interview with Officer H, when asked about the complaint where several officers tried to break into the restroom while Ms. W was changing, Officer H stated that he did not recall that. Officer H stated he recalled that Ms. W came into PTC with a very revealing see through shirt and he believed it was him that pulled out the bunny suit but did not recall who took her to the restroom to put the bunny suit on. Officer H confirmed to his recollection no one was trying to break into the restroom while Ms. W was in there.

Per the PTC Video, Ms. W's handcuffs were removed and she was given a bunny suit. Ms. Ward walked into the restroom and walked out of the restroom less than two minutes later wearing the bunny suit. (There were no officers in or around the restroom while Ms. W was changing into her bunny suit.)

The CPOA finds Officer H's conduct to be **UNFOUNDED** where the investigation determines, by clear and convincing evidence, that the alleged misconduct did not occur.

B.) The CPOA reviewed Procedural Order 2-52-5C.2, regarding Officer H's conduct, which states:

Officers shall not use force against a restrained or handcuffed individual unless the force is necessary: 2. To overcome active resistance

Ms. W reported the PTU Officers handcuffed her wrists so tight that it caused extreme bruising on her wrists and her right hand to swell twice its original size. Ms. W reported she sustained injury to her head, neck and the skin was broken on her right ear where she later found blood. Ms. W stated she cried out and screamed as she was in so much pain

During the interview with Ms. W, she stated there was a point where they had her handcuffs on pretty loose, so one of her hands came out of the handcuffs as they had handcuffed her over the hoodie. Ms. W stated the handcuff slid down the hoodie sleeve and her hand was able to slip out. Ms. W stated after that, they handcuffed her tighter to the point where she was screaming in agony due to the pain that she felt from the handcuffs. Ms. W reported she kept begging staff to open the handcuffs but they would not do it and there was a point where she got tingling sensation in her fingers and after a while they went numb. Ms. W stated she screamed and yelled over 45 minutes, maybe even over an hour.

When asked about the injuries to her neck, head and finding blood in her ear. Ms. W stated they were all being really aggressive with her. Ms. W stated she was not going lie, she did not know for sure if those things happened while she was at PTC or if they happened when she was not at the PTC and when she was with the State Police Officer. Ms. W stated the injuries occurred sometime during those interactions, she just could not pin point when it happened. Ms. W stated after she got home, she had blood in her ear and bruising all over the place. Ms. W stated there was bruising on her wrists and forearms.

During the interview with Officer H, when asked about the complaint where the handcuffs were so tight, they caused bruising to her wrists. Officer H stated he did not recall any of that as he recalled the handcuffs were properly spaced and double locked. Officer H confirmed he handcuffed Ms. W the second time and did not feel they were on too tight. When asked if anything occurred where Ms. W could have sustained injury to her head, neck and ear, Officer Ward stated he could not recall Ms. W's head, neck or ear making contact with anything. When asked if Ms. W was screaming for help due to being in pain and asked if she reported injury to them. Officer H stated Ms. W stated the handcuffs hurt and she did scream. Officer H stated Ms. W made those comments immediately after they were done adjusting everything and Officer H knew everything was properly spaced and double locked. Officer H stated he could not recall if Ms. W complained of injury.

Per the PTC Video, while Ms. W was laying down in her cell, Ms. W moved the handcuffs to the front of her.

Letter to Ms. W:

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Approximately 6 minutes later, Ms. W stood up and appeared to call for something. Approximately 2 minutes later, Ms. W was able to remove her handcuff that was on her left hand.

Approximately 30 seconds later, PTU Officers H and C open Ms. W's cell door to place the handcuffs back onto Ms. W. A set of arm shackles were also placed on Ms. W's arm in addition to the handcuffs being reapplied to Ms. W behind her back. Ms. W struggled a bit but PTU Officers successfully place both the handcuffs and shackles onto Ms. W. Approximately 3 minutes later, PTU Officers escort Ms. W back into the cell. (Investigator note: Per Sergeant M, at the time of this incident, the audio in the PTC camera was not working.)

Per Officer H's Lapel Video, Officer H attempted to adjust Ms. W's handcuffs while Officer C held Ms. W's left arm. Ms. W appeared to lunge a little towards Officer C and Officer H grabbed her right arm to slightly pulled her back towards him. Ms. W yelled to let her the fuck go. PTU Officer H grabbed Ms. W's arm again and pulled her slightly towards him and Ms. W continued to scream to let her go while the arm shackles were being placed on her arms by Officer S. Ms. W appeared to struggle a bit by wiggling around and yelling. Ms. W continued to yell to let her go as they were hurting her. One of the PTU Officers was heard stating they weren't trying to hurt her. Ms. W was released and walked back into her cell.

Per Officer S's Lapel Video, Officer S walked up to Officers C and H who were attempting to place the handcuffs back onto Ms. W. Ms. W stated do not touch her like that and moved around/pulled away while Officers C and H held onto her hands. Ms. W stated not to touch her like that as she did have rights and if they were not going to fuck with her like that, she swore to God that she would fucking come after them. Handcuffs were then secured. Ms. W yelled they were fucking hurting her, Officers asked her to stop moving as they attempt to adjust the handcuffs. Officer H stated he was putting on the handcuffs properly as Ms. W stated how the fuck were they on properly if they were fucking hurting her. Ms. W turned towards Officer C and yelled to let her the fuck go, Officer H grabbed her right arm pulled her until she faced forward and asked her to stop turning around.

After a review of video, it did not appear that Ms. W obtained head, neck or ear injuries while in PTC custody.

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

C.) The CPOA reviewed Standard Operating Procedural Order 2-56-4A.1, regarding Officer H's conduct, which states:

All officers, regardless of rank, shall immediately notify their on-duty supervisor following any use of force, prisoner injury, allegation of any use of force, or show of force. If the initial assessment by the supervisor concludes that an individual's injury was not the result of a use of force, this assessment shall be documented on Department memorandum and forwarded using BlueTeam through the chain of command to LAFD for statistical tracking. An officer shall immediately report use of force to their chain of command when involved in off-duty enforcement action

During the interview with Officer H, he denied force was used on Ms. W. When asked who determined if force was used, Officer H stated at first, they had to believe force was used and then they would ask a supervisor. When asked who the supervisor was that evening, Officer H stated he could not recall if they had one on duty or if someone was acting supervisor. Officer H stated if there was no certified acting supervisor or hard striker within their unit, they would call someone from the field. Officer H stated in this situation a supervisor was not called because they did not overcome any active resistance or do anything with the intent of causing pain or discomfort.

Per the PTC Video, while Ms. W was laying down in her cell, Ms. W moved the handcuffs to the front of her.

Approximately 6 minutes later, Ms. W stood up and appeared to call for something. Approximately 2 minutes later, Ms. W was able to remove her handcuff that was on her left hand.

Approximately 30 seconds later, PTU Officers H and C open Ms. W's cell door to place the handcuffs back onto Ms. W. A set of arm shackles were also placed on Ms. W's arm in addition to the handcuffs being reapplied to Ms. W behind her back. Ms. W struggled a bit but PTU Officers successfully place both the handcuffs and shackles onto Ms. W. Approximately 3 minutes later, PTU Officers escort Ms. W back into the cell. (Investigator note: Per Sergeant M, at the time of this incident, the audio in the PTC camera was not working.)

Per Officer H's Lapel Video, Officer H attempted to adjust Ms. W's handcuffs while Officer C held Ms. W's left arm. Ms. W appeared to lunge a little towards Officer C and Officer H grabbed her right arm to slightly pulled her back towards him. Ms. W yelled to let her the fuck go. PTU Officer H grabbed Ms. W's arm again and pulled her slightly towards him and Ms. W continued to scream to let her go while the arm shackles were being placed on her arms by Officer S. Ms. W appeared to struggle a bit by wiggling around and yelling. Ms. W continued to yell to let her go as they were hurting her. One of the PTU Officers was heard stating they weren't trying to hurt her. Ms. W was released and walked back into her cell.

Per Officer S's Lapel Video, Officer S walked up to Officers C and H who were attempting to place the handcuffs back onto Ms. W. Ms. W stated do not touch her like that and moved around/pulled away while Officers C and H held onto her hands. Ms. W stated not to touch her like that as she did have rights and if they were not going to

fuck with her like that, she swore to God that she would fucking come after them. Handcuffs were then secured. Ms. W yelled they were fucking hurting her, Officers asked her to stop moving as they attempt to adjust the handcuffs. Officer H stated he was putting on the handcuffs properly as Ms. W stated how the fuck were they on properly if they were fucking hurting her. Ms. W turned towards Officer C and yelled to let her the fuck go, Officer H grabbed her right arm pulled her until she faced forward and asked her to stop turning around.

Level 1 Use of Force: Force that is likely to cause only transitory pain, disorientation and/or discomfort during its application as a means of gaining compliance.

1. This includes techniques that are not reasonably expected to cause injury, do not result in an actual injury, and are not likely to result in a complaint of injury (i.e., pain compliance techniques and resisted handcuffing).

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

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

A.) The CPOA reviewed General Order 1-1-4D.14, regarding Officer S's conduct, which states:

Personnel must not act officiously, abuse their lawful authority, or permit their personal feelings, animosities, or friendships to influence their official decisions

Ms. Ward reported while at the Prisoner Transport Center several officers tried to break into the bathroom where she was dressing and while she was indecent.

During the interview with Ms. W, CPOA Investigator asked Ms. W about the allegation of officers breaking into the restroom while she was dressing. Ms. W stated apparently PTU staff did not like what she was wearing, so they gave her something else to wear (later identified as a Tyvex Suit/bunny suit) and told her to go into the restroom and put it on. Ms. W stated the shoes she was wearing made it difficult to slip on the outfit they gave her to wear. Ms. W stated while in the restroom, she was having difficulty with the outfit and staff kept asking if she was done, in which she replied that she was not. Ms. W stated staff kept trying to push their way into the restroom even though she told them that she was not appropriate. Ms. W stated PTU staff eventually went into the bathroom and luckily, she had pretty much got the outfit on. Ms. W stated she was putting her weight against the door so she could finish getting ready and the PTU staff still got into the restroom.

During the interview with Officer S, when asked about the complaint of several officers trying to break into the restroom where Ms. W was changing. Officer S stated he did

not recall anything like that as Ms. W got the bunny suit and went into the restroom. Officer S stated he did not recall anyone else going into the restroom.

Per the PTC Video, Ms. W's handcuffs were removed and she was given a bunny suit. Ms. W walked into the restroom and walked out of the restroom less than two minutes later wearing the bunny suit. (There were no officers in or around the restroom while Ms. W was changing into her bunny suit.)

The CPOA finds Officer S's conduct to be **UNFOUNDED** where the investigation determines, by clear and convincing evidence, that the alleged misconduct did not occur.

B.) The CPOA reviewed Procedural Order 2-56-4A.3, regarding Officer S's conduct, which states:

Any officer who witnesses or is involved in a use of force or show of force shall notify another field supervisor when their immediate, on-duty supervisor is unavailable

During the interview with Officer S, he denied that force was used against Ms. W. When asked who determined if force was used, Officer S stated it was usually the officer applying the force then they would notify the supervisor, explain what happened and let them determine. Officer S stated he could not recall if Ms. W complained of injury. Officer S stated he did not witness any injury to Ms. W as he was too far from her.

Per the PTC Video, while Ms. W was laying down in her cell, Ms. W moved the handcuffs to the front of her.

Approximately 6 minutes later, Ms. W stood up and appeared to call for something. Approximately 2 minutes later, Ms. W was able to remove her handcuff that was on her left hand.

Approximately 30 seconds later, PTU Officers H and C open Ms. W's cell door to place the handcuffs back onto Ms. W. A set of arm shackles were also placed on Ms. Ward's arm in addition to the handcuffs being reapplied to Ms. W behind her back. Ms. W struggled a bit but PTU Officers successfully place both the handcuffs and shackles onto Ms. W. Approximately 3 minutes later, PTU Officers escort Ms. W back into the cell. (Investigator note: Per Sergeant M, at the time of this incident, the audio in the PTC camera was not working.)

Per Officer S's Lapel Video, Officer S walked up to Officers C and H who were attempting to place the handcuffs back onto Ms. W. Ms. W stated do not touch her like that and moved around/pulled away while Officers C and H held onto her hands. Ms. W stated not to touch her like that as she did have rights and if they were not going to fuck with her like that, she swore to God that she would fucking come after them. Handcuffs were then secured. Ms. W yelled they were fucking hurting her, Officers

asked her to stop moving as they attempt to adjust the handcuffs. Officer H stated he was putting on the handcuffs properly as Ms. W stated how the fuck were they on properly if they were fucking hurting her. Ms. W turned towards Officer C and yelled to let her the fuck go, Officer H grabbed her right arm pulled her until she faced forward and asked her to stop turning around.

Level 1 Use of Force: Force that is likely to cause only transitory pain, disorientation and/or discomfort during its application as a means of gaining compliance.

1. This includes techniques that are not reasonably expected to cause injury, do not result in an actual injury, and are not likely to result in a complaint of injury (i.e., pain compliance techniques and resisted handcuffing).

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

V. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING PTU OFFICER P's CONDUCT

A.) The CPOA reviewed General Order 1-1-4D.14, regarding Officer P's conduct, which states:

Personnel must not act officiously, abuse their lawful authority, or permit their personal feelings, animosities, or friendships to influence their official decisions

Ms. W reported while at the Prisoner Transport Center several officers tried to break into the bathroom where she was dressing and while she was indecent.

During the interview with Ms. W, CPOA Investigator asked Ms. W about the allegation of officers breaking into the restroom while she was dressing. Ms. W stated apparently PTU staff did not like what she was wearing, so they gave her something else to wear (later identified as a Tyvex Suit/bunny suit) and told her to go into the restroom and put it on. Ms. W stated the shoes she was wearing made it difficult to slip on the outfit they gave her to wear. Ms. W stated while in the restroom, she was having difficulty with the outfit and staff kept asking if she was done, in which she replied that she was not. Ms. W stated staff kept trying to push their way into the restroom even though she told them that she was not appropriate. Ms. Ward stated PTU staff eventually went into the bathroom and luckily, she had pretty much got the outfit on. Ms. W stated she was putting her weight against the door so she could finish getting ready and the PTU staff still got into the restroom.

During the interview with Officer P, when asked if any officers tried to break into the restroom while Ms. W was changing, Officer P stated there was no disturbance when Ms. W went to the restroom. Officer P stated he did not recall anyone trying to break into the restroom.

Per the PTC Video, Ms. W's handcuffs were removed and she was given a bunny suit. Ms. W walked into the restroom and walked out of the restroom less than two minutes later wearing the bunny suit. (There were no officers in or around the restroom while Ms. W: was changing into her bunny suit.)

The CPOA finds Officer P's conduct to be **UNFOUNDED** where the investigation determines, by clear and convincing evidence, that the alleged misconduct did not occur.

B.) The CPOA reviewed Procedural Order 2-56-4A.3, regarding Officer P's conduct, which states:

Any officer who witnesses or is involved in a use of force or show of force shall notify another field supervisor when their immediate, on-duty supervisor is unavailable

During the interview with Officer P, when asked if force was used on Ms. W. Officer P stated he didn't believe so. When asked who determined that, Officer P stated he believed the supervisor on duty was supposed to go through the protocol. When asked who was the supervisor on duty that night, Officer P stated it might have been Officer C as the acting supervisor that night. Officer P stated he did not hear anything about use of force that evening. When asked if Ms. W: complained of any injury, Officer P stated all he could recall was Ms. W 1 stating her wrists hurt due to the handcuffs.

Per the PTC Video, while Ms. W was laying down in her cell, Ms. W moved the handcuffs to the front of her.

Approximately 6 minutes later, Ms. W stood up and appeared to call for something. Approximately 2 minutes later, Ms. W was able to remove her handcuff that was on her left hand.

Approximately 30 seconds later, PTU Officers H and C open Ms. W cell door to place the handcuffs back onto Ms. W. A set of arm shackles were also placed on Ms. W arm in addition to the handcuffs being reapplied to Ms. Ward behind her back. Ms. W struggled a bit but PTU Officers successfully place both the handcuffs and shackles onto Ms. W. Approximately 3 minutes later, PTU Officers escort Ms. W back into the cell. (Investigator note: Per Sergeant M, at the time of this incident, the audio in the PTC camera was not working.)

Per Officer S's Lapel Video, Officer S walked up to Officers C and H who were attempting to place the handcuffs back onto Ms. W. Ms. W stated do not touch her like that and moved around/pulled away while Officers C and H held onto her hands. Ms. W stated not to touch her like that as she did have rights and if they were not going to fuck with her like that, she swore to God that she would fucking come after them. Handcuffs were then secured. Ms. W yelled they were fucking hurting her, Officers asked her to stop moving as they attempt to adjust the handcuffs. Officer H stated he was

putting on the handcuffs properly as Ms. W stated how the fuck were they on properly if they were fucking hurting her. Ms. W turned towards Officer C and yelled to let her the fuck go, Officer H grabbed her right arm pulled her until she faced forward and asked her to stop turning around.

Level 1 Use of Force: Force that is likely to cause only transitory pain, disorientation and/or discomfort during its application as a means of gaining compliance.

1. This includes techniques that are not reasonably expected to cause injury, do not result in an actual injury, and are not likely to result in a complaint of injury (i.e., pain compliance techniques and resisted handcuffing).

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

VI. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING PTU OFFICER S's CONDUCT

A.) The CPOA reviewed General Order 1-1-4D.14, regarding Officer S's conduct, which states:

Personnel must not act officiously, abuse their lawful authority, or permit their personal feelings, animosities, or friendships to influence their official decisions

Ms. W reported while at the Prisoner Transport Center several officers tried to break into the bathroom where she was dressing and while she was indecent.

During the interview with Ms. W CPOA Investigator asked Ms. W about the allegation of officers breaking into the restroom while she was dressing. Ms. W stated apparently PTU staff did not like what she was wearing, so they gave her something else to wear (later identified as a Tyvex Suit/bunny suit) and told her to go into the restroom and put it on. Ms. W stated the shoes she was wearing made it difficult to slip on the outfit they gave her to wear. Ms. W stated while in the restroom, she was having difficulty with the outfit and staff kept asking if she was done, in which she replied that she was not. Ms. W stated staff kept trying to push their way into the restroom even though she told them that she was not appropriate. Ms. W stated PTU staff eventually went into the bathroom and luckily, she had pretty much got the outfit on. Ms. W stated she was putting her weight against the door so she could finish getting ready and the PTU staff still got into the restroom.

During the interview with Officer S, when asked if officers tried to break into the restroom while Ms. W was dressing and indecent, Officer S stated no, he could not recall anybody trying to push the door open while Ms. W tried to put on the bunny suit.

Per the PTC Video, Ms. W's handcuffs were removed and she was given a bunny suit. Ms. W walked into the restroom and walked out of the restroom less than two minutes later wearing the bunny suit. (There were no officers in or around the restroom while Ms. W was changing into her bunny suit.)

The CPOA finds Officer S's conduct to be **UNFOUNDED** where the investigation determines, by clear and convincing evidence, that the alleged misconduct did not occur.

B.) The CPOA reviewed Procedural Order 2-52-5C.2, regarding Officer S's conduct, which states:

Officers shall not use force against a restrained or handcuffed individual unless the force is necessary: 2. To overcome active resistance

Ms. W reported the PTU Officers handcuffed her wrists so tight that it caused extreme bruising on her wrists and her right hand to swell twice its original size. Ms. W reported she sustained injury to her head, neck and the skin was broken on her right ear where she later found blood. Ms. W stated she cried out and screamed as she was in so much pain

During the interview with Ms. W, she stated there was a point where they had her handcuffs on pretty loose, so one of her hands came out of the handcuffs as they had handcuffed her over the hoodie. Ms. W stated the handcuff slid down the hoodie sleeve and her hand was able to slip out. Ms. W stated after that, they handcuffed her tighter to the point where she was screaming in agony due to the pain that she felt from the handcuffs. Ms. W reported she kept begging staff to open the handcuffs but they would not do it and there was a point where she got tingling sensation in her fingers and after a while they went numb. Ms. W stated she screamed and yelled over 45 minutes, maybe even over an hour.

When asked about the injuries to her neck, head and finding blood in her ear. Ms. W stated they were all being really aggressive with her. Ms. W stated she was not going lie, she did not know for sure if those things happened while she was at PTC or if they happened when she was not at the PTC and when she was with the State Police Officer. Ms. W stated the injuries occurred sometime during those interactions, she just could not pin point when it happened. Ms. W stated after she got home, she had blood in her ear and bruising all over the place. Ms. W stated there was bruising on her wrists and forearms.

During the interview with Officer S, when asked about the handcuffs being on so tight it caused bruising to her wrists, Officer S stated he did not witness any injuries to Ms. W. When asked if anything occurred where Ms. W would have sustained injuries to her head, neck or ear, Officer S stated nothing that he could recall as they did not have any use of force with Ms. W

Per the PTC Video, while Ms. W. was laying down in her cell, Ms. W moved the handcuffs to the front of her.

Approximately 6 minutes later, Ms. W. stood up and appeared to call for something. Approximately 2 minutes later, Ms. W. was able to remove her handcuff that was on her left hand.

Approximately 30 seconds later, PTU Officers H and C open Ms. W.'s cell door to place the handcuffs back onto Ms. W. A set of arm shackles were also placed on Ms. W.'s arm in addition to the handcuffs being reapplied to Ms. W. behind her back. Ms. W. struggled a bit but PTU Officers successfully place both the handcuffs and shackles onto Ms. W. Approximately 3 minutes later, PTU Officers escort Ms. W. back into the cell. (Investigator note: Per Sergeant M, at the time of this incident, the audio in the PTC camera was not working.)

Per Officer H's Lapel Video, Officer H attempted to adjust Ms. W.'s handcuffs while Officer C held Ms. W.'s left arm. Ms. Ward appeared to lunge a little towards Officer C and Officer H grabbed her right arm to slightly pulled her back towards him. Ms. W. yelled to let her the fuck go. PTU Officer H grabbed Ms. W.'s arm again and pulled her slightly towards him and Ms. W. continued to scream to let her go while the arm shackles were being placed on her arms by Officer S. Ms. W. appeared to struggle a bit by wiggling around and yelling. Ms. W. continued to yell to let her go as they were hurting her. One of the PTU Officers was heard stating they weren't trying to hurt her. Ms. W. was released and walked back into her cell.

Per Officer S's Lapel Video, Officer S walked up to Officers C and H who were attempting to place the handcuffs back onto Ms. W. Ms. W. stated do not touch her like that and moved around/pulled away while Officers C and H held onto her hands. Ms. W. stated not to touch her like that as she did have rights and if they were not going to fuck with her like that, she swore to God that she would fucking come after them. Handcuffs were then secured. Ms. W. yelled they were fucking hurting her, Officers asked her to stop moving as they attempt to adjust the handcuffs. Officer H stated he was putting on the handcuffs properly as Ms. W. stated how the fuck were they on properly if they were fucking hurting her. Ms. W. turned towards Officer C and yelled to let her the fuck go, Officer H grabbed her right arm pulled her until she faced forward and asked her to stop turning around.

After a review of video, it did not appear that Ms. Ward obtained head, neck or ear injuries while in PTC custody.

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

C.) The CPOA reviewed Procedural Order 2-56-4A.1, regarding Officer S's conduct, which states:

All officers, regardless of rank, shall immediately notify their on-duty supervisor following any use of force, prisoner injury, allegation of any use of force, or show of force. If the initial assessment by the supervisor concludes that an individual's injury was not the result of a use of force, this assessment shall be documented on Department memorandum and forwarded using BlueTeam through the chain of command to LAFD for statistical tracking. An officer shall immediately report use of force to their chain of command when involved in off-duty enforcement action.

During the interview with Officer S, he denied force was used on Ms. W. When asked who determined if force was used, Officer S stated the Sergeant would make that determination to set up the process of determining use of force. When asked if Ms. W. complained of injury, Officer S stated he could not recall. Ms. W. was stating the handcuffs were tight and were hurting her.

Per the PTC Video, while Ms. Ward was laying down in her cell, Ms. W. moved the handcuffs to the front of her.

Approximately 6 minutes later, Ms. W. stood up and appeared to call for something. Approximately 2 minutes later, Ms. W. was able to remove her handcuff that was on her left hand.

Approximately 30 seconds later, PTU Officers H and C open Ms. W.'s cell door to place the handcuffs back onto Ms. W.. A set of arm shackles were also placed on Ms. W.'s arm in addition to the handcuffs being reapplied to Ms. W. behind her back. Ms. W. struggled a bit but PTU Officers successfully place both the handcuffs and shackles onto Ms. W.. Approximately 3 minutes later, PTU Officers escort Ms. W. back into the cell. (Investigator note: Per Sergeant M, at the time of this incident, the audio in the PTC camera was not working.)

Per Officer H's Lapel Video, Officer H attempted to adjust Ms. W.'s handcuffs while Officer C held Ms. W.'s left arm. Ms. W. appeared to lunge a little towards Officer C and Officer H grabbed her right arm to slightly pulled her back towards him. Ms. W. yelled to let her the fuck go. PTU Officer H grabbed Ms. W.'s arm again and pulled her slightly towards him and Ms. W. continued to scream to let her go while the arm shackles were being placed on her arms by Officer S. Ms. W. appeared to struggle a bit by wiggling around and yelling. Ms. W. continued to yell to let her go as they were hurting her. One of the PTU Officers was heard stating they weren't trying to hurt her. Ms. W. was released and walked back into her cell.

Per Officer S's Lapel Video, Officer S walked up to Officers C and H who were attempting to place the handcuffs back onto Ms. W.. Ms. W. stated do not touch her like that and moved around/pulled away while Officers C and H held onto her hands. Ms.

W stated not to touch her like that as she did have rights and if they were not going to fuck with her like that, she swore to God that she would fucking come after them. Handcuffs were then secured. Ms. W yelled they were fucking hurting her, Officers asked her to stop moving as they attempt to adjust the handcuffs. Officer H stated he was putting on the handcuffs properly as Ms. W stated how the fuck were they on properly if they were fucking hurting her. Ms. W turned towards Officer C and yelled to let her the fuck go, Officer H grabbed her right arm pulled her until she faced forward and asked her to stop turning around.

Level 1 Use of Force: Force that is likely to cause only transitory pain, disorientation and/or discomfort during its application as a means of gaining compliance.

1. This includes techniques that are not reasonably expected to cause injury, do not result in an actual injury, and are not likely to result in a complaint of injury (i.e., pain compliance techniques and resisted handcuffing).

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

The CPOA reviewed Procedural Order 2-56-4A.6, regarding Officer S's conduct, which states:

All officers shall activate their on-body recording device (OBRD) and record all on-duty use of force incidents in accordance with SOP – Use of the On-Body Recording Device. Officers who do not record use of force incidents shall be subject to discipline, up to and including termination

During the interview with Officer S, when asked if his OBRD was on, Officer S stated it could have been as he usually put it on when then needed to re-handcuff someone. CPOA Investigator advised Officer S that CPOA Investigator could not locate his lapel video. Officer S stated if it was not recorded, the reasons could have been he did not think the incident was severe enough or maybe when he pressed the record button and it may have not pressed all the way down.

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

VII. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING PTU OFFICER C's CONDUCT

A) The CPOA reviewed General Order 1-1-4D.14, regarding Officer C's conduct, which states:

Personnel must not act officiously, abuse their lawful authority, or permit their personal feelings, animosities, or friendships to influence their official decisions

Ms. W. reported while at the Prisoner Transport Center several officers tried to break into the bathroom where she was dressing and while she was indecent.

During the interview with Ms. Ward, CPOA Investigator asked Ms. W. about the allegation of officers breaking into the restroom while she was dressing. Ms. W. stated apparently PTU staff did not like what she was wearing, so they gave her something else to wear (later identified as a Tyvex Suit/bunny suit) and told her to go into the restroom and put it on. Ms. W. stated the shoes she was wearing made it difficult to slip on the outfit they gave her to wear. Ms. W. stated while in the restroom, she was having difficulty with the outfit and staff kept asking if she was done, in which she replied that she was not. Ms. W. stated staff kept trying to push their way into the restroom even though she told them that she was not appropriate. Ms. W. stated PTU staff eventually went into the bathroom and luckily, she had pretty much got the outfit on. Ms. W. stated she was putting her weight against the door so she could finish getting ready and the PTU staff still got into the restroom.

During the interview with Officer C, when asked if several officers tried to break into the restroom while Ms. W. was dressing, Officer C stated no, Ms. W. went into the restroom to put the additional clothing items on that was provided to her and Ms. W. came out on her own accord. Officer C stated no officers were hanging around the restroom or pushed the door open.

Per the PTC Video, Ms. W.'s handcuffs were removed and she was given a bunny suit. Ms. Ward walked into the restroom and walked out of the restroom less than two minutes later wearing the bunny suit. (There were no officers in or around the restroom while Ms. W. was changing into her bunny suit.)

The CPOA finds Officer C's conduct to be **UNFOUNDED** where the investigation determines, by clear and convincing evidence, that the alleged misconduct did not occur.

B) The CPOA reviewed Standard Operating Procedural Order 2-52-5C2, regarding Officer C's conduct, which states:

Officers shall not use force against a restrained or handcuffed individual unless the force is necessary: 2. To overcome active resistance

Ms. W. reported the PTU Officers handcuffed her wrists so tight that it caused extreme bruising on her wrists and her right hand to swell twice its original size. Ms. W. reported she sustained injury to her head, neck and the skin was broken on her right ear where she later found blood. Ms. W. stated she cried out and screamed as she was in so much pain

During the interview with Ms. W, she stated there was a point where they had her handcuffs on pretty loose, so one of her hands came out of the handcuffs as they had handcuffed her over the hoodie. Ms. W stated the handcuff slid down the hoodie sleeve and her hand was able to slip out. Ms. W stated after that, they handcuffed her tighter to the point where she was screaming in agony due to the pain that she felt from the handcuffs. Ms. W reported she kept begging staff to open the handcuffs but they would not do it and there was a point where she got tingling sensation in her fingers and after a while they went numb. Ms. W stated she screamed and yelled over 45 minutes, maybe even over an hour.

When asked about the injuries to her neck, head and finding blood in her ear. Ms. W stated they were all being really aggressive with her. Ms. W stated she was not going to lie, she did not know for sure if those things happened while she was at PTC or if they happened when she was not at the PTC and when she was with the State Police Officer. Ms. W stated the injuries occurred sometime during those interactions, she just could not pin point when it happened. Ms. W stated after she got home, she had blood in her ear and bruising all over the place. Ms. W stated there was bruising on her wrists and forearms.

During the interview with Officer C, he stated Ms. W was able to get out of one of the handcuffs, so himself and Officer H went to her cell to address it. Officer C stated they put the handcuffs back on behind her back. Officer C stated they informed Ms. W that while at the PTC, they required people to keep their handcuffs on and behind their back. Officer C stated he recalled that Ms. W stated or indicated that if they put the handcuffs back on her, she would just move them to the front of her again. Officer C stated since Ms. W was not being compliant to their request, they put some arm shackles around her elbows, to prevent Ms. W from putting the handcuffs to the front of her again. Officer C stated Ms. W began to wiggle but she was not actually pulling away or anything. Officer C stated Ms. W never broke free of their control. Officer C stated after the elbow shackles were placed on Ms. W, she became extremely belligerent.

When asked if anything occurred where Ms. W would sustain injury to her head, neck and ear, Officer C stated he did not recall any of those injuries, but he imagined they could have occurred while Ms. W was on the ground kicking, screaming and flailing back and forth in the cell. Officer C confirmed those injuries did not occur while they had hands on.

Per the PTC Video, while Ms. W was laying down in her cell, Ms. W moved the handcuffs to the front of her.

Approximately 6 minutes later, Ms. W stood up and appeared to call for something. Approximately 2 minutes later, Ms. W was able to remove her handcuff that was on her left hand.

Approximately 30 seconds later, PTU Officers H and C open Ms. W. cell door to place the handcuffs back onto Ms. W. A set of arm shackles were also placed on Ms. W's arm in addition to the handcuffs being reapplied to Ms. W behind her back. Ms. W struggled a bit but PTU Officers successfully place both the handcuffs and shackles onto Ms. W. Approximately 3 minutes later, PTU Officers escort Ms. W back into the cell. (Investigator note: Per Sergeant M, at the time of this incident, the audio in the PTC camera was not working.)

Per Officer C's Lapel Video, while Officer H adjusted Ms. W's handcuffs, Ms. W appeared to lunge towards Officer C and Officer C grabbed Ms. W's left arm and appeared to move Ms. W to where she was facing forward. Officer C maintained control of Ms. W's left arm while arm shackles were placed on Ms. W by Officer S.

Per Officer S's Lapel Video, Officer S walked up to Officers C and H who were attempting to place the handcuffs back onto Ms. W. Ms. W stated do not touch her like that and moved around/pulled away while Officers C and H held onto her hands. Ms. W stated not to touch her like that as she did have rights and if they were not going to fuck with her like that, she swore to God that she would fucking come after them. Handcuffs were then secured. Ms. W yelled they were fucking hurting her, Officers asked her to stop moving as they attempt to adjust the handcuffs. Officer H stated he was putting on the handcuffs properly as Ms. W stated how the fuck were they on properly if they were fucking hurting her. Ms. W turned towards Officer C and yelled to let her the fuck go, Officer H grabbed her right arm pulled her until she faced forward and asked her to stop turning around.

After a review of video, it did not appear that Ms. W obtained head, neck or ear injuries while in PTC custody.

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

C.) The CPOA reviewed Standard Operating Procedural Order 2-56-4A.8.a, regarding Officer C's conduct, which states:

A supervisor who was involved in a reportable use of force, including by participating in a or ordering the use of force, shall not be involved in reviewing the incident. A. "Participating" is defined as physically assisting in overcoming an individual's resistance.

During the interview with Officer C, when asked if force was used against Ms. W, Officer C stated he did not feel it was used. Officer C confirmed he was the acting supervisor the night of the incident. When asked if he reached out to anyone else in this case as he was the acting supervisor, Officer C stated he did not as he did not feel any

force was used. When asked if Ms. W. complained of any pain or injury, Officer C stated no.

Per the PTC Video, while Ms. Ward was laying down in her cell, Ms. W. moved the handcuffs to the front of her.

Approximately 6 minutes later, Ms. W. stood up and appeared to call for something. Approximately 2 minutes later, Ms. W. was able to remove her handcuff that was on her left hand.

Approximately 30 seconds later, PTU Officers H and C open Ms. W. cell door to place the handcuffs back onto Ms. W. A set of arm shackles were also placed on Ms. W. arm in addition to the handcuffs being reapplied to Ms. W. behind her back. Ms. W. struggled a bit but PTU Officers successfully place both the handcuffs and shackles onto Ms. W. Approximately 3 minutes later, PTU Officers escort Ms. W. back into the cell. (Investigator note: Per Sergeant M, at the time of this incident, the audio in the PTC camera was not working.)

Per Officer C's Lapel Video, while Officer H adjusted Ms. W.'s handcuffs, Ms. W. appeared to lunge towards Officer C and Officer C grabbed Ms. Wards left arm and appeared to move Ms. W. to where she was facing forward. Officer C maintained control of Ms. W.'s left arm while arm shackles were placed on Ms. W. by Officer S.

Per Officer S's Lapel Video, Officer S walked up to Officers C and H who were attempting to place the handcuffs back onto Ms. W. Ms. W. stated do not touch her like that and moved around/pulled away while Officers C and H held onto her hands. Ms. W. stated not to touch her like that as she did have rights and if they were not going to fuck with her like that, she swore to God that she would fucking come after them. Handcuffs were then secured. Ms. W. yelled they were fucking hurting her, Officers asked her to stop moving as they attempt to adjust the handcuffs. Officer H stated he was putting on the handcuffs properly as Ms. W. stated how the fuck were they on properly if they were fucking hurting her. Ms. W. turned towards Officer C and yelled to let her the fuck go, Officer H grabbed her right arm pulled her until she faced forward and asked her to stop turning around.

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1. This includes techniques that are not reasonably expected to cause injury, do not result in an actual injury, and are not likely to result in a complaint of injury (i.e., pain compliance techniques and resisted handcuffing).

The CPOA finds Officer C's conduct to be **SUSTAINED** where the investigation determines by 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 Civilian Police Oversight Board 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 Board were the wrong policies or they were used in the wrong way; or,
- B) The APD policy or APD policies considered by the Board were chosen randomly or they do not address the issues in your complaint; or,
- C) The findings of the Board had no explanation that would lead to the conclusion made by the Board; or,
- D) The findings by the Board were not supported by evidence that was available to the Board 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.

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

Civilian Police Oversight Agency Board

Eric Olivas, Chair

Chantal M. Galloway, Vice-Chair

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Doug Mitchell

Eric Nixon

Edward Harness, Executive Director

April 9, 2021

Via Certified Mail

7018 1130 0002 3429 0944

Re: CPC# 210-20

Dear Mr. and Ms. J. :

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 October 21, 2020, regarding incidents that occurred on various dates. It should be noted that this case was temporarily suspended due to one of the target employees was out of FMLA leave and was unavailable for interview until their return. 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 AND INVESTIGATION

On 10/21/2020, CPOA received a complaint from Mr. and Ms. J. , who provided a timeline of concerns and complaints against APD Personnel.

The Jacobs reported that on 12/05/17, Ms. J. called APD and asked for officers to go to her home so she could file a new report. The J. reported that Officer R responded to the call. The Jacobs reported that Officer R treated Ms. J. very rudely and refused

to view the condition of her home. The J reported Officer R stated she didn't know what the house looked like before. The J reported that Officer R incorrectly referred to Officer L as a Detective of the SW Impact Unit in her report.

The J reported that on 03/09/18, Ms. J called 242-cops to request that an officer return to her home to take the rest of the theft report. The J reported that Officer R was again sent to her home and refused to take the report as Officer R stated the report had already been taken. The J reported that the documents and supporting evidence compiled by Ms. J was approximately 2 inches thick, which also included a flash drive that contained photographs. The Jacobs reported that Officer R refused to take anything from Ms. J stating that it was "too big," and that "this was being handled by the Southwest Division," by APD Detective L.

On 03/13/18, Ms. J received a call from Officer L who stated she was not a Detective as she was a Field Officer and was not handling their case. Officer L stated the SW Division should not have this case as it was now site specific and it should go to the Organized Crime Unit in the NE Quadrant. The J reported that Officer L gave her the case number and stated she would call Ms. J back on the 19th, in which she never did. The J reported on 03/20/18, she left a voicemail for Officer L in which Officer L never called her back.

The J reported that on 03/27/18, they spoke with Sergeant W who stated their case should go to the Organized Crime Unit and he would put her case to the top of the pile. Sergeant W stated to give him 1-2 weeks for someone to get back to her. The J reported that on 04/11/18 and 05/18/18, Ms. J's left voicemails for Sergeant W and he never returned her calls. On 05/21/18, Ms. J called Commander B and recounted the story of the case. Commander B stated he would skip the Sergeant and have a Lieutenant call Ms. Jacobs. On 05/23/18, Ms. J received a phone call from an angry and rude Sergeant W who stated a supervisor needed to go to her home and that case needed to be forwarded to the Organized Crime Unit. Sergeant W then gave Ms. J the number to the unit.

The J reported that on 11/06/18, Ms. J spoke with Sergeant V in the Special Impact Unit and he stated her case was assigned to Detective W, on 11/01/18. The J reported that on 11/06/18, Detective W called Ms. J and was rude and was indifferent in his speech. The J reported Detective W stated "one is supposed to have an appraisal every five years." Ms. J was of the impression that Detective W had no interest and would not pursue their case at all. The J reported that Detective W's report incorrectly concludes that the values appear to be based on Ms. J opinion only. The J reported Detective W ignored the appraiser's values and county recorder documents both deliberately and willfully dismissing the value in his report while disparaging Ms. J. The Jacobs reported Detective W did not show interest nor desire to meet with Ms. J in reference to this case. The Jacobs reported their concern that Detective W noted in his report that Ms. J talked for approximately 40 minutes repeating herself, without letting him speak. The J reported Detective W's report was inconsiderate, careless, abysmal and wholly incompetent.

The Jacobs reported they were unaware of Detective W's final report until they spoke with Detective W's supervisor, who informed them that the report was complete and in the hands of the DA's office.

During the interview with Ms. J , she stated that on 10/09/2020, Ms. Jacobs told Officer H that an attorney she had been working with advised her to file the police report about the account take overs and the reporting agencies wanted a police report. Ms. J stated she gave Officer H a copy of all the accounts that were compromised. Ms. J stated anything that she wrote and turned into Officer H was not mentioned in his report. Ms. J stated the report was derogatory towards her.

Ms. J stated Officer H documented that he asked Ms. J why it took so long for her to report this and Officer H further documented in his report that Ms. Jacobs replied that she had gone as far as she could on her own and it was time to get a lawyer and the police involved. Ms. J stated that was not what she said at all. Ms. J stated further in the report it was noted that Ms. J was in jail until the middle of 2019, in which she stated was not true at all. Ms. J stated she was out for over a year on bond. Ms. J stated she came home in the November of 2017. Ms. J stated these thefts had taken place in 2017. Ms. J stated she had to report back for a couple of months but she was out on bond at home and that was when she made the initial police report. Ms. J stated Officer H was stating incorrect information in his report.

Ms. J stated Officer H documented that he also believed the accounts may have been locked due to these fraud convictions. Ms. J stated she did not have fraud convictions and the accounts were not locked, they were shut down in 2017, because M forged checks and stole the money from her account. Ms. J stated they were charged with fraud but they did not have a fraud conviction. Mr. J stated the unknown Probation Officer told the Officer that Ms. J was in jail until the middle of 2019, which was incorrect. Ms. J stated the attitude that APD has had during this entire thing was Ms. J was a criminal and felt she did not have the right to have a proper report written.

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable SOPs, the Complaints, the CADs, the Police Reports, Lapel Videos, Emails, Recorded Phone Interview, Interviews with Officer R, Detective L, Detective W, Officer H, Mr. J and Ms. J. Sergeant W was not interviewed as he no longer worked with APD.

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

A.) The CPOA reviewed General Order 1-1-4D.15, regarding Officer R's conduct, which states:

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

The Jacobs reported that on 12/05/17, Officer R responded to Ms. J's call. The Jacobs reported that Officer R treated Ms. J. very rude and refused to view the condition of her home. The Jacobs reported Officer R stated she didn't know what the house looked like before.

During the interview with Ms. J., she stated Officer R arrived to the house and had a nasty attitude towards Ms. J. Ms. J. stated the house was in shambles. Ms. J. stated she was treated very disrespectfully by Officer R as she wanted Officer R to look around the house to witness the devastation. Ms. J. stated Officer R stated it would not do her any good as she did not know what the house looked like before, implying that Ms. J. lived like that. Ms. J. stated Officer R was very condescending.

Ms. J. stated that on 03/09/18, she called to have officers return to their house and Officer R showed up again. Ms. J. stated Officer R was very rude and condescending by stating Ms. J. already filed that report.

During the interview with Officer R, she was asked if she treated Ms. J. rudely and refused to view the condition of Ms. J. home. Officer R stated she could not recall as to why or why not, again, that was 3 years ago, so she did not have a recollection of that. When asked if Officer R stated she did not know what the house looked like before, Officer R stated potentially that could have been something as far as that went. Officer R stated her thought process on that would be not having anything as far as comparison of what the house looked like before to how it looked like now. Officer R stated even if she took a look at the house she would not be able to say wow that was a lot of damage as she did not know how the state of the house was before.

Per the Lapel Video, Ms. J. stated the reason she had Officer R at the house was so Officer R could view the condition of the home. Ms. J. stated she also had a 25-page list of items they stole that was coming at a later date. Ms. J. stated she just wanted someone to go to their house today to see the devastation before they moved back in. Officer R stated in regards to the house, after a certain amount of time they (house sitters) established residency there. Officer R stated even if they were there today, she could not tell them to leave. Officer R stated they would be joint residents on the property even though Ms. J. name was on the house. Officer R stated in regards to the devastation of the home, because they lived there, it became a civil matter. Ms. J. stated not the theft, Officer R stated that was not what she said. Ms. J. stated she knew, but she was talking about the theft. Officer R informed Ms. J. that she provided Officer R with the list of things that had been stolen. Ms. J. stated things were missing as there was nothing there. Officer R stated she did not know what Jacobs house looked like before, so she could not make the comparison from one to another.

Ms. J: ; again asked if Officer R could look through the house so they had someone who had seen it. Officer R stated like she stated earlier, she did not know how Ms. J: house was like prior to Officer R being there. Ms. J stated she knew, but asked Officer R to go into the master bedroom as Ms. J could not have lived there 14 years and have absolutely nothing in the bedroom. Ms. J s stated she could not get the house cleaned up until she had someone look at it. Officer R stated even if she looked at the house it would still be something Ms. J took to civil court. Ms. J: stated her concerns were also the theft. Officer R stated in regards to the theft portion, Officer R looking into a room was not going to do anything, Ms. J s creating an itemized list of what was taken, then they could go somewhere. Officer R stated it did not do her any good to go in the room as she did not know what the room looked like before.

A Review a Lapel Video did not show Officer R being rude or condescending towards Ms. J: . The video does confirm Officer R refusing to view conditions of Ms. J: home but provided Ms. J: s reasoning for not doing so.

The CPOA finds Officer R's conduct to be **EXONERATED** where the investigation determines, by a preponderance of the evidence, that the alleged conduct did occur but did not violate APD policies, procedures, or training;

B.) The CPOA reviewed Standard Operating Procedural Order 2-60-4A.5.d, regarding Officer R's conduct, which states:

Steps to be followed in conducting preliminary investigations that may include but are not limited to: d. Ensure that necessary evidence is collected.

The Jacobs reported that on 03/09/18, Ms. J: called 242-cops to request that an officer return to her home to take the rest of the theft report. The Jacobs reported that Officer R was again sent to her home and Officer R refused to take the report as Officer R stated the report had already been taken. The Jacobs reported that the document and supporting evidence compiled by Ms. J: , was approximately 2 inches thick which also included a flash drive that contained photographs. The J: reported that Officer R refused to take anything from Ms. J: stating that it was "too big," and that "this was being handled by the Southwest Division," by APD Detective L.

On 03/13/18, Ms. J: received a call from Officer L who stated she was not a Detective as she was a Field Officer and was not handling their case. Officer L stated the SW Division should not have this case as it was now site specific and it should go to the Organized Crime Unit in the NE Quadrant. The J: reported that Officer L gave her the case number and stated she would call Ms. J: back on the 19th, in which she never did. The J: ; reported on 03/20/18, she left a voicemail for Detective L in which Detective L never called her back.

During the interview with Ms. J: , she stated during this visit with Officer R (12/05/17), Ms. J: only provided Officer R with one sheet of stolen items of which Ms. Jacobs found critical such as fire arms, Marshal ID's, SSN's, ETC as they pretty

much had everything stolen from their house they weren't going to be able to report all of that in one day.

Ms. J. stated that on 03/09/18, she called to have officers return to their house and Officer R showed up again. Ms. J. stated Officer R told Ms. J. that she already filed that report. Ms. J. stated, she was clear the first day that Officer R was there that Ms. J. only provided one page of critical items and made it clear that Ms. J. would be filing the rest of the report. Ms. J. informed Officer R that she now wanted to file the complete report. Ms. J. stated Officer R refused to take the report as it was too big. Ms. J. stated the information was sitting on the coffee table and Officer R stated that was too big and she was not taking it. Ms. J. stated it was very large as she had exhibits and evidence from the people that were living there illegally

During the interview with Officer R, she was asked about refusing to collect the additional evidence from Ms. J. s. Officer R stated when a Detective obtained a case, they were very particular the way the case was handled. Officer R stated after the initial report was taken and everybody started to get involved in the investigation it starts to get taken away from the Detective, muddled up and may not be as accurate as it could be. Officer R stated if the particular Detective had a way how they worked things she did not want to interfere with how it was going, especially if they had already been assigned to the case. Officer R confirmed to her knowledge Detective L was assigned to the case. Officer R stated she never received denial from Detective L stating the case was not hers and that it needed to be forwarded elsewhere.

Per the Lapel Video, Officer R advised Ms. J. that Officer R was at Ms. Jacobs home regarding the same issue in December. Ms. J. stated she knew, but had not finished the report and since then Ms. J. also found a registration number of one of the guns. Ms. J. stated she got sick with Pneumonia and that was why it took her so long to get the rest of the evidence together. Officer R asked if Ms. J. was ever able to get into touch with the Detective that was handling the case, Ms. J. stated no, as she would love to know if there was a Detective handling the case. Officer R stated there was a Detective handling the case however Officer R did not know the status of it but everything Officer R documented the last time, she forwarded it over to the Detective.

Officer R asked which gun did Ms. J. find more information for, Ms. J. stated the 36 revolver. Officer R stated the only thing she did not want was to report the same information they already had. Ms. J. stated all the paperwork she had was new. Officer R stated she would get the information for the gun so it could be entered into NCIC. Ms. J. was holding multiple documents and Officer S stated like his partner said, Ms. J. needed to hold on to that and Ms. J. stated to give to the Detective? Officer S stated yes to give to the Detective. Officer R stated there was already someone handling this case. Officer R stated the Detective was out of the Southwest Impact Unit as that was where the case originally started when Ms. J. Lawyer called from where he lived. Officer R stated the Detective that was working the case was Detective L.

Officer R stated she felt it was very important that Ms. J: got in touch with Detective L. Officer R provided Ms. J: Detective L's full name and where she worked.

Officer R stated she would get the gun entered into NCIC, but as far as all the documents, Detective L was literally handling the entire case. Officer R asked what else Ms. J: located, Ms. J: s stated photographs of the house. Officer R stated between herself and the other officer, they took the basic part of this investigation. Officer R stated the investigation at this point was in the Detectives' hands already. Officer R provided Ms. J with the number to the SW Substation to get ahold of Detective L. Officer R advised that Ms. J: s speak with Detective L about the case and offer more information to the Detective. Officers exit the home to obtain the case number for Ms. J.

Officers went back into Ms. J: home and Officer R provided Ms. J: the case number. Officer R stated with the amount of extra documentation that Ms. J: gathered, Officer R stated she felt it was very important that Ms. J: s got in touch with the Detective. Officer R stated she would also send Detective L an email with the supplemental report from today. Officer R stated she would also let Detective L know that Ms. J: s had a substantial amount of documentation about other items that were taken. Officer R stated due to the communication issue, Ms. J: may need to take a trip out to the SW Substation to visit with Detective L. Officer R obtained the serial number and other details for the stolen firearm. Officer R advised Ms. J: s what happened after Officer R ran the serial number through NCIC. Officer R again stated in regards to the additional documentation, to get into contact with Detective L, be persistent and let Detective L know Ms. J: s had more stuff for the case. Officer R stated she would email Detective L to let her know Ms. J: was trying to get in touch with her. Officers exit Ms. J: home.

Officer R provided CPOA Investigator with verification that showed she emailed Detective L addressing the email to "Detective" L on 12/08/17, with the first supplemental report in which Detective L responded on 12/12/17, acknowledging the email stating thank you for the report. Officer R also emailed Detective L again on 03/09/18, providing the second supplemental report and documented that Ms. J: had additional information and wanted to speak with Detective L.

Per Officer R, Detective L never responded to the second email and Officer R never heard anything about this case again.

Officer R did complete a second supplemental report in which she forwarded over to Detective L. Officer R confirmed she did not accept some of the additional evidence that Ms. J: wanted to provide as she provided Ms. J: the reasons for not doing so. Officer R did take the serial number for the firearm that Ms. J: located and stated she would run it through NCIC.

During the interview with Detective L, when asked about her involvement in this case, Detective L stated she was assigned to the Impact Unit to assist in waivers of prosecution

and to assist them. Detective L stated she had not tested into the Detective position yet so she was there on an administrative assignment at that time. Detective L stated her involvement was basically notifying the NE Command that there were concerns that there were forged checks and possibly items being taken by people who were entrusted to take care of the J: ' home while they were incarcerated. Detective L stated this case was given to the NE Division. Detective L confirmed the reason the case was transferred to the NE Impact Unit was the location of where the crime occurred.

Detective L stated she pulled the reports from the NE and called the Sergeant (possibly Sergeant H who was now retired) at the NE Impact and she let him know that nothing occurred in the SW other than Ms. J: attorney advocating for Ms. J: while she was incarcerated. Detective L stated Ms. J: ' attorney who lived in the SW called from his address and that was how the case initially ended up with them.

Detective L confirmed she did inform Ms. J: s that she was not handling the case. Detective L stated she could only remember having two conversations with Ms. J: the first was giving her the number to the NE Impact which was short and quick. Detective L stated then there was the conversation where she pulled all of the reports. Detective L stated if there was a third time she did not get back to Ms. J: , it might had been when she had already been released back to the field.

Detective L stated 01/15/21, would be her last day as an employee with APD

Investigator Note: CPOA Investigator looked into some of the concerns Ms. J: s had with Detective L. Detective L as well as Sergeant H who Detective L believed she referred the case to in the NE Quadrant no longer work with APD. Detective L stated she did not remember having any interaction with Officer R, however Officer R provided the emails between the two. It appears the reason for the confusion by Officer R in regards to Detective L handling Ms. J: case was miscommunication/lack of communication by Detective L to Officer R. Although it appeared Ms. J: had a hard time locating an update on her case, the case was eventually assigned to and completed by Detective W.

The CPOA finds Officer R's conduct to be **EXONERATED** where the investigation determines, by a preponderance of the evidence, that the alleged conduct did occur but did not violate APD policies, procedures, or training;

II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING DETECTIVE W's CONDUCT

A.) The CPOA reviewed General Order 1-1-4D.15, regarding Detective W's conduct, which states:

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

The Jacobs reported that on 11/06/18, Detective W called Ms. J: and was rude, indifferent in his speech and stated "one is supposed to have an appraisal every five years." The Jacobs reported, their concern was that Detective W noted in his report that

Ms. J talked for approximately 40 minutes repeating herself, without letting him speak.

During the interview with Ms. J she stated Detective W gave his opinion in his report in reference to Ms. J talking a lot when they spoke. Ms. J was asked for details in reference to Detective W being rude, she stated due to his derogatory opinions he wrote in the police record.

During the interview with Detective W, he denied the allegations of ever being rude to Ms. J Detective W confirmed he had just informed Ms. J about the appraisal as he was not being rude.

When asked about the comment in reference to Ms. J talking too much during the interview that he noted in his report. Detective W stated there was a demeanor notable as sometimes they go off topic and try to say something else that he was not asking. Detective W stated he would usually put/note that in his report. Detective W stated he does this so he can remember that, in case later on, if in court something came up, he could better recall what happened in that conversation. Detective W stated he was not targeting her at all, he put those types of notes in his reports throughout his investigations.

A review of the recorded phone interview between Detective W and Ms. J determined that Detective W was not rude or indifferent in his speech during that interaction with Ms. J.

It was confirmed that Detective W noted in his report that Ms. J talked for approximately 40 minutes without letting him speak and continued to repeat herself. Detective W stated he documented that so he can remember, in case later on, if in court something came up, he could better recall what happened in that conversation. Detective W stated he was not targeting her at all, he put those types of notes in his reports throughout his investigations.

The CPOA finds Detective W's conduct to be **EXONERATED** where the investigation determines, by a preponderance of the evidence, that the alleged conduct did occur but did not violate APD policies, procedures, or training;

B.) The CPOA reviewed General Order 1-1-4D.14, regarding Detective W's conduct, which states:

Personnel must not act officiously, abuse their lawful authority, or permit their personal feelings, animosities, or friendships to influence their official decisions.

The Jacobs reported that Ms. J was of the impression that Detective W had no interest and would not pursue their case at all. The J reported that Detective W's report, incorrectly concludes that the values appear to be based on Ms. J opinion only. The J reported Detective W ignored the appraiser's values and county recorder documents both deliberately and willfully dismissing the value in his report

while disparaging Ms. J. The Jacobs reported Detective W did not show interest nor desire to meet with Ms. J. ; in reference to this case.

During the interview with Ms. J. she stated in regards to her husband's photograph's she did turn in an appraisal which also included an explanation that was written by the ASA Appraiser. Ms. J. also provided the updated appraisal dated 2012, as the theft took place in 2017 which was still within the 5 years. Ms. J. stated Detective W made a remark in the report that Ms. J. made up the numbers by herself.

Ms. J. stated the attitude that APD has had during this entire thing was Ms. J. was a criminal and felt she did not have the right to have a proper report written.

During the interview with Detective W, when asked if the allegations made against Ms. J. and her husband affected the way he treated them. Detective W denied those allegations. When asked if there was a reason Ms. J. ; felt Detective W did not have interest in the case and asked if there were any arguments between them. Detective W stated he did not think so, when he spoke with Ms. J. , he just obtained the facts of what happened but don't recall any type of arguments or disagreements with Ms. J.

Detective W stated Ms. J. ; did provide the paperwork that had the appraisals in it. Detective W stated he contacted an agent over with Homeland Security and ICE as they conducted the search warrant of the J. home when Ms. J. was arrested. Detective W stated he asked them if they noticed any of the items of value during the search warrant and they informed Detective W they did not see those items as the home seemed like a hoarder's home. Detective W stated he submitted a request to obtain the photographs of the search warrant but he was denied that request through HIS due to the Touhy Regulations.

Per the recorded phone interview between Detective W and Ms. J. , Detective W stated to Ms. J. that he had looked at the estimated value of 642 million dollars and he was just trying to wrap his head around that large amount of money. Detective W stated in order for him to do his job, he needed to get receipts and itemized lists that matched the receipts kind of values as that was a large amount of money. Ms. J. stated she turned in an appraisal for Mr. J. ; photos. Detective W stated yes, that was from 2007. Ms. J. s stated many of the photos were vintage prints. Detective W stated with reason of cost approach for replacement cost of the property, that one was 5,000,694.00. Ms. J. explained that you add them all together when reading an appraisal. Detective W stated well that was done in 2007 and that was about 10 years from the time of this report. Detective W stated he did not understand the huge dollar amount in regards to the items which included the photos were stolen. Detective W stated he could not understand how someone could have 642 million dollars in a house in Albuquerque. Ms. J. stated the appraisal of the photos went for 2.7 billion. Detective W stated that was back in 2007 and every 5 years they were supposed to get re-evaluated. Detective W stated the appraisal was pretty much out the door as it was no longer void as

it was voided now. Detective W stated it stated an appraisal should be done every 4-5 years for the value of the items. Ms. J stated Detective W was focused on the appraisal. Ms. J stated she went by the vintage prints which was a low value. Ms. J stated it was at least \$2000/image

It was unknown if Detective W was provided the updated appraisal dated 2012. Per the recorded phone interview between Detective W and Ms. J, she talked about an appraisal that she had turned in and Detective W confirmed yes but it was from 2007. Detective W informed Ms. J that was about ten years prior to date the report was taken. Ms. J stated the appraisal of the photos went for 2.7 billion. Detective W stated that was back in 2007 and every 5 years they were supposed to get re-evaluated. During that recorded interview between Ms. J and Detective W, Ms. J did not make mention of the 2012 appraisal.

The CPOA finds Detective W's conduct to be **NOT SUSTAINED** where the investigation is unable to determine, by a preponderance of the evidence, whether the alleged misconduct occurred;

C.) The CPOA reviewed Procedural Order 2-60-4B.5.b, regarding Detective W's conduct, which states:

Steps to consider when conducting follow up investigations: b. Conduct additional interviews and interrogations, when necessary.

The J reported Detective W's report was inconsiderate, careless, abysmal and wholly incompetent.

During the interview with Ms. J, CPOA Investigator asked if she knew if the Detective had the names and numbers to all the people that were living in the house illegally. Ms. J stated all that information was provided to APD. Ms. J stated she could not confirm the Detective had that information though as she did not know what happened to it after she provided it to Officers W and W.

During the interview with Detective W, he stated he charged a female by the name of Melissa for writing fraudulent checks in Ms. J name which was sent to the District Attorney's Office for review and prosecution as he cleared it exceptionally. In regards to the other stolen items, Detective W stated he was unable to prove or show that those items were ever inside that house when Ms. J claimed they were stolen.

Detective W stated he contacted an agent over with Homeland Security and ICE as they conducted the search warrant of the J home when Ms. J was arrested. Detective W stated he asked them if they noticed any of the items of value during the search warrant and they informed Detective W they did not see those items as the home seemed like a hoarder's home. Detective W stated he submitted a request to obtain the photographs of the search warrant but he was denied that request through HIS due to the Touhy Regulations.

When asked who was interviewed during this investigation, Detective W stated he spoke with Ms. J and he attempted to contact B n and M but they did not return his phone calls. Detective W stated the reason he stated he could not determine if the J: items were sold was because he checked through police resources that checked pawn shops and pawnshop transaction history. Detective W stated he could not find any history that the J items were sold to pawn shops. When asked if the J: s provided any other witnesses/or names to the alleged crime. Detective W stated he knew Ms. J: ; provided some paperwork with some notes and names that were written on napkins and stuff like that. Detective W stated that was all he could remember from it and he knew that he did not talk with those people as he did not know their involvement at all. When asked if Ms. J: gave Detective W contact information for the people whom may have had involvement or may have been living in the house. Detective W stated he could not recall off the top of his head if Ms. J stated those names were meant to be someone or not, he just could not recall. Detective W stated he was not completely sure off the top of his head he would have to pull the file and review more of that.

Detective W stated for the theft part of the case. there were no other leads to go off at that time as it closed pending further leads. Detective W stated in regards to the fraudulent checks, he had evidence and he was able to charge M with that and he submitted the case to the District Attorney's Office for review and to prosecute.

After a review of his records, Detective W stated he was unable to locate any other contacts that were given to him by Ms. J:

A review of the recorded phone conversation between Detective W and Ms. J: confirmed Ms. J stated William Jones was illegally running an unlicensed car repair place out of their garage called fire and ice. Ms. J: s stated Mr. J: s had his address changed to their house. Ms. J stated he stole a lot of stuff too. Ms. J: stated there was also C / Q: , as there was evidence they stole her suitcase as he left his crappy suitcase in their garage with his name on it. Ms. J: stated the name on the suitcase was A (. Ms. J stated she had a lot of evidence of all the people staying there.

It was confirmed additional names were given to Detective W during the phone interview however contact information was not provided at that time. It was unknown if additional contact information to other witnesses or targets were provided to Detective W at a different time.

The CPOA finds Detective W's conduct to be **NOT SUSTAINED** where the investigation is unable to determine, by a preponderance of the evidence, whether the alleged misconduct occurred;

D.) The CPOA reviewed Procedural Order 2-60-4B.5.m, regarding Detective W's conduct, which states:

Steps to consider when conducting follow up investigations: m. Notify victims of the status of their case.

The Jacobs reported they were unaware of Detective W's final report until they spoke with Detective W's supervisor, who informed them that the report was complete and it was in the hands of the DA's office.

During the interview with Detective W, when asked about the complaint that the Jacobs were not aware of the completion of the report. Detective W stated he knew he attempted to contact Ms. J at the end of his investigation but also knew Ms. J went back to federal prison to serve the rest of her time. Detective W stated that was why he could not get ahold of her. Detective W stated he believed Ms. J went on a furlough from prison due to health but his understanding was she had to go back to serve the rest of her time. When asked where this information was obtained, Detective W stated he received that information from the Special Agent in New York.

When asked about the allegations that Ms. J tried to reach out to him for 3 weeks in September/2019 and never heard back, Detective W stated he did not recall getting calls or voicemails from Ms. J.

The CPOA finds Detective W's conduct to be **NOT SUSTAINED** where the investigation is unable to determine, by a preponderance of the evidence, whether the alleged misconduct occurred;

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

A.) The CPOA reviewed Procedural Order 2-60-4A.5.f, regarding Officer H's conduct, which states:

Steps to be followed in conducting preliminary investigations that may include but are not limited to: f. Report the incident fully and accurately.

During the interview with Ms. J, she stated on 10/09/2020, she told Officer H that an attorney she had been working with advised her to file the police report about the account take overs and the reporting agencies wanted a police report. Ms. J stated she gave Officer H a copy of all the accounts that were compromised. Ms. J stated anything that she wrote and turned into the Officer H, was not mentioned in his report. Ms. J stated the report was derogatory towards her.

Ms. J stated Officer H documented that he asked Ms. J why it took so long for her to report this and Officer H further documented that Ms. J replied that she had gone as far as she could on her own and it was time to get a lawyer and the police involved. Ms. J stated that was not what she said at all. Ms. Jacobs stated further in the report it was noted that Ms. J was in jail until the middle of 2019, in which she stated was not true at all. Ms. J stated she was out for over a year on bond. Ms. J stated she came home in the November of 2017. Ms. J stated these thefts had taken place in 2017. Ms. J stated she had to report back for a couple of months but

she was out on bond at home and that was when she made the initial police report. Ms. J stated Officer H was stating incorrect information.

Ms. J stated Officer H documented that he also believed the accounts may have been locked due to these fraud convictions. Ms. J stated she did not have fraud convictions and the accounts were not locked, they were shut down in 2017, because Mr. J forged checks and stole the money from her account. Ms. J stated they were charged with fraud but they did not have a fraud conviction. Mr. J stated the unknown Probation Officer told Officer H that Ms. J was in jail until the middle of 2019, which was incorrect. Ms. J stated the attitude that APD has had during this entire thing was Ms. J was a criminal and felt she did not have the right to have a proper report written.

During the interview with Officer H, he was asked about the complaint that the J provided the accounts compromised but none of it was mentioned in the report. Officer H stated that was untrue as the items were listed under the property, under documents referenced accounts, which was uploaded to evidence.com and forwarded to the Central Impact Task Force.

Officer H was asked about the complaint where he wrote in his report that Ms. J stated she taken this as far as she could on her own, now time to get a lawyer. Officer H stated he specifically put that in his report because she made that comment.

When asked about his statement that Ms. J was in jail until the middle of 2019 as Ms. J claimed that was not true. Officer H stated that information was obtained from the Duty Federal Probation Officer. Officer H stated the reason he called the Federal Probation Officer was he ran Ms. J through NCIC as they would anybody who they put in their report. Officer H stated he got a federal probation hit that required him to contact the Federal Probation Officer within 24 hours regarding Ms. J. Officer H stated that information (brief paragraph) in the police report, he obtained from the Duty Probation Officer.

Officer H was asked if he spoke with Ms. J Federal Probation as per Ms. J her Probation Officer would have known that she was not in prison during the middle of 2019. Officer H stated he spoke with the Duty Probation Officer and the Duty Probation Officer knew Ms. J name immediately and gave him a back story on her.

Officer H confirmed he did not give his opinion as to why he believed Ms. J accounts had been locked, Officer H stated in that paragraph, he simply documented an overview of what that Probation Officer had told him and that was the Probation Officers' understanding of the situation not Officer H's opinion. Officer H stated he only contacted the Probation Officer as it was a requirement if they received an NCIC hit on a Federal Parole.

Per the Lapel Video, Ms. J provided Officer H a typed-up version of some of her accounts that were taken. Ms. J stated a Law Firm told her to just file with Officer H the exact account numbers that were compromised so she could turn that in to them.

Officer H asked if the stolen vehicle was reported stolen, Ms. J ; stated yes, she reported it to USAA. Officer H asked if she reported the vehicle stolen to police, Ms. J; stated she tried to but they weren't really interested. Officer H stated we had a stolen car problem here, so they tried to take those things pretty seriously. Officer H asked when the vehicle was stolen, Ms. J ; stated it was stolen in 2017. Ms. Jacobs stated all these accounts, she did not find out about until 2018. Ms. J stated she told the operator it was a couple years old but she specifically needed to list all the accounts in the report so she could give to the attorney who was handling their credit situation.

Officer H asked if the first account was compromised in 2017, Ms. J: stated yes but did not find out until 2018. Officer H asked how they knew B and M took the Kia Sedona, Ms. J. stated because E had approval to drive it and they were staying in the house. Officer H asked if these were all Ms. J ;' accounts or were they joint. Ms. J s stated they were all hers. Officer H asked who the Kia was titled to, Ms. J. stated it was titled to her. Officer H asked if they been working on this stuff for almost two years, Ms. J ; stated a good year in a half as it went very slow as they first went online to the credit reporting agencies. Ms. J ; stated it was just a very long process. Mr. J stated it got to the point where they could not go any further and Ms. Jacobs stated themselves. Ms. J ; stated she had been with the company that was assisting her 5 months and it just got to the point where they told her she just needed to file a police report to make sure all the account numbers were listed and everything.

Officer H's Incident Report does not specifically list the account numbers per Ms. J request, however lists under the property section of the report "Documents reference accounts."

The CPOA finds Officer H's conduct to be **EXONERATED** where the investigation determines, by a preponderance of the evidence, that the alleged conduct did occur but did not violate APD policies, procedures, or training;

The complaints against Sergeant W, will be **ADMINISTRATIVELY CLOSED**, as Sergeant W no longer worked with APD and the CPOA no longer had jurisdiction over Sergeant W.

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 Civilian Police Oversight Board 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 Board were the wrong policies or they were used in the wrong way; or,

Letter to Mr. and Ms. J

April 9, 2021

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

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

Civilian Police Oversight Agency Board

Eric Olivas, Chair

Chantal M. Galloway, Vice-Chair

Tara Armijo-Prewitt

William J. Kass

Doug Mitchell

Eric Nixon

Edward Harness, Executive Director

April 9, 2021

Via Certified Mail

7018 1130 0002 3429 0951

Re: CPC# 266-20

Dear Mr. L

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint against Officers of the Albuquerque Police Department (APD) on November 30, 2020, regarding an incident that occurred on August 19, 2020. The CPOA thoroughly and impartially investigated the complaint.

PO Box 1293

Albuquerque

NM 87103

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

www.cabq.gov

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

I. THE COMPLAINT AND INVESTIGATION

On 11/21/2020, Mr. J L submitted a complaint which stated Interim Chief M was telling Problem Response Team Officers to focus on tact plans, stats and not to divert. Mr. L provided an attachment which showed correspondence via email between Sergeant D and Sergeant O. Mr. L reported the attached email provided the following information as the basis of his complaint. Per the email Sergeant D documented that when it came to programs like LEAD (Law Enforcement Assisted Diversion) and RAD (Rapid Accountability Diversion) the buy in from the top was also

nonexistent. Sergeant D documented she was told by PRT Officers that they were directed by Interim Chief M to focus on tact plans, stats and not to divert.

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable SOPs, the complaint, Emails and interviews with Sergeant O, Interim Chief M and Commander Y. The Complainant was not interviewed as he noted in the email of his complaint that he had no additional information to provide requiring a personal interview. CPOA Investigator attempted to contact former APD Sergeant D, but she refused to cooperate.

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

A) The CPOA reviewed General Order 1-1-4B.6.b, regarding Interim Chief M's conduct, which states:

Personnel will perform any act required by the City's or Department's rules, regulations, directives, orders, or settlement agreement: All supervisors will also be held accountable for identifying and responding to policy or procedure violations by personnel under their command

Mr. L reported that the attached email provided the following information as the basis of his complaint. Per the email that Sergeant D documented/sent to Sergeant O, noted in part, when it came to programs like LEAD (Law Enforcement Assisted Diversion) and RAD (Rapid Accountability Diversion) the buy in from the top was also nonexistent. Sergeant D documented she was told by PRT Officers that they were directed by Interim Chief M to focus on tact plans, stats and not to divert.

Mr. L was not interviewed as he stated in the email of his complaint that he had no additional information to provide requiring a personal interview.

CPOA Investigator reached out to Ms. D via email as she was no longer employed with APD. CPOA Investigator informed Ms. D about the complaint and asked if she would be willing to talk more about the allegation. Ms. D replied via email and denied CPOA Investigators request to talk about the allegation, further stating that her words were taken out of full context.

During the interview with Sergeant O, he stated he recalled this email and stated he was one of the Sergeants in the Internal Affairs Force Investigation section. Sergeant O stated he was trying to determine if APD tracked the number of cases that they send out for jail diversion, specifically the referrals that they make to the LEAD Program. Sergeant O stated he was trying to get a good idea of how many cases involving use of force incidents that were referred to the LEAD Programs. Sergeant O stated that was what started the discussion with Sergeant D.

When asked if Sergeant O heard about the alleged directive that Interim Chief M had directed PRT Officers to focus on tact plans, stats and not to divert per the email and complaint. Sergeant O stated besides what was mentioned in the email, he had not.

When asked if Sergeant D went into any further detail to her allegation in reference to PRT Officers by giving Sergeant O specifics as to which officers made those comments. Sergeant O stated no.

Sergeant O stated when he reviewed the number of referrals to the LEAD program he felt they were pretty good. Sergeant O stated he did not have any further evidence that anyone was specifically being directed to violate McClendon or void diverting individuals to the LEAD Program.

During the interview with Interim Chief M, when asked if he ever gave a directive to PRT Officers to focus on tact plans, stats and not to divert. Interim Chief M denied that allegation.

Interim Chief M was asked about the part in the complaint where it stated the buy in from the top was non-existent. Interim Chief M stated he had not heard anything like that because if he did, it would have been addressed. Interim Chief M stated to say himself or anybody else was not supportive of this, if he could get specifics as to anybody below him, he would gladly look into that and investigate those individuals if they were not pushing the directives of the police department forward.

Interim Chief M provided CPOA Investigator with supportive documentation which indicated his support for diversion programs. Interim Chief M provided an Inter-Office Memo dated 10/19/20, which provided information about Young Adult Court and his support of the program.

Interim Chief M provided a copy of Special Order 20-78 dated 12/23/20, which was amended and added additional situations as to whom could qualify for the RAD (Rapid Accountability Diversion) Program.

Interim, Chief M also provided a link to an article in the Journal <https://www.abqjournal.com/1533029/das-data-could-help-apd-reduce-citys-gun-violence.html> dated 01/06/21, which indicated his active involvement with VIP (Violent Intervention Program.)

During the interview with SE Commander Y, when asked if he had heard in general about the directive from Interim Chief M to focus on tact plans and not to divert. Commander Y stated he had not and anything that went down to his officers would come from Commander Y. Commander Y stated if the directive came from the top, it would still make it to Commander Y which he would push out to his Lieutenants to continue to pass the information down. When asked if Commander Y gave PRT Officers the

directive not to divert, Commander Y stated no. When asked if his PRT Officers ever came to him about concerns related to the complaint, Commander Y stated no. Commander Y denied knowing anything about the complaint stating the buy in from the top was non-existent.

The CPOA finds Interim Chief M's conduct to be **NOT SUSTAINED** where the investigation is unable to determine, by a preponderance of evidence, whether the alleged misconduct occurred.

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 Civilian Police Oversight Board 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 Board were the wrong policies or they were used in the wrong way; or,
- B) The APD policy or APD policies considered by the Board were chosen randomly or they do not address the issues in your complaint; or,
- C) The findings of the Board had no explanation that would lead to the conclusion made by the Board; or,
- D) The findings by the Board were not supported by evidence that was available to the Board 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. I
April 9, 2021
Page 5

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

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

Edward Harness, Esq.
Executive Director
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