

Civilian Police Oversight Agency Board

Eric Olivas, Chair

Chantal M. Galloway, Vice-Chair

Tara Armijo-Prewitt

Richard Johnson

Dr. William J. Kass

Doug Mitchell

Eric Nixon

Gionne Ralph

Edward Harness, Executive Director

BOARD AGENDA

Thursday, May 20, 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 Agency (CPOA) Board meeting on Thursday, May 20, 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-may-20-2021>.

(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, May 17, 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, May 20, 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 May 10, 2021

VI. Reports from City Departments

- a. **APD**
 - 1. **Compliance and Oversight Division (SOP N/A) - Acting Commander Sean Waite**
 - 2. **IA Professional Standards Division (SOP 7-1, SOP 3-41, SOP 3-46) – Commander Zak Cottrell**
 - 3. **IA Force Division (SOP 2-52 through SOP 2-57) – Commander Cori Lowe**
- 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. Requests for Reconsideration

- a. **210-20**

VIII. Review of Cases:

- a. **Administratively Closed**

128-20	151-20	162-20	172-20
300-20	005-21	024-21	
- b. **Exonerated**

136-20	330-20
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- c. **Exonerated and Sustained**

293-20	304-20
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- d. **Not Sustained and Unfounded**

072-20

- e. **Unfounded**

091-20	012-21	013-21
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IX. Non-Concurrence Cases

- | | |
|---------------|---------------|
| 249-20 | 293-20 |
|---------------|---------------|

- X. Serious Use of Force Cases/Officer Involved Shooting**
 - a. 18-0068735
 - b. 19-0056389
 - c. 19-0080914
 - d. 19-0096461
 - e. 19-0105587
 - f. 20-0000295

- XI. Reports from Subcommittees**
 - a. **Community Outreach Subcommittee – *Chantal Galloway***
 - 1. Met April 27, 2021 at 3:00 p.m. (video conference)
 - 2. Next meeting May 25, 2021 at 3:00 p.m.
 - b. **Policy and Procedure Review Subcommittee – *Dr. William Kass***
 - 1. Met May 6, 2021 at 4:30 pm (video conference)
 - 2. Next meeting June 3, 2021 at 4:30 p.m.
 - c. **Case Review Subcommittee – *Eric Nixon***
 - 1. Met April 27, 2021 at 4:30 pm (video conference)
 - 2. Next meeting TBD
 - d. **Personnel Subcommittee – *Eric Olivas***
 - 1. Met April 26, 2021 at 4:00 p.m. (video conference)
 - 2. Next meeting June 1, 2021 at 4:00 p.m.

- XII. Discussion and Possible Action**
 - a. **Traffic Stop Study Proposal and Data Request – *Dr. William Kass***
 - b. **IMR Liaison Proposal – *Eric Olivas***
 - c. **IMR-13 and Status Conference – *Tina Gooch, CPOA Counsel and Edward Harness, CPOA Executive Director***
 - d. **Update on of Serious Use of Force Cases and Officer Involved Shooting Case Materials – *Tina Gooch, CPOA Counsel and Edward Harness, CPOA Executive Director***
 - e. **Update on Board Vacancies – *Edward Harness, CPOA Executive Director***
 - f. **Report on the Continued Use of Zoom for CPOAB Meetings – *Tina Gooch, CPOA Counsel***
 - g. **Removal of APOA from Agenda Department Reports and Follow-up Letter to APOA - *Eric Olivas***
 - h. **Diversity and Inclusion Training Request Follow-up – *Chantal Galloway and Eric Olivas***
 - i. **Strategy to Increase Timeline Compliance for CPOA Investigations - *Edward Harness, CPOA Executive Director***
 - j. **CPOA Staffing and Time Management Study - *Edward Harness, CPOA Executive Director***
 - k. **CPOA Investigation Checklist - *Edward Harness, CPOA Executive Director***
 - l. **Notification Protocol for Complainants for Board Meetings - *Edward Harness, CPOA Executive Director***

- m. CPOA Standardized Findings Letter - *Edward Harness, CPOA Executive Director*
- n. Training for Board Members on CPOA Investigations – *Edward Harness, CPOA Executive Director*
- o. Protocol on Responding to pob@cabq.gov Emails - *Edward Harness, CPOA Executive Director*
- p. Board Member Responsibilities – *Eric Olivas*
 - 1. Training Deficits
- q. Appointment of Board Point of Contact (POC) - *Eric Olivas*
- r. CPOA Board Subcommittee Assignments – *Eric Olivas*
- s. Appointment of Board Serious Use of Force Case Manager – *Eric Olivas*
- t. Consideration of PPRB Policies with “No Recommendation”: *Dr. William Kass*
- u. Review and Approval of 1st Quarter Case Findings Audit Report – *Eric Nixon*
- v. Use of Administratively Closed for Complaints due to the change in Officer Employment Status – *Chantal Galloway*
- w. Draft July – December 2020 Semi-Annual Report – *Edward Harness, CPOA Executive Director*
- x. Updates to Executive Director’s Job Description – *Eric Olivas*

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

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

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

*1. Miller v. City of Albuquerque et al.,
D-202-CV-2021-02444*

XIV. Other Business

- XV. Adjournment- *Next Regularly scheduled CPOA Board meeting will be on June 10, 2021 at 5:00 p.m.*

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Civilian Police Oversight Agency Board

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Richard Johnson

Dr. William J. Kass

Doug Mitchell

Eric Nixon

Gionne Ralph

Edward Harness, Executive Director

May 25, 2021

Via Certified Mail

7018 1130 0002 3429 1798

Re: CPC# 210-20

Dear Mr. and Ms. J :

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

www.cabq.gov

On May 20, 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's Oversight Ordinance. Therefore, your request for hearing in front of the Board has been denied.

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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Dr. William J. Kass

Doug Mitchell

Eric Nixon

Edward Harness, Executive Director

May 21, 2021

Via email

Re: CPC #128-20

Dear Ms. A ::

PO Box 1293

Our office received the complaint you filed on March 13, 2020, against Albuquerque Police Department (APD) Lieutenant (Lt.) S., for an incident, which occurred on October 26, 2018. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint. Below is a summary of the complaint, and the CPOA's investigation and findings.

I. THE COMPLAINT

Albuquerque

NM 87103

Ms. A :: complained that she and her organization, Women Taking Back Our Neighborhoods, were protesting on October 26, 2018 when one of the women was attacked by an unknown male. Ms. A :: complained that she asked Lt. S. for patrol to standby during this protest; however, Lt. S. failed to do so. Ms. A :: said Lt. S. never contacted her and she wants an apology from Lt. S.

www.cabq.gov **II. THE INVESTIGATION**

The CPOA Investigator reviewed your complaint. While investigating this complaint, Lt. S. retired and therefore, the CPOA recommended Administratively Closing the case due to Lt. S. no longer being an APD employee; however, the CPOA Board requested we seek former Lt. S.'s participation in hopes of reaching a different conclusion. The Investigator sent a certified letter to former Lt. S. on April 6, 2021 requesting their participation, as a citizen, in a Zoom interview. The Investigator asked them to make contact within 14 days, and, if within that timeframe no contact was made, stated they would assume former Lt. S. has chosen not to participate in the process. Former Lt. S. didn't contact the Investigator, or the CPOA staff, and on May 5, 2021, the certified letter was returned as undeliverable.

Letter to Ms. A
May 21, 2021
Page 2

III. CONCLUSION

Based on the aforementioned information, the CPOA has made the decision to **ADMINISTRATIVELY CLOSE** your complaint because Lt. S. is no longer an APD Officer and does not want to participate in the process as evidenced by their not having responded to a certified letter.

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.

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

Sincerely,
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



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Edward Harness, Executive Director

May 21, 2021

Via Certified Mail

7018 1130 0002 3429 1071

Re: CPC #151-20

Dear Ms. C. :

Our office received the complaint you filed on March 25, 2020 against an unknown Albuquerque Police Department (APD) officer, related to an incident that took place on March 23, 2020. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint. Below is a summary of the complaint, and the CPOA's investigation and findings.

PO Box 1293

Albuquerque **I. THE COMPLAINT**

Ms. C. said a brick was thrown at her car windshield causing damage to it and the hood. The brick was left at the scene with a printed picture of a clown wearing a white coat and a stethoscope taped to it. She thought it was a targeted attack because her car was identifiable as being owned by someone in the healthcare profession and because she has no personal enemies. She was told an officer would call her for a telephone report. When she told the officer she thought it was a targeted attack against the medical profession and not her personally, she complained the officer argued and said that was a 0% chance. She has talked to other people who have experienced discrimination recently simply for being in the medical profession. With the COVID-19 pandemic, people have been misplacing blame onto those trying to help. Even if this is an unlikely scenario, she complained he shouldn't have been dismissive, argumentative, and rude and should have showed empathy. She asked if an officer could come to collect the evidence and the officer said no. She asked if they could fingerprint the paper and possibly obtain latent fingerprints off the adhesive side of the tape. Again, the officer said no, which she feels is a lie. If it is not protocol and the ABQ PD doesn't have the resources to fully investigate this crime, that is one thing; however, to blatantly lie is disrespectful and dismissive. The complainant would like the officer to be reprimanded in an appropriate fashion. He may also need training on sensitivity, etc. Perhaps even an apology would be warranted.

NM 87103

www.cabq.gov

Letter to Ms. C

May 21, 2021

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II. THE INVESTIGATION

The CPOA Investigator reviewed your complaint, the report taken over the phone by Officer L., and the CADs report. The Investigator reached out to you via email to obtain more information but did not receive any response back so this investigation is based on the aforementioned evidence. This evidence showed Officer L. took a vandalism report over the phone and in the narrative said an unknown person threw a brick at your windshield and the brick also damaged the hood. You said the brick was still on the ground in front of your vehicle with a picture of a clown dressed in a lab coat and a stethoscope around its neck and asked if anyone was going to respond to collect the brick. Officer L. advised you that they wouldn't be able to process the brick for evidence.

III. CONCLUSION

There is no evidence to refute or corroborate your statements regarding Officer L.'s reply to your request, so the allegations cannot be minimally substantiated. As a result, this complaint will be **ADMINISTRATIVELY CLOSED**. Administratively complaints may be re-opened if additional information becomes available.

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.

Letter to Ms. C.
May 21, 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 black ink, consisting of several overlapping, fluid strokes that form a stylized, somewhat abstract shape.

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

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



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Eric Nixon

Edward Harness, Executive Director

May 21, 2021

Via Email

Re: CPC #162-20

Dear Ms. C :

Our office received the complaint you filed on May 15, 2020 against unknown Albuquerque Police Department (APD) officers, related to an incident that took place on May 15, 2020. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint. Below is a summary of the complaint, and the CPOA's investigation and findings.

PO Box 1293

I. THE COMPLAINT

Albuquerque Ms. C said she was involved in an incident with a homeless woman at the Freddy's on Central and Columbia. She went to get her boyfriend's bike to take it to the shop and was standing outside in the parking lot texting him and a female worker at Freddy's pulled up to park so she could go to work. As she was parking a homeless woman started yelling at her and threw a cup at her. As a result, the female worker backed up and went around front to park. The homeless woman then turned her attention on Ms. C and started yelling at her. She backed Ms. C into the corner of NM 87103 the back entrance while continuing to yell at her. The homeless woman hit Ms. C in the head, pushed her and threw a cup at her. Ms. C banged on the restaurant door and her boyfriend let her in at the same time police arrived. She tried talking to the officers by telling them the homeless woman hit her but the female officer snapped at her to stop saying that as it was making the situation worse. Her boyfriend had her stay inside the restaurant to wait for police to talk to her. She and her boyfriend stepped outside for a cigarette and when they returned she asked an officer if she should still wait inside. The male officer seemed surprised she had a statement to make and told her to go back inside and a few minutes later the officers went in to talk to her. She told the officers that the homeless woman assaulted her and threw a cup at her and the manager of Freddy's also said the homeless woman pushed Ms. C. Ms. C complained the officers refused to watch the surveillance video and told her they couldn't arrest the woman because they didn't witness the assault. This seems insane to Ms. C and it feels www.cabq.gov

Letter to Ms. C.
May 21, 2021
Page 2

like gross negligence to her and she wants something done about it. What's the point of police if they can't do anything?

II. THE INVESTIGATION

The CPOA Investigator reviewed your complaint and watched a lapel video recording that has since been deleted as a result of the 120-day automatic deletion setting. No other evidence, such as CADS or written police reports were located by APD Records for the date in question. One CADS report was located for an incident that took place Starbucks listed at the same address you gave, that was dated May 19, 2020; however, that was four days after the incident about which you complained, and after your complaint was filed. The Investigator reached out to you via email to obtain more information but did not receive any response back so this investigation is based on your complaint and a deleted lapel camera video that didn't show the conversations listed in your complaint.

III. CONCLUSION

Due to the lack of information, this complaint will be **ADMINISTRATIVELY CLOSED**. Administratively complaints may be re-opened if additional information becomes available.

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.

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

Letter to Ms. C
May 21, 2021
Page 3

Sincerely,
The Civilian Police Oversight Agency by

A handwritten signature in black ink, appearing to be 'EH' with a stylized flourish.

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

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



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Dr. William J. Kass

Doug Mitchell

Eric Nixon

Edward Harness, Executive Director

May 21, 2021

Via Certified Mail

7018 1130 0002 3429 1088

Re: CPC #172-20

Dear Mr. E :

Our office received the complaint you filed on April 17, 2020 against unknown Albuquerque Police Department (APD) officers, related to an incident that took place at 10:30 PM on an unknown date and at an unknown location. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint. Below is a summary of the complaint, and the CPOA's investigation and findings.

Albuquerque **I. THE COMPLAINT**

Mr. E. said an incident occurred in the Northeast Area Command and involved Edward and Frank units. He couldn't remember the date the incident took place but said it happened at about 10:30 PM. He said there was possible APD involvement in the death of a child; however, he would speak no more and would be willing to talk in person with a lawyer and said this is non-negotiable. He wants justice and compensation for the family of a child and for harassment of him and his family to stop. He said he has evidence of this harassment.

II. THE INVESTIGATION

The CPOA Investigator reviewed your complaint and reached out to you, via email, to obtain more information about the incident; however, the email bounced back with a message that the mailbox for the email you provided has been disabled. You stated that the only way you would be willing to provide our office with more information about this unknown incident is to meet in person with an attorney present, and that this request was non-negotiable. Due to the COVID-19 restrictions in place at the City of Albuquerque, our office is currently conducting Zoom, or telephone interviews. It is unknown when we will be able to conduct in-person interviews. Should you wish to move forward with this

Letter to Mr. E
May 21, 2021
Page 2

complaint, please contact our office and provide more information so we can obtain the documents necessary to investigate this complaint.

III. CONCLUSION

Due to a lack of information this complaint will be **ADMINISTRATIVELY CLOSED**. Administratively complaints may be re-opened if additional information becomes available.

You have the right to appeal this decision.

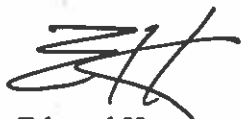
If you are not satisfied with the findings of the CPOA within 30 days of receipt of this letter communicate your desire to appeal in a signed writing to the undersigned. Include your CPC number.

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.

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

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Dr. William J. Kass

Doug Mitchell

Eric Nixon

Edward Harness, Executive Director

May 21, 2021

Via Certified Mail

7018 1130 0002 3429 1033

Re: CPC #300-20

Dear Mr. M

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint on 12/22/2020, regarding incidents that occurred on 11/15/2020.

I. THE COMPLAINT

PO Box 1293 Albuquerque NM 87103
Mr. M submitted a complaint which stated he saw that police were called out to large gathering (house party.) Mr. M reported when the people attending the party came out of the house, officers saw underage drinking going on as kids went running out of the house. Mr. M reported at that point, officers just yelled don't drive drunk. Mr. M reported one young female was arrested because she was drunk and threw a bottle at police. Mr. M reported she was underaged as well as many others in the house.

NM 87103
Mr. M reported why wasn't anyone arrested for contributing to a minor and why would officers let the party attendees take off in vehicles before checking them out

II. INVESTIGATION

www.cabq.gov
During the interview with Mr. M he confirmed he was made aware of the incident via news station. Mr. M stated the news station went on to show the rest of the footage where a bunch of kids ran out of that house and they had all been drinking. Mr. M stated the cops just yelled, if you been drinking, don't drink and drive. Mr. M stated per the news, the female that threw the bottle was 19 and that was how he found out they were all adolescents

Officers were not interviewed as the incident was recorded via lapel video and after a review of the videos, there were no observable violations of SOP's by APD Personnel.

A review of the Lapel Videos, confirmed there were over 50 people leaving the house party at one time when they decided to open the door. One of the officers advised that he

heard someone from inside the party state, they planned on rushing the door and a countdown could be heard before the door was opened.

Just based off lapel footage, it could not be confirmed everybody in the house was drinking alcohol or under the legal drinking age per the complaint.

Officers stated on multiple occasions for the owner of the home to go to the door prior to the citizens opening the door. After someone from inside the home opened the door and everyone left, the officers continued to call out to the owner of the home to step forward. At no point during the incident did anyone admit to being the owner of that house.

Officers were heard throughout the incident stating to the citizens not to drive drunk, find a sober driver and were observed asking several of the citizens if they were good to drive.

III. CONCLUSION

The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** the complaint, as it was confirmed there were over 50 people leaving the home at one time and only 5 APD Officers at the scene. During the review of the Lapel Videos, there were no observable violations of SOP's by APD Personnel. Per the CAD's the initial reason for the officer's presence at that location was a complaint of a loud party in which officers were able to break up.

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,
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Letter to Mr. M
May 21, 2021
Page 3

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
(505) 924-3770

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



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Dr. William J. Kass

Doug Mitchell

Eric Nixon

Edward Harness, Executive Director

May 21, 2021

Via Certified Mail

7018 1130 0002 3429 1026

Re: CPC #005-21

Dear Ms. B; O;

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint on 01/13/2021, regarding incidents that occurred on 01/06/2021.

I. THE COMPLAINT

On 01/06/21, Ms. C; Ms. E Ortega reported two calls were made to APD due to an ongoing conflict/harassment by their neighbors. Ms. B O; stated the two calls were made simultaneously by Ms. B O; and her mother Ms. P Ortega. Ms. B; Ortega reported that Ms. O; called 911 for some help and due to the language barrier, she was transferred multiple times to other lines in efforts to locate an interpreter. Ms. B; O; reported while Ms. O; was on hold, the dispatcher hung up the call and no efforts were made by dispatch to reach back out to Ms. O; Ms. B O; reported she was able to get ahold of someone using the non-emergency line but a 911 call from Ms. O; was ignored by staff and disconnected without further attempts to ensure public safety.

PO Box 1293

Albuquerque

NM 87103

www.cabq.gov

II. INVESTIGATION

Ms. B; O; and Ms. O; were both interviewed and stated one their main concerns were that when Ms. O; phone call with 911 was disconnected, no one bothered to call Ms. O; back. Ms. B; Ortega stated another concern was the limited support in the community in regards to matters like these (harassment from neighbor.)

After a records request, the CAD only talked about the phone calls from Ms. B Ortega and there was no mention of a phone call from Ms. O.

CPOA Investigator submitted an audio request to APD 911 CAD recording to obtain the recordings of the calls from Ms. B O; and Ms. O; using the contact information that was provided in the complaint. Mr. T, APD Records & Data

Letter to Ms. B O
May 21, 2021
Page 2

Coordinator, provided CPOA Investigator with 3 recordings from Ms. B ; O calls. Mr. T stated he checked for Ms. O ; information which included answered and unanswered calls and there were no incoming calls from the name or number provided for Ms. O in reference to the date in question.

On 02/19/21, Ms. B ; O _ sent a text message to the CPOA Investigator with a picture of Ms. O s phone records. The records showed that on 01/05/21 at 07:56pm, the same times listed on the complaint, Ms. O had an incoming call from , which is the phone number to the Bernalillo County Sheriff's Department. Ms. B ; O i stated that could have been the reason Ms. O ; call was never returned but another concern was that the call automatically routed to the Sheriff's Department.

On 02/23/21, CPOA Investigator spoke with Police Emergency Command Manager W, via phone call to obtain information about 911 calls. CPOA Investigator advised Ms. W of Ms. B - O i concern about Ms. O 911 call being sent to BCSO. Ms. W stated that had nothing to do with the agency, it had to do with the closest phone tower from where the call was made.

The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** the complaint, as neither Ms. B ; O or Ms. C had any complaints against APD Personnel as it turned out that Ms. C 911 call was routed to BCSO emergency services which the CPOA does not have any jurisdiction over. Please contact Bernalillo County Sheriffs Department with any further concerns in regards to Ms. O ; 911 call.

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,

Letter to Ms. B O
May 21, 2021
Page 3

- 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
(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

Dr. William J. Kass

Doug Mitchell

Eric Nixon

Edward Harness, Executive Director

May 21, 2021

Via Certified Mail

7018 1130 0002 3429 1095

Re: CPC #024-21

Dear Mr. H

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint on 01/29/2021, regarding incidents that occurred on unknown dates.

I. THE COMPLAINT

PO Box 1293 Mr. J H submitted a complaint which stated he had 6 months worth of issues and would explain further details with lawyer's present.

II. INVESTIGATION

Albuquerque On 04/22/2021, CPOA Investigator called the phone number listed on Mr. H complaint, no answer, a voicemail was left.

NM 87103 On 04/22/2021, CPOA Investigator sent an email to Mr. H which advised the CPOA received his complaint and in order for the department to conduct a thorough investigation in reference to the complaint, Mr. H was asked to provide further details about the complaint.

www.cabq.gov On 04/23/2021, Mr. H responded to the email by stating "Yeah, I'm the pussy faggot, or ITS what I'm being and being discriminated against, and a victim of identity theft."

On 04/23/2021, CPOA Investigator responded via email and asked when would be a good time to speak over the phone.

On 04/23/2021, Mr. H responded "anytime" and provided the number

On 04/23/2021, CPOA Investigator called the updated phone number that Mr. H provided, no answer, another voicemail was left.

Letter to Mr. H
May 21, 2021
Page 2

On 04/23/2021, CPOA Investigator emailed Mr. H , advised Mr. H that CPOA Investigator left him a voicemail and asked when would be a good time for an interview?

On 04/27/2021, CPOA Investigator called Mr. H s a 3rd time, no answer and a 3rd voicemail was left informing Mr. H to call CPOA Investigator by 04/28/2021 to complete an interview.

Mr. H never reached back out to the CPOA Investigator.

A request from APD Records confirmed in the last year, Mr. H has had 6 different interactions with APD Personnel.

In Mr. H ' complaint, under "police employee," it listed only one name (Brian Nissen.) CPOA Investigator could not locate anyone by that name in IA Pro.

The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** the complaint, as Mr. H did not identify any specific complaints against any APD Personnel. CPOA Investigator made several attempts to speak with Mr. H s in which Mr. H did not cooperate with the interview process.

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.

Letter to Mr. H
May 21, 2021
Page 3

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
(505) 924-3770

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



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Tara Armijo-Prewitt

Dr. William J. Kass

Doug Mitchell

Eric Nixon

Edward Harness, Executive Director

May 21, 2021

Via Certified Mail

7018 1130 0002 3429 1057

Re: CPC #136-20

Dear Mr. M

PO Box 1293

Our office received the complaints you filed on March 20, 2020, and August 28, 2020 against Albuquerque Police Department (APD) Officer M. and Officer H. regarding an incident which occurred on September 11, 2019. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint. Below is a summary of the complaint, and the CPOA's investigation and findings.

Albuquerque **I. THE COMPLAINT**

NM 87103

Mr. J M complained that Officer M. and Officer H. took his wife, Ms. B., into custody in handcuffs from her own home despite Ms. B. being cooperative. Mr. M also wants the incident expunged from Ms. B.'s record, as the medical professionals immediately discharged her after she was taken in for a mental health evaluation at University of New Mexico Hospital (UNMH).

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II. THE INVESTIGATION

The CPOA Investigator reviewed your complaints, the CADS, Officer H.'s written report, your telephone interview with the Investigator, and 6 lapel camera video recordings.

The evidence showed that on September 11, 2019 at approximately 6:48 PM, Officer M., along with her trainee, Officer H., and Officer S., responded to a Suicide call. Upon their arrival, the three officers contacted you at your vehicle and you explained to them that you and Ms. B. are in the process of buying a new home and it has been extremely stressful for Ms. B.. You said you and Ms. B. had exchanged several text messages during the day and in this exchange, Ms. B. said something to the effect that "this actually made me feel suicidal" and "I'd rather be dead than live like this and live another

day with you.” You showed the string of text messages to Officer M.. You told the officers that on the way to your new home, Ms. B. took her seatbelt off while the vehicle was moving and reached for the door handle saying she’d rather die than go to the hospital. Ms. B. also told you she’d wished she was dead and didn’t want to live with you and your baby anymore.

Lapel videos showed officers contact Ms. B. at the fence of your new home and asked for her side of the story. They asked if she made suicidal statements, and she admitted she said “I’d rather jump out of this car than have you take me somewhere against my will”. She also admitted the text messages included some about suicidal thoughts and that she said when thinks of living with you for the next 30 years she wants to kill herself. As she spoke with the officers, she crossed her arms and looked at them and said, “Am I going to be involuntarily committed? Because if so, I need to finish the paperwork quickly.”

After speaking with you and Ms. B., and seeing the text messages you both exchanged that day, Officers M. and H., decided to take Ms. B. in for a mental health evaluation. The officers explained the process to both of you, to include APD’s policy to place Ms. B. in handcuffs while they transported her to the hospital for a mental health evaluation, to which responded with a thank you and Ms. B. responded by complying with the process. Officer H. placed Ms. B. in handcuffs and transported her to UNMH for a mental health evaluation.

The evidence showed Officers M. and H. detained Ms. B. based on their personal observations of statements made to them by you and her, and the text message exchange between you both. As a result, they had reasonable grounds to believe Ms. B. was a threat to herself and acted in accordance with APD SOPS.

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

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included your complaints, the CADS, Officer H.’s written report, your telephone interview with the Investigator, and 6 lapel camera video recordings.

A) The CPOA reviewed APD SOP 2-19-11(A)(3)

After a review of the evidence and this SOP, the CPOA was unable to find any violation of the SOP; therefore, the CPOA finds Officer M.’s conduct and Officer H.’s conduct **EXONERATED** regarding the allegation of a violation of this SOP, which means the investigation determined, by a preponderance of the evidence, that the alleged conduct did occur but did not violate APD policies, procedures, or training.

The complaint and these findings are made part of Officer M.’s and Officer H.’s Internal Affairs records and personnel records.

Letter to Mr. M
May 21, 2021
Page 3

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

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

Sincerely,
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



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Dr. William J. Kass

Doug Mitchell

Eric Nixon

Edward Harness, Executive Director

May 21, 2021

Via Certified Mail

7018 1130 0002 3429 1064

Re: CPC #330-20

Dear Ms. A

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint against Officers of the Albuquerque Police Department (APD) on 01/05/21, regarding an incident that occurred on 12/25/20. The CPOA thoroughly and impartially investigated the complaint.

PO Box 1293

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

Albuquerque

NM 87103

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

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I. THE COMPLAINT AND INVESTIGATION

Ms. C (Complainant) submitted a complaint which stated six individuals arrived to their house and she had asked them to leave as her father's (O A immune system was compromised. The complainant reported those individuals refused to leave so she called 242-cops to report the loud banging on the windows and the profanity. The complainant reported she feared that their violence was escalating and feared for her family.

Letter to Ms. A

May 21, 2021

Page 2

The complainant reported that when Officer T and Officer R arrived, Officer T insisted on speaking with Mr. A alone, even though the complainant informed her that Mr. A was diagnosed with Dementia in 2018. The complainant reported Officer R isolated the complainant and the two other people with her (D and D) in the kitchen. The complainant reported she witnessed Officer T escort Mr. A with his mask under his nose. The complainant reported she asked Officer T to place Mr. A mask over his nose, while Officer R stood in front of the complainant and would not let the complainant place the mask correctly on Mr. A. The complainant reported Officer R insisted the complainant stay back even though the complainant repeatedly asked for the mask to be placed properly on Mr. A. The complainant asked Officer T again to place the mask on herself and on Mr. A correctly.

The complainant reported Officer T then escorted Mr. A to the front door without a jacket or a mask properly placed on him. The complainant reported Officer T exposed Mr. A to the cold air and possibly the COVID virus.

The complainant reported she later opened the curtains and noticed that the front window was shattered. The complainant called 242-cops and when the officers returned, Officer R stated she noticed the window when she initially first arrived to the house and forgot to address it.

The complainant reported Officer T violated the health order of NM by improperly wearing her mask, placing all in the home in danger.

The complainant reported the officers were negligent, unprofessional and a disgrace to the APD Officers who righteously serve the public.

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable SOP's, the Complaint, the CAD, the Lapel Videos and the Interviews with Officer R and Officer T. The complainant was not interviewed and she did not respond to CPOA Investigators call, voicemail or email.

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.

Ms. C: A (Complainant) reported Officer R isolated the complainant and the two other people with her (D and D) in the kitchen. The complainant reported when she asked Officer T to place Mr. A mask over his nose, Officer R stood in front of the complainant and would not let the complainant place the mask correctly on Mr. A. The complainant reported Officer R insisted the complainant stay back even

Letter to Ms. A

May 21, 2021

Page 3

though the complainant repeatedly asked for the mask to be placed properly on Mr. A. The complainant reported she later opened the curtains and noticed that the front window was shattered. The complainant called 242-cops and when the officers returned Officer R stated she noticed the window when she initially first arrived to the house and forgot to address it. The complainant reported the officers were negligent, unprofessional and a disgrace to the APD Officers who righteously serve the public.

The complainant was not interviewed and she did not return CPOA Investigators call, voicemail or email.

During the interview with Officer R, she stated she pulled the complainant and her kids out of the main living room so she could talk to them about what was going on.

Officer R stated after they left the residence, officers were up the street working on paperwork when the complainant called back and stated someone had gone back to their house and broken a window. Officer R stated herself and Officer T returned to the residence and stated they had seen the broken window on their initial visit, so she knew that there was not any new damage. Officer R stated the window had completely slipped her mind when she had tried to explain to the parties about the civil issue. Officer R informed the complainant that she saw the damage during the initial visit but forgot to ask about it. The complainant stated a couple of C kids had been banging on the window but she did not actually see anyone break it, she just assumed it was broken when the kids were banging on the window. Officer T informed the complainant that they would add the damage to the report.

When asked if Officer R isolated the complainant and her family in the kitchen. Officer R stated the only thing Officer R could think of was when Officer R did step in front of complainant because Officer R had concerns that the complainant was going to approach Officer T's back.

When asked if officers were negligent and unprofessional per the complaint, Officer R denied that allegation.

Per the Lapel Video, Officer T asked the complainant if she could speak with Mr. A in private and the complainant stated sure. The complainant stated Mr. A did have a diagnosis of Dementia, so sometimes he forgets. Officer R followed the complainant and the other family members into the other room while Officer T spoke with Mr. A alone. Officer R informed the complainant and her family that they usually spoke to people separately and they stated they understood.

Officers exited the home to talk with the party outside.

Officers walked back towards the home and were allowed back inside. Officer R asked if the complainant and her family could go back into the kitchen with her. Officer R stated

she was going to advise the complainant what she advised the citizens outside. Officer R stated the citizens outside had a court order which stated they make the medical decisions for Mr. A and the complainant had a court order which stated the complainant made medical decisions for Mr. A. Officer R stated it was not her job to determine which court order trumped the other. Officer R stated if they would like, they could go to court and have a judge decide which order was valid. Officer R stated they were going to write an informational report that stated they went out there and both parties had court orders.

The complainant looked towards the living room and stated wait, Mr. A could not go outside. Officer R stated Mr. A was going to go to the door and say Merry Christmas to the citizens outside. The complainant stated Mr. A could say Merry Christmas but he was very fragile as she did not have results back from the cat scan. The complainant stated she at least wanted them (citizens outside) 6 feet apart from Mr. A. Officer R advised the complainant that the people outside all had masks on and Officer R was shown a negative COVID test. Officer R stated they were going to let them say Merry Christmas to Mr. A, so the citizens outside would leave peacefully. The complainant asked if Mr. A was going to stay inside, Officer R stated that was up to Mr. A. The complainant stated Mr. A had Dementia. Officer R stated she was not going to state which court order was more valid than the other, so the decision would revert back to Mr. A.

Officer R walked up to Officer T and Mr. A and stated the citizens outside could go to the door, just the door. Mr. A asked how come they can't go in? Officer R stated they weren't going to let them interact because there were some high tensions and just for everyone's safety and security. The complainant interjected and stated she did not want to interact but she did want them (the citizens outside) 6 feet apart. Officer R asked the complainant to go back into the kitchen and the complainant stated she would go back to the kitchen, her kitchen.

Per the Lapel Video, Officer R asked Mr. A to place the mask over his nose on two separate occasions in which he complied.

Per the CADs, the caller from the outside party reported that a subject from inside the home broke the window when they slammed the door. The complainant later called 242-cops after the officers had left and reported that the subjects returned to the house and broke the windows when the officers left.

Officers informed the complainant that the window was already damaged when they had initially arrived to the home. The complainant reported the outside subjects were banging on the windows but they did not witness who broke the window.

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

III. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING OFFICER T('s) CONDUCT

A.) The CPOA reviewed General Order 1-1-4D.15, regarding Officer T's conduct, which states:

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

The complainant reported that when Officer T and Officer R arrived, Officer T insisted on speaking with Mr. A alone even though the complainant informed Officer T that Mr. A was diagnosed with Dementia in 2018. The complainant reported Officer T escorted Mr. A to the front door without a jacket or a mask properly placed on him. The complainant reported Officer T exposed Mr. A to the cold air and possibly the COVID virus. The complainant reported the officers were negligent, unprofessional and a disgrace to the APD Officers who righteously serve the public.

The complainant was not interviewed and she did not return CPOA Investigators call, voicemail or email.

During the interview with Officer T, when asked if Officer T insisted on speaking with Mr. A alone, Officer T confirmed she did speak with Mr. A alone and she could not recall the complainant giving any pushback. Officer T stated Officer R talked to the complainant in a different room.

When asked if Officer T escorted Mr. A to the door with his mask under his nose, Officer T stated she did not recall and believed Mr. A mask was on. When asked if Mr. A mask was on properly, Officer T stated she could not recall. Officer T stated she could not recall the complainant asking her to correct Mr. A mask.

Per the complaint, Officer T escorted Mr. A to the front door without a jacket or mask properly placed exposing Mr. A to the cold air and possibly COVID. CPOA Investigator then inquired if anyone asked Officer T to place a jacket on Mr. A. Officer T stated not that she could recall. Officer T confirmed Mr. A wanted to speak with his family members that were outside. Officer T stated she felt Mr. A had the ability to make his own decisions.

When asked if officers were negligent or unprofessional during the incident, per the complaint. Officer T denied those allegations and explained to both parties' multiple times that they were dealing with a civil issue in reference to the Fiduciary and the POA.

Per the Lapel Video, Officer T asked the complainant if Officer T could speak with Mr. A in private and the complainant stated sure. The complainant stated Mr. A did have a diagnosis of Dementia, so sometimes he forgets. Officer R followed the complainant and the other family members into the other room while Officer T spoke

with Mr. A alone. Officer T identified herself to Mr. A and explained that they were there for a welfare check.

Officer T and Officer R went outside to discuss the details on what they obtained.

Officers went back into the home and Officer T spoke with Mr. A alone while Officer R spoke with the rest of the family in the kitchen. Officer T informed Mr. A that his family outside wanted to speak with him and asked him if he wanted to go outside to say hi. Mr. A asked if they could come in, Officer T stated it seemed like the complainant did not want them inside. Officer T stated it was up to Mr. A if he wanted to say hi to them. Mr. A stood up and Officer T informed Mr. A to do whatever he was comfortable with. Mr. A continued to ask who was outside. Officer R informed Mr. A to put his mask over his nose, so he could be safe. Citizens from outside walked up to the door and stayed outside while Mr. A stayed inside talking through an open door. It did appear both parties were over 6 feet away from each other.

Mr. A stood by the open door for approximately 7 minutes.

The CPOA finds Officer T'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 1-1-4B.2, regarding Officer T's conduct, which states:

Personnel will obey all federal, state, and local laws, all applicable rules and regulations. Personnel will also enforce those lawful directives while protecting the rights of individuals, as established in the Constitution of the United States and the Constitution of the State of New Mexico. Adherence includes, but is not limited to, obeying all felony, misdemeanor, and traffic laws, applicable local ordinances, as well as all lawfully-issued civil orders of any jurisdiction. Each quarter, the Department will compile and review violation reports to identify trends.

The complainant reported she asked Officer T to place Officer T's mask on correctly. The complainant reported Officer T violated the health order of NM by improperly wearing her mask, placing all in the home in danger.

The complainant was not interviewed and she did not return CPOA Investigators call, voicemail or email.

During the interview with Officer T, when asked if Officer T wore her mask correctly, Officer T stated she guessed not as the complainant took a picture of Officer T with the mask underneath her nose. When asked if the complainant requested Officer T to put the mask over her nose, Officer T stated she did not remember.

When asked if there was a reason Officer T's mask was placed under her nose. Officer T stated she wore her prescription glasses all the time and during the winter sometimes when she placed her mask over her nose, her glasses would get foggy. Officer T stated she had to place the mask right underneath her nose and if she did not, her glasses would get foggy and that became a safety issue.

The complainant provided a picture of Officer T which showed Officer T wearing her mask over her mouth and up to the bottom of her nose.

Per the Lapel Video, the complainant was not heard asking Officer T to place Officer T's mask on correctly.

The CPOA finds Officer T'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.

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 Ms. Al
May 21, 2021
Page 8

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 black ink, appearing to be 'EH' with a stylized flourish.

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

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Chantal M. Galloway, Vice-Chair

Tara Armijo-Prewitt

Dr. William J. Kass

Doug Mitchell

Eric Nixon

Edward Harness, Executive Director

May 21, 2021

Via Email

Re: CPC #293-20

Dear Mr. D

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint against Officers of the Albuquerque Police Department (APD) on 12/16/20, regarding an incident that occurred on 04/22/20. 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.

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.

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I. THE COMPLAINT AND INVESTIGATION

On 12/08/2020, Mr. G. D. submitted a complaint to the CPOA on behalf of one of his former clients (Mr. S. _____, Mr. E. _____; reported Mr. S. _____ was unlawfully detained by Officer M. Mr. D. _____ reported Mr. S. _____ was waiting in the parking lot of Bobs Burgers for some food that he had ordered when Officer M drove up and immediately told Mr. S. _____ that he was detained on suspicion of trespassing. Mr. D. _____; reported Officer M became verbally abusive towards Mr. S. _____ when Mr. S. _____ did not correctly recall his social security number. Mr. D. _____ reported Mr. S. _____ informed Officer M that he was waiting for food but Officer M did not investigate the trespassing further possibly because Officer M was using that charge as a pretext to seek warrant information.

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable SOP's, the Complaint, the CAD, the Incident Report, the Lapel Videos and the Interview with Officer M. Officer C was not interviewed as there were no complaints made against Officer C and a review of the lapel video confirmed there were no observable violations of SOP's by Officer C. Mr. Dumas was not interviewed as in the complaint he reported he would defer to Mr. S and a finding of fact by CPOA on the public record would be appropriate. Mr. S was not interviewed as he did not return CPOA Investigators calls or voicemail.

II. 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.

Mr. G and D reported Mr. S was unlawfully detained by Officer M. Mr. D reported Mr. S was waiting in the parking lot of Bobs Burgers for some food that he had ordered when Officer M drove up and immediately told Mr. S that he was detained on suspicion of trespassing. Mr. D reported Mr. S informed Officer M that he was waiting for food but Officer M did not investigate the trespassing further possibly because Officer M was using that charge as a pretext to seek warrant information.

Mr. Dumas was not interviewed as in the complaint he reported he would defer to Mr. S and a finding of fact by CPOA on the public record would be appropriate.

Mr. S was not interviewed as he did not return CPOA Investigators calls or voicemail.

During the interview with Officer M, he stated on the date of incident, while on patrol he witnessed two males sitting near the dumpsters on the westside of the Bob's Burgers. Officer M stated above the dumpster area was a posted no trespassing sign. Officer M stated during the time of incident, Bob's Burgers was not in business to customers going in and out as the doors were closed. Officer M stated the subjects loitering near the trashcans were trespassing. Officer M stated he parked his car, exited his vehicle and as he turned on his camera, the two male subjects got up from their location and started to walk towards the Bob's Burgers which was on the north side of the property. Officer M stated he immediately stopped both subjects and advised them that they were being detained and needed to sit down.

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Officer M stated when he ran Mr. S SSN through NCIC it turned out Mr. S had 4 misdemeanor warrants which were no bond holds out of different jurisdictions.

Officer M stated while he searched Mr. S Officer M located Methamphetamine, Heroin and Suboxone Strips on Mr. S s possession.

When asked again about what Officer M saw when he decided to detain the two subjects. Officer M stated when he drove by the property he initially saw Mr. S at the dumpsters on the SW side of the property. Officer M stated Bobs Burgers was located on a bigger property, as it was not just Bob's Burgers on the property. Officer M stated Bob's Burger was on the NW corner of the property and there was a whole strip mall on the property. Officer M stated the two male subjects were on the westside of the strip mall on the southwest side near the dumpsters.

When asked if Officer M ever verified with anyone at Bob's Burgers if Mr. S had food that was being made for him. Officer M stated he believed Officer C talked to one of the employees. Officer M stated he could not speak for Officer C if that was confirmed or not but at no point did anyone come out with food and there was no traffic at all as Bob's Burgers was closed to the public. Officer M stated he can verify that based on his Lapel Video that people were trying to go into Bob's but they were closed to people going into the business. Officer M stated he believed the drive through was open, but any face to face contact was closed. Officer M stated based off of all of that, he believed Mr. S was not ordering food.

Per the Lapel Video, Officer M stopped his vehicle, got out and walked towards Bobs Burgers. Officer M told two males "hey guys, go ahead and have a seat," as the two males were walking towards Bob's Burgers when they came into Officer M's Lapel Video view. One of the unidentified males stated they were getting something to eat, Officer M stated no, you were sitting right there. As Officer M continued to walk towards the two males, he advised them that they were being detained. Both unidentified males had a seat in front of Bobs Burgers. Officer M stated he was going to give them a warning but if they continued to argue he was going to cite them. Officer M informed the males that they were on private property trespassing as they were sitting over there (Officer M pointed in the direction opposite of Bobs Burgers.) One of the males, later identified as R S stated he just ordered something to eat from Bob's Burgers and they were making it for him. Officer M asked if he saw the trespassing sign over there (points to an area,) Mr. S stated he was just walking. Officer M stated he understood that and he would just give him a warning as he did not need the argument.

Officer M ran Mr. S information over his radio. Dispatch responded that Mr. Salazar's information came back with 4 warrants.

Later in the incident, dispatch advised 3 of the 4 warrants were now confirmed and they were waiting for one more. Officer M asked Mr. S to stand up and Officer M

handcuffed Mr. S : Officer M escorted Mr. S towards Officer M's vehicle and advised him that he would conduct a full pat down, a full search and he needed to know if he would find anything in Mr. S ; pockets. Officer M completed a search through Mr. S pockets. Officer M located a small plastic bag with a substance in it. Mr. S stated he was sorry as he did not know that was in there. Officer M found what he stated was meth on Mr. S . Officer M found another bag with some substance in it.

Per Officer C's Lapel Video, Officer C walked back towards Bob's Burgers where Officer M continued to speak with Mr. S: . Officer M informed Officer C that Mr. S wanted to leave his bag with the manager at Bob's Burgers and Officer C stated he would ask the manager if that was ok. Officer C walked into Bob's Burgers and asked for the manager. Officer C informed the Manager of Bob's Burgers that Mr. S: was wondering if he could leave his bag there with them because he was going to be taken in due to some warrants. The manager stated he had Mr. S: food and stated he saw officers talking to Mr. S but the manager had Mr. S : shake and stuff. The manager agreed to hold on to Mr. S: s backpack.

Although the manager at Bob's Burger confirmed with Officer C that he was making food for Mr. S ; that information was not obtained by officers until after it was discovered that Mr. S had 4 warrants. Per the Lapel Video, the sign on the Bobs Burgers door read "drive thru only." Per Officer M, he stopped his vehicle because the two subjects were sitting next to a dumpster in an area that stated no trespassing.

The CPOA finds Officer M'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.15, regarding Officer M's conduct, which states:

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

Mr. G: D reported Officer M became verbally abusive towards Mr. S: when Mr. S did not correctly recall his social security number.

Mr. Dumas was not interviewed as in the complaint, he reported he would defer to Mr. S: and a finding of fact by CPOA on the public record would be appropriate.

Mr. S was not interviewed as he did not return CPOA Investigators calls or voicemail.

During the interview with Officer M, Mr. S: continued to provide Officer M with incorrect information in regards to his name, DOB and SSN.

When asked if there was any verbal abuse towards Mr. S : per the complaint. Officer M denied that allegation.

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CPOA Investigator advised Officer M that CPOA Investigator had some questions about some comments that Officer M made via lapel video and CPOA Investigator wanted to know Officer M's perspective in regards to the comments. Officer M did provide responses to CPOA Investigator's questions.

Per the Lapel Video, Officer M asked Mr. S. for his name in which he replied " " S. Mr. S. stated he was just walking because he had thrown some trash after he put in an order. Officer M asked for his DOB in which Mr. S. provided. Officer M asked for his social security number, Mr. S. stated he did not know it. Mr. S. stated he fell as he had a big scar on his head. Mr. S. stated he did not know his SSN. Officer M stated if Mr. S. was concealing, he would put him in handcuffs, Mr. S. stated he was not.

Officer M obtained the same information from the other male who was with Mr. S. Officer C arrived on scene. Officer M advised Officer C that Mr. S. did not know his SSN. Officer M reiterated that Mr. S. s name was "J. " S. and Mr. S. confirmed. Officer M stated he gave him a chance, so if Mr. S. had anything he was going to jail. Officer M stated if Mr. S. was not going to give his SSN and play games, they were not going to play games today. Officer C asked Mr. S. his name and Mr. S. replied "J. " S. While Officer M began to walk towards his vehicle, Mr. S. began to state a SSN but stated he could not fully remember. Officer M asked what Mr. S. could remember. Officer M took down the SSN number that Mr. S. provided and walked to his vehicle and got on his lap top.

Officer M exited his vehicle and told the other male that was with Mr. S. he could leave in which he did. Officer M informed Mr. S. that Mr. S. was not coming back when his information was ran. Officer M stated if he had to arrest Mr. S. or for whatever warrant he had, if it was a misdemeanor, Officer M did not arrest for misdemeanors. Officer M stated if Mr. S. was going to play a game, he was not going to sit there all day. Officer M asked if Mr. S. had any form of identification as he was not coming back. Mr. S. stated a different SSN to Officer M. Mr. S. stated he had a hard time remembering things. Officers asked Mr. S. to confirm his information and now Mr. S. stated it was "R. " S. or. Mr. S. then gave officers a different DOB from the DOB he had previously stated. Officer M took Mr. S. new information back to his vehicle and worked on his laptop. Officer M ran Mr. S. information over his radio. Dispatch responded stating that Mr. S. information came back with 4 warrants.

Officer M exited his vehicle and walked back towards Mr. Salazar and Officer C. Mr. S. stated something that could not be heard and Officer M stated he did not have respect for people who did not want to give him their name. Officer M advised Mr. S. that he had four warrants, so he was probably going to go to jail today. Mr. S. asked if he could smoke a cigarette, Officer M stated no as he did not like liars.

Officer M advised Mr. S that all the warrants wanted to extradite him, so Officer M could not let him go. Officer M stated Mr. S had a no bond hold on one of the warrants so he had to arrest him.

Officer M informed Mr. S that he lied and Mr. S stated he got scared because he was on Methadone and he can't kick that stuff. Mr. S stated he had just stopped at Bob's Burgers to order something to eat. Officer M stated to stop, he had no sympathy for him. Officer M stated he should have just given the correct information like his friend did as Mr. S was an adult. Mr. S stated it was because he had a warrant and did not want to go to jail because he was on methadone.

Mr. S informed Officer M that he was 100% disabled and pulled out his wallet to show him. Officer M advised Mr. S that Mr. S had an ID in there. Officer M stated they went through that whole freaking thing and Mr. S had an ID on him. Mr. S stated it was expired. Officer M stated he asked him and Mr. S stated he never asked for an ID and Officer M stated yes he did.

Dispatch stated something about someone in Las Vegas and Mr. S gave a concerned look. Officer M stated they were not talking about Mr. S. As Dispatch continued to talk they state something about "her name" and Officer M asked Mr. S if he was a female?

Mr. S stated something that could not be heard and Officer M stated he was going to jail and to stop. Officer M stated they were not going to play that game. Officer M stated if Mr. S was going to play that game they were going to play that game and Mr. S already knew what game he was talking about. Officer M stated the "I'm hurt game," Mr. S stated he was hurt. Officer M stated to Mr. S that his feelings were probably hurt but he was not hurt. Officer M informed Mr. S that he did not need to go to a hospital and Mr. S was not going to a hospital. Mr. S stated the jail knew he was 100% disabled. Officer M stated cool, Mr. S was going to jail as they had medics out there and they would give him his medication. Officer M stated the faster Mr. S saw a judge today; the faster Mr. S was out. Officer M stated judges left at four, if Mr. S wanted to play the game, go to the hospital and waste his time. Mr. S stated who said he wanted to go to a hospital, Officer M stated Mr. S indicated Mr. S was hurt. Mr. S stated it was about the methadone, that was why he got the methadone so he did not do drugs.

While at the PTC, Officer M advised that Mr. S's rights were still in place but asked him what the substance was in a plastic bag. Mr. S stated he did not know as Mr. S had picked it up. Officer M began to test the items he found in Mr. S's possession. Officer M asked Mr. S what was in the silver wrapper, Mr. S stated he did not know. Officer M stated honesty went a long way. Officer M asked if it was cocaine or meth, Mr. S stated he did not know. Officer M stated to be quiet then.

Mr. S: stated Mr. S. told Officer M where the meth came from, Officer M stated yea it fell out of the sky, Mr. S stated no, he was cleaning the parking lot. Officer M stated Mr. S was a nice guy, Mr. S picked up a lot of stuff. Officer M stated Mr. S picked up a lot of drugs in the parking lot.

Officer M noted 3 bags that were in Mr. S possession tested positive for Meth. Officer M informed Mr. S for a person who did not use drugs, Mr. S stated test him, Officer M stated that's funny, that's hilarious. Mr. S stated to ask the director at the Methadone clinic, Mr. S cleaned that parking lot every day. Officer M stated he found drugs too and kept them. Officer M noted another bag tested positive for heroin.

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

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.

Letter to Mr. Di
May 21, 2021
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Sincerely,
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



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Edward Harness, Executive Director

May 21, 2021

Via Email



Re: CPC #304-20

Dear Mr. C

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint against Officers of the Albuquerque Police Department (APD) on December 21, 2020, regarding an incident that occurred on November 28, 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.

PO Box 1293
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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**

Mr. Cl : complained about the actions of Sgt. P and another officer while he was at the scene of an incident filming.

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable SOPs, the complaint, the Computer Aided Dispatch (CAD), the police reports, several lapel videos from the officers present, videos provided by Mr. C, Mr. Cl interview, Sgt. P's interview and Officer P's interview. Other officers were not interviewed due to their lapel videos or Mr. Cl s videos clearly establishing the level of contact. Additionally, Mr. C explained he had no complaints about any of the other officers present.

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

A) The CPOA reviewed Standard Operating Procedural Order 2-33-4A1b regarding Sgt. P's conduct, which states:

Persons not involved in an incident shall be allowed to remain in the immediate vicinity to witness stops, detentions, and arrests of suspects occurring in public areas, and shall be allowed to overhear and record the encounter between the suspect and the officer, except under the following circumstances: b. When persons interfere with officers lawfully exercising their duties, or violate the law

Mr. Cl : stated he was on the public sidewalk and sometimes in the landscaping rocks. He denied going into the parking lot, but other customers and cars were going in and out of the lot. The closest he ever got to the person detained was about fifteen feet. There was no crime scene tape to prevent anyone from moving about the area.

Sgt. P stated he had officers blocking the area. There was no need to put up crime tape because their vehicles were blocking all the entrances and around the parking lot. When asked about cars and people still going in and out of the business he said their cars were positioned where this subject was. He did not realize traffic was coming in and thought he told one of his officers to not allow people near the subject and the vehicle. Sgt. P explained officers needed to identify potential evidence in the area. As Mr. C came closer officers were distracted by him and keeping track of where he was coming from. Sgt. P explained officers would be talking to the subject or him and then walk away to greet Mr. C or tell him to stand back. He claimed the officers were not focused at the task at hand due to Mr. C's presence. This was why he approached Mr. C. Sgt. P went up to Mr. C to advise him he had a perimeter set up based on where his vehicles were. Sgt. P explained he has informed Mr. C that marked vehicles defined his perimeter in past situations. When Mr. C mentioned crime scene tape, he did not think it was needed due to the previous conversations he has had with Mr. C. Throughout the incident when he noticed officers paying more attention to Mr. C he would then approach. Mr. Cl had relocated from the northside of the parking lot to the westside. Sgt. P said he politely told Mr. C again to stay back from the perimeter, but it was ok to film. This was when the subject was loaded into the ambulance. Sgt. P explained officers needed to determine the direction of travel of the vehicle, if the subject dropped anything such as a shotgun since the subject had threatened someone with one, or ditched anything else. Sgt. P said there was a lot of attention directed to the subject so some evidence would not have been obvious according to Sgt. P such as a shotgun in the parking lot. Sgt. P alleged Mr. C interfered with officers exercising their duties.

The lapel videos and Mr. C recordings were reviewed. Mr. C arrived and started recording after the subject was detained in the back of a police car. Within minutes of Mr. C's arrival, a PSA made small talk with him for about a minute and when he moved to a different area Officer O talked to him for about a minute. Neither of

those individuals were actively engaged with the subject or anyone else at the time. The officers were not conducting other activities at that time. Mr. C : acknowledged another officer, but there was no conversation. Sgt. P approached Mr. C z about six minutes into Mr. C 's recording and told him he did not want to have to tape it up and to stand past the parked cars. Mr. C used profanity while Sgt. P talked to him. Sgt. P then returned to other duties. An officer approached Mr. C and asked him if he witnessed any force used. Mr. C : said no and the officer returned to other duties. As Mr. C continued to record he moved around the two sides of the parking lot, mostly on the sidewalk. The officers' videos showed a couple of officers took note of his presence, but did not engage with Mr. C except when Sgt. P approached to talk to him. The videos showed Mr. C remained outside of the marked vehicles in the parking lot of the gas station. There was a police vehicle parked on the street, but if he stood past that vehicle he would have had to be standing in the middle of the street or all the way across the street, which was further than policy permitted him to be. The videos showed Mr. C : did not summon officers over or attempt to interact with the arrested subject. The subject once tried to shout at Mr. C : by calling to the "cameraman." There were several officers on scene, at many times not actively engaged with the subject and were not searching for dropped evidence or performing other investigative duties as Sgt. P claimed was necessary. The videos showed other individuals were not inhibited from coming and going in the parking lot and store. The officer who was also interviewed for the investigation was unaware of any directed investigation into a direction of travel of the subject or whether the subject dropped anything. The officer interviewed participated in the inventory search of the subject's car, which proceeded without interference from Mr. C . Active searching was not visible in other officer videos. Mr. C filming was from a sufficient distance that officers did not indicate in the videos discomfort with his presence, only Sgt. P. Sgt. P did not go into detail about what his perimeter consisted of that night with Mr. C :. Despite Mr. C 's disrespectful behavior towards Sgt. P it was Sgt. P that initiated the contacts.

The CPOA finds Sgt. P's conduct to be **SUSTAINED** where the investigation determined that the alleged misconduct did occur.

B) The CPOA reviewed Standard Operating General Order 1-1-4D14 regarding Sgt. 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.

Mr. C claimed when he expressed how Sgt. P mistreated a friend of his, Sgt. P accused him of having a mental illness. Sgt. P put his face right up to his face and said he could not hear him. Sgt. P's face was inches away from his. He assumed Sgt. P's intention was to try to entice Mr. C to commit physical retaliation, but he did not. On the second interaction Sgt. P was so close his chest rubbed against his hand holding the camera. Mr. C told him several times to back up, but Sgt. P kept saying he could not hear him.

Mr. C : complained Sgt. P touched him and his property. Mr. C alleged Sgt. P has been escalating his behavior in their various contacts.

Sgt. P stated there were times when he was not sure if Mr. C was talking to him or talking to his viewers since Mr. C was live streaming. Sgt. P claimed this was why he told Mr. C he could not hear him, to understand if Mr. C : was talking to him or not and why he stepped closer. He agreed he could hear Mr. C 's voice. His intention was to know what Mr. C needed from him. He did not have a specific reason beyond that for getting so close. Sgt. P explained he asked Mr. C if he was disturbed due to Mr. C 's angry expression. Sgt. P watched Mr. C 's YouTube video later and found out Mr. C wanted to punch him. Sgt. P denied he touched Mr. C at any time until he was put into handcuffs and he did not try to take hold of his equipment. Sgt. P expressed that Mr. C has been to multiple scenes and intentionally tries to blend in to be unnoticed, which causes him concern. Sgt. P understood Mr. C has inquired with other officers if he is working when he is at scenes.

The videos showed when Sgt. P approached and spoke to him Mr. C : immediately responded with profanity. Sgt. P asked Mr. C if he was ok because for him to say that indicated he was disturbed. After answering Mr. C 's question about what type of scene it was Sgt. P approached very close and angled his ear towards him saying he could not hear him. Mr. C rudely told him to back up. Sgt. P stood close again and said he could not hear him and then walked away. He approached Mr. C : again later and came close to him and said he could not hear him. Sgt. P never asked if Mr. C was talking to him or his audience to clarify as Sgt. P said was his intention. Sgt. P came unnecessarily close to Mr. C since they were communicating and hearing each other. The videos showed Sgt. P took hold of Mr. C 's tripod for several seconds, but did not actually try to pull it away. The videos showed Sgt. P was so close that his chest may have or almost may have touched Mr. C 's hand that was against Mr. C 's body. The videos showed both Mr. C and Sgt. P have animosity for each other stemming from prior contacts. Mr. C in part was operating off the mistaken belief that Sgt. P was involved in a use of force against a friend the previous night, but the incident occurred with Mr. C 's friend in AZ the night prior, not Albuquerque. Mr. C was very confrontational and used profanity when Sgt. P approached, but Sgt. P's initiated the contact and insisted on being inappropriately close.

The CPOA finds Sgt. P's conduct to be **SUSTAINED** where the investigation determined that the alleged misconduct did occur.

C) The CPOA reviewed Standard Operating Procedural Order 2-33-4E1 regarding Sgt. P's conduct, which states:

If reasonably possible, officers should refrain from taking enforcement actions such as arrest, issuance of citations, or taking other actions to restrict recordings.

Mr. C stated Sgt. P directed an officer to put crime scene tape around him so that he could be arrested. Mr. C z agreed he had the opportunity to back up, but stood his ground on the sidewalk. He stayed because other people were coming and going and it was not a closed scene. The tape was put up behind him and he was handcuffed. Originally, Sgt. P said he was going to jail, but later let him out of the car and said he would receive a summons. When Mr. C z received his summons his biggest issue with the criminal complaint was that Sgt. P wrote he did not know what direction the subject vehicle came from so that was why he had a crime scene. He understood it accused him of tampering with the scene, but no part was blocked off. It was not closed off before he got there and only where he was then Sgt. P decided to block the one side.

Sgt. P stated he told Mr. C z several times to step back. Sgt. P denied he had an officer run the tape behind Mr. C in order to arrest him. Sgt. P stated he instead told Mr. C z “the tape is going up, please stand back” and gave Mr. C z and opportunity to comply. Mr. C z refused to acknowledge him and refused to step back. He then had Mr. C z detained. Once they finished he told Mr. C z he was being released, but would receive a summons for interfering in their investigation. All of his property was returned to him and he was free to leave. Sgt. P decided the best option was a summons versus physical arrest and transport to jail. In terms of the first charge he claimed when Mr. C z was on-scene he was obstructing the perimeter where the evidence could have been and Mr. C z could have tainted the evidence. He was asked about element c, which referred to a vehicle not stopping. Sgt. P said that might have been a mistake in what he selected. After reading them he thought it was supposed to be d. Mr. C z was obstructing the officers from conducting their duties, preserving and collecting evidence. In reference for the second charge Sgt. P claimed Mr. C z interfered in his ability to conduct an investigation. He interpreted the area/perimeter as an area temporarily controlled by the state and Mr. C z actions were an interference.

The videos showed as the subject was being loaded into the ambulance Mr. C z did move closer along the sidewalk. An officer prevented Mr. C z from going further. The videos showed Mr. C z did not attempt to push past the officer. The videos showed Sgt. P approached Mr. C z at that time and told him he was in his perimeter. Mr. C z asked him where his tape was since he was on a public sidewalk. Sgt. P directed an officer to string tape between a parked marked vehicle on the street and the back of the tow truck on the street. Sgt. P said if he was in the perimeter then they could arrest him. Mr. C z stood his ground on the sidewalk about at the rear of the tow truck. Sgt. P said the tape was going up and asked if he wanted to be arrested. Sgt. P told the officer to run the tape behind him and if he was in the perimeter then they could arrest him. The videos showed the officer ran the tape behind Mr. C z who did back up as Sgt. P advanced and backed up against the tape. Sgt. P then said he was in the perimeter and was under arrest. The videos showed Sgt. P did not pause the officer's actions to allow compliance as Sgt. P described in his interview. Mr. C z was taken into custody, handcuffed, and detained in the back of the vehicle. He was released about fifteen minutes later and resumed filming along the sidewalk. Mr. C z received a

summons for two charges. The first charge, 30-22-1C states, "Resisting, evading or obstructing an officer consists of C. willfully refusing to bring a vehicle to a stop when given a visual or audible signal to stop, whether by hand, voice, emergency light, flashing light, siren or other signal, by a uniformed officer in an appropriately marked police vehicle" Sgt. P admitted subsection C was a mistake and should have been subsection D, which states "D. resisting or abusing any judge, magistrate or peace officer in the lawful discharge of his duties." The second charge, 30-20-13 did not have a subsection identified yet the statute has several subsections. During the interview Sgt. P's description best fit subsection C, "No person shall willfully refuse or fail to leave the property of or any building or other facility owned, operated or controlled by the state or any of its political subdivisions when requested to do so by a lawful custodian of the building, facility or property if the person is committing, threatens to commit or incites others to commit any act which would disrupt, impair, interfere with or obstruct the lawful mission, processes, procedures or functions of the property, building or facility." It was Sgt. P's claim that the scene as he defined it was under the temporary control of the state or police while his investigation was ongoing and Mr. C interfered with their duties. Sgt. P claimed Mr. C jeopardized the collection of evidence yet the videos showed there was no active collection of evidence occurring. The videos showed Mr. C remained on the sidewalk, which by the officers' interactions they seemed comfortable enough with and an officer interview stated was not of concern. The only time Mr. C came closer than was comfortable was when he started to approach the sidewalk, but the officer halted his progress.

The CPOA finds Sgt. P's conduct to be **SUSTAINED** where the investigation determined that the alleged misconduct did occur.

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

A) The CPOA reviewed Standard Operating Procedural Order 2-33-4A1b regarding Officer P's conduct, which states:

Persons not involved in an incident shall be allowed to remain in the immediate vicinity to witness stops, detentions, and arrests of suspects occurring in public areas, and shall be allowed to overhear and record the encounter between the suspect and the officer, except under the following circumstances: b. When persons interfere with officers lawfully exercising their duties, or violate the law

Mr. C said when another officer approached him there was no crime scene tape up and he was still on the sidewalk. The officer told him he was too close.

Officer P stated he believed the scene was defined as vehicles were around the perimeter of the parking lot. Traffic in and out of the store was still going on the east side of the parking lot and gas pumps. They were not allowing anyone near the gas pumps, the north side, and the west side. They had one driveway blocked off and another that was partially blocked off. When Mr. C was there he remained for the most part on the north end

Letter to Mr. C.

May 21, 2021

Page 7

of the parking lot. He walked around to the west side at times. He was getting different angles for his filming. Officer P did not observe Mr. Cl come into the parking lot and he stayed on the sidewalk. Officer P felt it was a comfortable distance for him to be from the subject and the situation while they were at the car by the gas pumps. The ambulance was parked on the west side of the parking lot, but very close to the sidewalk. Mr. Cl began to walk directly towards the subject along the sidewalk. He walked to intercept Mr. C and told him he could not come closer. He was establishing with Mr. C that he could go no further. When Mr. Cl was trying to close distance that took their focus away from their subject.

The videos showed the subject was on the gurney and being wheeled to the ambulance. The ambulance was parked in the parking lot relatively close to the sidewalk that ran along the parking lot. The videos showed Mr. C started to move along the sidewalk towards the ambulance. He reached about the end of the tow truck before Officer P informed him he should go no further. Mr. C complained about an interference with his First Amendment Right, but did not move past Officer P. Sgt. P quickly engaged Mr. C in conversation. Officer P's action was only to inform Mr. C he should come no closer and he did not make any other inhibitions to Mr. Cl's ability to record. Not knowing if Mr. C would have stopped moving forward on his own it was reasonable for Officer P to inform Mr. C not to come closer.

The CPOA finds Officer P's conduct to be **EXONERATED** where the investigation determined that the alleged conduct occurred, 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

Letter to Mr. C
May 21, 2021
Page 8

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

A handwritten signature in black ink, appearing to read 'E. Harness', with a stylized flourish extending from the end.

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

Dr. William J. Kass

Doug Mitchell

Eric Nixon

Edward Harness, Executive Director

May 21, 2021

Via Certified Mail

7018 1130 0002 3429 1040

Re: CPC #072-20

Dear Ms. H.

Our office received the complaint you filed on December 18, 2019, against Albuquerque Police Department (APD) Officer H. and Police Service Aide (PSA) C., regarding incidents which occurred on September 9, 2019 and September 18, 2019, respectively. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint. Below is a summary of the complaint, and the CPOA's investigation and findings.

PO Box 1293

Albuquerque **I. THE COMPLAINT**

NM 87103

www.cabq.gov

Ms. H. stated she called APD on September 9, 2019 because her boyfriend, Mr. L. Thorpe, kicked in her door, strangled her and held a knife to her throat and demanded her car keys. She complained it took police 2.5 hours to show up. She said Officer H. told her the car was reported stolen and Mr. T. would be facing multiple felony warrants. She complained that she later learned that Officer H. gave her the incorrect case number and when she called the Foothills substation she was informed there was no case and her vehicle was never reported stolen. On September 18, 2019, she called APD to report her vehicle had been found, and she told PSA C. what she had learned and he reported that "she said she didn't think she had to call and have her vehicle removed from the system as stolen." She complained this was untrue and that PSA C. should have reported exactly what she told him. She complained he lied in his report. She complained that as of December 18, 2019, Officer H. had yet to file the police report to the District Attorney's (DA's) office and no warrants have been issued for Mr. T. She was told to call the police when Mr. T. comes back but said she has no faith or hope in the police when it takes 2-4 hours for them to respond. Mr. T. continues to go back to her home and she can't call APD for help because they take too long to come and if she calls them for help, he will become very violent. Had Officer H. filed the report in a timely manner, then warrants would have been issued for Mr. T. arrest and she would have been

Letter to Ms. H:

May 21, 2021

Page 2

able to relocate. That case has now been dismissed in the courts and APD and the judicial system have failed another domestic violence victim. She can't file restraining orders or cooperate with the courts because Mr. T will find out and become violent. She lives in fear because she can't count on APD or the judicial system. She wants Officer H. and PSA C. to be relieved of their duties because Officer H. failed to serve and protect and PSA C. lied in his police report.

II. THE INVESTIGATION

The CPOA Investigator reviewed your complaint, officer interviews, 7 CADS reports, the original police report and supplemental police reports from the September 9, 2019 incident, and the original police report and supplemental police reports from the November 15, 2019 arrest of Mr. T, and 21 lapel camera video recordings. Lapel video showed Officer H. put a Be On the Lookout (BOLO) for your vehicle and for Mr. T at 2152 hours, while standing in front of you. The evidence shows that at 2300 hours, Officer H. called Report Review to enter your vehicle as stolen, and that at 2317 hours, Employee ID entered the stolen vehicle into NCIC.

Officer H. interviewed you about the incident, and then went to this vehicle for a short time. Upon his return, he gave you his business card with his contact information and the case number written on it. Lapel video doesn't show the card so it cannot be confirmed or denied whether, or not, the case number was written correctly; however, were it written incorrectly, it is not a violation of APD SOPs, as it would be considered an inadvertent, typographical error that does not change the information within the written report.

Officer H. told you Mr. T had multiple felony charges against him and that he'd forward his written report to the Foothills Area Impact team to write the warrant for Mr. T but he didn't know how long it would take them to write the warrant. He suggested that you and your children stay at a shelter because Mr. T had access to your residence, and had already kicked in the door that night. Victim relocation is not the responsibility of Officer H.; however, he told you he wanted you and your children to be safe and, again, suggested you not stay at your residence that night and gave you phone numbers of shelters and other resources to assist you with relocating. He gave you a restraining order packet and told you the resources he had circled offered free services. In addition to these recommendations for you to relocate, extra patrols were scheduled for 24 hours beginning on September 9, 2019 and ending September 10, 2019.

The evidence shows Officer H. wrote his report charging Mr. T with multiple F2 felonies, to include auto theft, and forwarded the report to the Foothills Area Impact Team, who are responsible for writing warrants. The evidence shows Officer H. took the necessary steps, and followed the requirements outlined in APD SOPs.

A search of public records on the nmcourts.gov website shows that Mr. T was charged for three felonies on September 9, 2019 that stemmed from the incident about which you have complained, and he was charged with a misdemeanor Battery on a

household member on November 15, 2019, which resulted in his arrest at the time. The charge from November 15, 2019 was dismissed on December 18, 2019; however, the charges from the September 9, 2019 incident, and subsequent domestic violence incidents which took place January 17, 2020, January 20, 2020, January 21, 2020, and January 22, 2020, were ultimately adjudicated on January 21, 2021 and resulted in Mr. Thorpe's conviction. The responsibility to bring Mr. T. to trial on the aforementioned charges is that of the District Attorney's Office and not that of Officer H..

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

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included your complaint, officer interviews, 7 CADS reports, the original police report and supplemental police reports from the September 9, 2019 incident, and the original police report and supplemental police reports from the November 15, 2019 arrest of your ex-boyfriend, and 21 lapel camera video recordings.

A) The CPOA reviewed APD SOP 2-60-4(A)(1,2,4 &5a-f)

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

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

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included your complaint, 7 CADS reports, the original police report and supplemental police reports from the September 9, 2019 incident, and the original police report and supplemental police reports from the November 15, 2019 arrest of your ex-boyfriend, and 21 lapel camera video recordings.

A) The CPOA reviewed APD SOP 1-1-4(D)(19)

After a review of the evidence and this SOP, the CPOA finds PSA C.'s conduct **NOT SUSTAINED** regarding allegations of violations of this SOP, which means the investigation was unable to determine, by a preponderance of the evidence, whether the alleged misconduct occurred.

B) The CPOA reviewed APD SOP 2-8-5(A)(1), with an effective date of 6/2/17

After a review of the evidence and this SOP, the CPOA finds PSA C.'s conduct **SUSTAINED VIOLATION NOT BASED ON ORIGINAL COMPLAINT**, where the investigation determines, by a preponderance of the evidence, that misconduct did occur

Letter to Ms. H
May 21, 2021
Page 4

that was not alleged in the original complaint but that was discovered during the misconduct investigation.

The complaint and these findings are made part of Officer D.H.'s and PSA C.'s Internal Affairs records and personnel records.

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

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

Sincerely,
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Civilian Police Oversight Agency Board

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Chantal M. Galloway, Vice-Chair

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Dr. William J. Kass

Doug Mitchell

Eric Nixon

Edward Harness, Executive Director

May 21, 2021

Via Email

Re: CPC #091-20

Dear Ms. M:

Our office received the complaint you filed on January 17, 2020, against Albuquerque Police Department (APD) Officer B. regarding an incident which occurred on June 19, 2019. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint. Below is a summary of the complaint, and the CPOA's investigation and findings.

PO Box 1293

I. THE COMPLAINT

Albuquerque Ms. M said she was at Craft Republic on June 19, 2019 and left the premises around 2:00 AM. She said Officer B. was parked in the parking lot and as she drove off to follow her friends, Officer B. followed her out of the parking structure. As she made a left turn onto Jefferson from I-25 way, Officer B. pulled her over before she made a right onto I-25. She complained Officer B. lied about why he pulled her over. She complained he didn't have a reason to pull her over other than seeing her leaving a bar. She wants Officer B. to get a dash camera because he's a liar. She also complained he lied under oath, which is a felony.

NM 87103

www.cabq.gov

II. THE INVESTIGATION

The CPOA Investigator reviewed your complaint, the CADS, Officer B.'s supplemental report to Officer J.'s Aggravated Driving While Intoxicated (DWI)/Second Offense arrest report, your telephone interview with the Investigator, and 8 lapel camera video recordings. The evidence showed that on June 19, 2019 at 2:12 AM, Officer B. pulled you over for speeding, an inability to maintain your lane and almost hitting a curb, as well as failing to stop for a red light. Lapel video showed when Officer B. made initial contact with you, he introduced himself and said you were driving a little fast and you drove onto the shoulder. You agreed that you were driving a little fast and Officer B. asked if there was any reason and you said there was no reason and you weren't going to

lie to him. He asked if you had anything to drink and how long ago and you told him you had one drink about an hour and half before, and had just come from Craft Brewery. You looked for and located your vehicle insurance and it was expired. Officer B. gave you a seated nystagmus test as you sat in your car and then walked to his car. Officer J. arrived shortly thereafter and took over the investigation. Officer J. conducted Field Sobriety Tests (FSTs) on you, which you subsequently failed so he placed you under arrest and transported you to the Prisoner Transport Center (PTC). Officer B. also drove to the PTC to assist Officer J..

The evidence showed you did not refute the reasons Officer B. listed for stopping you, nor did you say anything about them, or complain about Officer B. to Officer J. during your interactions with Officer J.. In your interview with the CPOA Investigator you stated you didn't question Officer B. because you were scared since you had been driving while intoxicated. The CPOA Investigator asked if you had informed your attorney of your allegations that Officer B. lied and you said you told the Public Defender (PD), who represented you in court, about it and complained Officer B. also lied under oath. When asked by the CPOA Investigator about the PD's response to your allegations you said it was known that Officer B. always lies and that you were given the contact information to the CPOA and told you could file a complaint with our office.

During your interview with the CPOA Investigator you said it would have been helpful for Officer B. to have a dash cam on his car to prove your allegations. The CPOA Investigator suggested you make a recommendation to City Council about dash cams and said the recommendation would be added to this report, as well.

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

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included your complaint and interview, the CADS report, Officer J.'s and Officer B.'s written reports, and lapel camera videos.

A) The CPOA reviewed APD SOP 1-1-4(D)(19)

After a review of the evidence and this SOP, the CPOA was unable to find any violation of the SOP; therefore, the CPOA finds Officer B.'s conduct **UNFOUNDED** regarding allegations of violations of this SOP, which means the investigation determined, by clear and convincing evidence, that the alleged misconduct did not occur or did not involve the subject officer.

The complaint and these findings are made part of Officer B.'s Internal Affairs records and personnel records.

Letter to Ms. M
May 21, 2021
Page 3

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.

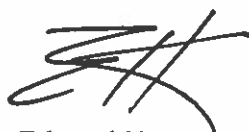
The Board may grant a Request for Reconsideration only upon the complainant offering proof that:

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

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

Sincerely,
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Civilian Police Oversight Agency Board

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Tara Armijo-Prewitt

Dr. William J. Kass

Doug Mitchell

Eric Nixon

Edward Harness, Executive Director

May 21, 2021

Via Certified Mail

7018 1130 0002 3429 1019

Re: CPC #012-21

Dear Mr. B:

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 01/26/21, regarding an incident that occurred on 01/12/21. 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

Mr. B reported when he was pulled over, Officer A stated in a rude and aggressive voice "I pulled you over for being on your phone while driving." Mr. B reported he told Officer A that he was incorrect as the phone was inside of his pocket. Mr. B reported when Officer A returned from his vehicle, he asked if Mr. B had his handgun on him. Mr. B stated he did have his hand gun on him as he had a conceal carry permit. Mr. B reported Officer A's aggressive nature had Mr. B frightened and Mr. B thought Officer A may shoot him if Mr. B moved at all. Mr. B reported Officer A then accused Mr. B again, calling Mr. B a liar about using his phone.

Mr. B reported Officer A then stated Mr. B windows were too dark. Mr. E reported Officer A restricted Mr. B liberty, acted aggressive, all while having zero proof of Mr. B breaking any laws. Mr. B reported that Officer A stated he would give Mr. B the benefit of the doubt, still calling Mr. E a liar. Mr. B reported Officer A stated Mr. B was free to go, using an aggressive angry tone. The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable SOP's, the Complaint, the CAD, the Lapel Video and the Interview with Mr. B. Officer A was not interviewed as a review of the lapel video confirmed there were no observable violations of SOP's by Officer A.

II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING OFFICER A('s) CONDUCT

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

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

Mr. B reported when he was pulled over, Officer A stated in a rude and aggressive voice "I pulled you over for being on your phone while driving." Mr. B reported he told Officer A that he was incorrect as the phone was inside of his pocket. Mr. B reported when Officer A returned from his vehicle, he asked if Mr. B had his handgun on him. Mr. B stated he did have his hand gun on him as he had a conceal carry permit. Mr. B reported Officer A's aggressive nature had Mr. B frightened and Mr. B thought Officer A may shoot him if Mr. B moved at all. Mr. B reported Officer A then accused Mr. B again, calling Mr. B a liar about using his phone. Mr. B reported Officer A stated Mr. B windows were too dark. Mr. B reported Officer A restricted Mr. B liberty, acted aggressive, all while having zero proof of Mr. B breaking any laws. Mr. B reported that Officer A stated he would give Mr. B the benefit of the doubt, still calling Mr. B a liar. Mr. B reported Officer A stated Mr. B was free to go, using an aggressive angry tone.

During the interview with Mr. B he stated Officer Aragon kept insisting that he saw Mr. B on the phone. Mr. B stated he had a vape module and Officer A may have seen that.

CPOA Investigator asked Mr. B about Officer A's aggressive nature where Mr. E felt Officer A was going to shoot him. Mr. B stated he should have chosen a better word than that, when Officer A asked in a louder voice if Mr. E was carrying a gun, Mr. B was a little shaken up from that. Mr. B stated Officer A seemed agitated or upset. CPOA Investigator asked if Officer A went for his gun at any time, Mr. B stated no, but Mr. B was facing east while in his vehicle and Officer A was kind of behind him. Mr. B stated he could not see a whole lot. Mr. B stated it was based on Officer A's tone of voice.

CPOA Investigator asked if Officer A called Mr. B a liar, per the complaint. Mr. B stated no, but Officer A suggested Mr. B was a liar by stating he saw Mr. Baca on the phone. CPOA Investigator asked if Mr. B was cited for the alleged cell phone use or the tinted windows. Mr. B stated no, as Officer A informed him while using a nasty tone, that he gave Mr. B the benefit of the doubt. CPOA Investigator asked Mr. E what made Officer A's tone aggressive or angry, Mr. B stated he was 52 years old, had dealt with a lot of people throughout his life in different situations and in his estimation, it was an aggressive tone.

Officer A was not interviewed as the entire incident was recorded via Lapel Video and after a review of the video, there were no observable violations of SOP's by Officer A.

Per the Lapel Video, Officer A exited his vehicle and walked up to Mr. E's vehicle. Officer A identified himself and stated he was with the Albuquerque Police Department. Officer A advised Mr. B that he pulled him over because Mr. B was on his cell phone. Officer A then asked if Mr. Baca had a driver's license, insurance and registration. Mr. B asked "I was on my cell phone?" Officer A stated yea. Mr. B stated no, he was not. Mr. B stated something that was unable to be heard in the lapel video and Officer A stated ok and asked for Mr. E's driver's license.

Officer A stated he would be right back and walked back to his vehicle. Officer A worked on his laptop and approximately one minute later, exited his vehicle and walked back to Mr. B's vehicle. Mr. F stated this one was expired (assumed talking about insurance) but he had it on his phone. Officer A stated that was fine and to let him see. Officer A asked if Mr. B had his gun on him, Mr. B stated he did and Officer A stated ok. Officer A returned Mr. B's driver's license and stated that Mr. B did not have any citations and stated Mr. E could be right. Mr. B stated he gave Officer A his word and Officer A stated he would give Mr. B the benefit of the doubt. Mr. E continued to talk but it was unknown what he stated as the lapel video could not pick up what was said due to the traffic passing by. Officer A stated he believed Mr. B and stated Mr. B's windows were tinted, so Officer A could not tell. Mr. B stated no, it was cool and Officer A could even look at his calls if Officer A wanted to. Mr. B explained to Officer A his last call he made was while he was at Home Depot and Officer A stated yeah. Officer A stated okay cool, Mr. B was free to leave and to drive safely. Officer A walked back to his vehicle.

A review of the Lapel Video confirmed at no time was Officer A, rude, aggressive or angry towards Mr. Baca during their interaction.

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

Letter to Mr. B
May 21, 2021
Page 4

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