

CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board *Chantal M. Galloway, Chair* *Joanne Fine, Vice Chair*
Dr. William J. Kass *Valerie St. John* *Chelsea Van Deventer*
Leonard Waites

Edward Harness, Executive Director

POLICE OVERSIGHT BOARD AGENDA

Thursday, April 11, 2019 – 5:00 PM
Vincent E. Griego Chambers

- I. Welcome and call to order.**
- II. Pledge of Allegiance – *Chantal M. Galloway, Chair***
- III. Mission Statement – *Chantal M. Galloway, Chair***
 - “Advancing Constitutional policing and accountability for APD and the Albuquerque Community.”*
- IV. Approval of the Agenda**
- V. Public Comments**
- VI. Review and Approval of Minutes from March 14, 2019**
- VII. Reports from City Staff**
 - a. APD**
 - 1. Internal Affairs/ Professional Standards - Statistical Data Report**
 - b. City Council**
 - c. Mayor’s Office**
 - d. City Attorney**
 - e. CPC**
 - f. APOA**
 - g. CPOA – *Edward Harness, Executive Director***
- VIII. Reports from Subcommittees**
 - a. Community Outreach Subcommittee – *Joanne Fine***
 - 1. Subcommittee Chair Election**
 - b. Policy and Procedure Review Subcommittee – *Chelsea Van Deventer***
 - 1. Subcommittee Chair Election**
 - c. Case Review Subcommittee – *Valerie St. John***
 - 1. Subcommittee Chair Election**
 - d. Personnel Subcommittee – *Chantal Galloway***
 - 1. Subcommittee Chair Election**

IX. Discussion

- a. Ordinance Update**
- b. Budget FY20**
- c. Legal Counsel Contract**
- d. ISR Contract**
- e. Chair Selection APD Policy Development Committees**

X. Consent Agenda Cases:

a. Administratively Closed Cases

089-18	176-18	261-18	277-18	007-19
010-19	013-19	014-19	016-19	017-19
018-19	026-19	036-19	037-19	038-19
041-19	064-19	070-19		

b. Exonerated
226-18

XI. Non-Consent Agenda:

- a. Unfounded/Not Sustained**
186-16
- b. Exonerated/Unfounded**
244-18
- c. Sustained**
275-18

XII. Serious Use of Force/Officer Involved Shooting Cases:

XIII. POB's Review of Garrity Materials:

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

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

- a. Matters subject to the attorney-client privilege pertaining to threatened or pending litigation in which the public body is or may become a participant pursuant to NMSA 1978, Section 10-15-1(H)(7); and**
 - i. Pending Litigation to include *Arasim v. CPOA et al.*, D-202-CV-2018-08758**
 - ii. Claimed OMA violations – Owens**
- b. Limited personnel matters pursuant to NMSA 1978, Section 10-15-1(H)(2)**
 - iii. Executive Director Evaluation**
 - iv. Garrity discussion CPC 186-16**

- XV. Other Business**
- XVI. Adjournment- *Next Regularly scheduled POB meeting will be on May 9, 2019 at 5:00 p.m. in the Vincent E. Griego Chambers.***

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board Chantal M. Galloway, Chair
Dr. William J. Kass Valerie St. John Chelsea
Leonard Waites

Joanne Fine, Vice Chair
Van Deventer

Edward Harness, Executive Director

April 12, 2019
Via email

Re: CPC #089-18

Dear Mrs. B

Our office received the complaint you filed on October 7, 2017 against Albuquerque Police Department (APD) Officer W., regarding an incident which occurred on October 7, 2017. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint.

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

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

I. THE COMPLAINT

Mrs. B. said that on October 7, 2017, at approximately 12:30 AM, she was parked on Gold St. between 4th and 5th St. when she got into her car and drove to an alley behind Sister Bar so she could load her equipment into her car. After loading her equipment she attempted to leave but there was a car behind her blocking her access, inside of which there were three males yelling comments at her. She drove in another direction away from these men to find a place to park to wait for her husband to come out of Sister Bar. She complained that as she approached 4th Street and Copper, a police car pulled behind her with its lights on and Officer W. immediately started shouting at her and threatening to put her in handcuffs and take her to jail. She complained Officer W. shone his flashlight in her face while she looked for vehicle registration and insurance documents even after she repeatedly asked him to move the light. She complained there were no less than 6 APD officers

surrounding her car, when they should have been patrolling downtown and not harassing her. Her complaint contained more information, see the complaint for more details.

II. THE INVESTIGATION

The CPOA Investigator reviewed your complaint, and Officer W.'s CADS report and Officer W.'s lapel camera recording. The evidence showed Officer W. contacted you outside your vehicle after you drove away from another APD officer, who had stopped you. Officer W. told you that you were not free to leave, and asked if you wanted to go to jail that night when you refused to cooperate with him and the other officers. Officer W. told you to get in your car and give him your vehicle information, which you eventually did. The APD Sergeant (Sgt.) who originally stopped you walked to your driver's window and spoke with you and could be heard telling you he understood your frustration with the barricaded streets, etc. While the Sgt. was speaking with you, your husband walked up to the officers and Officer W. told him to back up onto the curb because his proximity to the officers was of concern to him. Your husband refused to comply with Officer W.'s repeated requests and Officer W. raised his voice and told him to go to the sidewalk, and your husband finally complied and moved. The Sgt. can be heard telling you that he needed to shine the flashlight inside your vehicle to ensure there were no weapons and telling you this is the same action he does for every car he stops. You started yelling at the Sgt. and the Sgt. asked why you were yelling at him, and said he was trying to have a civil conversation with you. He continued speaking with you about parking barricades downtown and when the conversation was done, you drove away.

III. CONCLUSION

Based on the aforementioned information, the CPOA has made the decision to **ADMINISTRATIVELY CLOSE** your complaint because the evidence showed the allegations in your complaint could not minimally substantiate your allegations against Officer W., who did not violate any APD SOP violations.

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

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

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

Sincerely,
The Civilian Police Oversight Agency by

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

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

cc: Albuquerque Police Department Chief of Police

CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board

Dr. William J. Kass

Chelsea Van Deventer

Chantal M. Galloway, Chair Joanne Fine, Vice Chair

Valerie St. John

Leonard Waites

Edward Harness, Executive Director

April 12, 2019

Via Certified Mail

7007 0710 0001 8867 8581

Re: CPC #176-18

Dear Ms. S

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint against Officers of the Albuquerque Police Department (APD) on August 1, 2018, regarding an incident that occurred on June 25, 2018.

I. THE COMPLAINT

Ms. S submitted a written complaint regarding her allegation that an officer was at Target while leaving the vehicle running to keep the air conditioning on and the car cool in the summer. Ms. S wrote it was a waste of taxpayer money to leave the patrol car running.

II. INVESTIGATION

The CPOA Investigator determined the car was assigned to Officer S. The CPOA Investigator sent the complaint to Acting Commander E for review. Commander E reviewed the complaint with the officer and the officer's direct supervisor. Officer S was counseled about the incident. Commander E apologized for the delay in resolving the complaint.

III. CONCLUSION

The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** the complaint, as the complaint has been resolved by the supervisor.

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

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

Letter to Ms. S
April 12, 2019
Page 2

Sincerely,
The Civilian Police Oversight Agency by

A handwritten signature in black ink, appearing to be 'E. Harness', written over a horizontal line.

Edward Harness, Esq.
Executive Director

cc: Albuquerque Police Department Chief of Police

CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board

Chantal M. Galloway, Chair Joanne Fine, Vice Chair

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Valerie St. John

Chelsea Van Deventer

Leonard Waites

Edward Harness, Executive Director

April 12, 2019

Via Certified Mail

7007 0710 0001 8867 8598

Re: CPC #261-18

Dear Dr. G

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint against Officers of the Albuquerque Police Department (APD) on November 6, 2018, regarding an incident that occurred on or about October 4, 2018.

I. THE COMPLAINT

N G wrote to his city council member, which was forwarded to numerous others including the Civilian Police Oversight email address. Dr. G complained that he received several voicemails from an APD officer threatening arrest over his failure to pay three years of annual alarm permit fees. Dr. G wrote he contacted the False Alarm Reduction Unit by phone several times to explain his situation. Dr. G wrote the department did not discuss his situation with him before resorting to the officer calling him and leaving voicemails. Dr. G wrote there was no due process or appeal.

II. INVESTIGATION

The CPOA Investigator reviewed the APD SOPs regarding the Alarm Ordinance Unit. There are no SOPs regarding this Unit, just mentions of it. The Alarm Ordinance Unit is mentioned in Administrative Order 3-5 by explaining the unit issues alarm permits, maintains alarm permit records, and is responsible for billing and collection of false alarm fines. The Unit is also mentioned in Administrative Order 8-4, which states the Unit is responsible for the issuance and maintenance of alarm permits and provides their hours. There is no additional guidance in the APD SOPs for how this Unit is to operate. Therefore, the primary governing document is the Alarm Ordinance itself, which is 9-3-1 through 9-3-99. There is also a frequently asked questions section on the City of Albuquerque website.

The following quotes sections are from the Alarm Ordinance of the City of Albuquerque 9-3-1 through 9-3-99. Section 9-3-5A states, "No alarm user shall operate, or cause to be operated, an alarm system without a valid alarm user permit for the alarm site issued by the False Alarm Reduction Unit as required in section 9-3-1 et seq." Section 9-3-5C states, "A fee of \$25.00 shall be charged for the issuance and each annual renewal of each alarm user permit." The only waiver

mentioned is the Mayor will waive the permit fee under certain circumstances for verified low-income individuals and the process is listed. Section 9-3-5F states, "An alarm user who operates an alarm system without an alarm user permit shall be subject to the penalty provisions in section 9-3-99 of this Ordinance." Section 9-3-14A states, "Any person or entity that receives a notice of a False Alarm or a notice of fees or fines due under this Ordinance may appeal by filing a notice of appeal with the False Alarm Reduction Unit Supervisor." The section goes on to set the deadlines and the rights to appeal to a Hearing Officer if the supervisor denied the appeal. Finally, section 9-3-99 states, "Any person or entity charged with conducting any activity addressed by this Ordinance without a permit shall be guilty of a petty misdemeanor and shall be subject to the provisions set forth in Section 1-1-99 ROA 1994. Each and every day such violation is committed shall constitute a separate offense." The Ordinance goes on to say the City may seek an injunction and may collect unpaid amounts by any method provided by law. The frequently asked questions section of the Alarm Ordinance on the City website explains the possible penalties, which could be up to a \$500 fine and 90 days in jail. Each day such a violation is committed constitutes a separate offense. There is an appeal process listed, which requires documentation in writing.

III. CONCLUSION

The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** the complaint, as Dr. G. indicated in his letter to the council member that he called the Alarm Ordinance Unit on the phone, which did not follow the appeal process. There is a criminal penalty associated with failure to follow the Alarm Ordinance Unit. There are no additional SOPs dictating how the Alarm Ordinance Unit is to operate. APD officers are responsible for enforcing City of Albuquerque laws. There is no SOP violation for an officer informing the citizen of possible criminal consequences; any disagreement with the Ordinance is outside of the scope of the CPOA and should be addressed with City Council. A recommendation will be to have a SOP created on how the Alarm Ordinance Unit performs its functions.

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

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

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

Sincerely,
The Civilian Police Oversight Agency by

A handwritten signature in black ink, appearing to be 'EH' or 'E. Harness', written in a cursive style.

Edward Harness, Esq.
Executive Director

cc: Albuquerque Police Department Chief of Police

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Dr. William J. Kass Valerie St. John
Chelsea Van Deventer Leonard Waites
Edward Harness, Executive Director

April 12, 2019
Via Certified Mail
7007 0710 0001 8867 8604

Re: CPC #277-18

Dear Ms. G

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint against Officers of the Albuquerque Police Department (APD) on December 19, 2018, regarding an incident that occurred on September 9, 2018.

I. THE COMPLAINT

Ms. G submitted a written complaint regarding her allegation that APD officers did not investigate a rape she mentioned the night she was arrested. Ms. G wrote she was out drinking with some friends; after she took a shot she blacked out until the next morning. She wrote she had no recollection of the night. She suspected she had been sexually assaulted due to symptoms she had and her face was scraped and in pain. She obtained lapel videos from her arrest and she heard herself tell officers she had been raped. She complained the officers did nothing to "console" this. She believed she was drugged without her knowledge.

II. INVESTIGATION

The CPOA Investigator reviewed the police report, the CADs, the lapel videos, the photos taken by the FI, and the supervisory level force investigation. A security guard in the area called in a domestic dispute where Ms. G assaulted her boyfriend. The videos showed officers responded and observed Ms. G screaming at a man while on the sidewalk. Officer S contacted Ms. G but she continued to walk backwards away from the officer, almost falling. Officer S told her he was there to help and wanted to talk to her. She had scrapes on her knees and a nasal injury when he first saw her. As Officer S came closer, the video showed Ms. G rushed him and tried to push or strike him. Officer S and Officer A attempted to grab Ms. G who turned and struck Officer A. Officers restrained her against the wall in order to handcuff her. Ms. G kicked the officers and managed to kick one of them in the groin. She lost her balance and the officers lowered her to the ground.

The videos showed Ms. G's behavior was erratic, but most of the time she screamed various phrases of profanity and called the officers numerous insulting names. The videos showed the officers asked Ms. G how she received her injuries, but she did not answer and instead responded with profanity and insults. Ms. G made several statements that did not make

sense. The officers asked Ms. G what happened that night, but she did not answer other than with profanity. Ms. G made several statements that the officers should hit her and sometimes alleged that the officers already hit her despite the videos showing the officers did not strike Ms. G. At one point when Ms. G alleged officers touched her; Officer A explained he did not want to, but laid hands on because she attacked them. Her response was, "Like I wanted to be raped by a man (the last couple of words were incomprehensible)." Officer A immediately asked her when that happened, but she did not respond with any information other than insults to the officers. Officer A told her it seemed like a lot was going on that they did not know, but she claimed she told them, which the video showed she had not. This was the one and only time she mentioned anything about a sexual assault. Ms. G did not allege the assault happened that night or provide any information that the officers could investigate. The videos showed officers asked her later if she wanted to tell them what was going on and she said she did not. Ms. G continued to make nonsensical statements and said very little except for profanity and insults. Rescue arrived and she agreed she wanted to go to the hospital when they asked. However, she was so combative by kicking at the gurney and thrashing against the officers that Rescue administered a sedative. Officers eventually were able to restrain her on the gurney and she was transported to the hospital. The lapel videos showed the officers were very professional with Ms. G despite her belligerence.

A supervisory use of force investigation was conducted due to physical force used from resisted handcuffing and her allegations she was hit. The physical force used was within policy. Officers grabbed her by her arms and wrists and lowered to the ground after she was combative. Ms. G did not report a sexual assault to the supervisor when he attempted to interview her for the use of force investigation. Ms. G refused to provide any information about what happened that night and refused to answer the officer's question about the sexual assault when she brought it up. Ms. G did not report anything hours later to the officer that transported her to jail. Since no sexual assault examination occurred at the hospital, she presumably did not report anything to medical staff either. Ms. G still has the opportunity to report the sexual assault for investigation. Ms. G also has the opportunity to report her suspicion of being drugged for investigation.

III. CONCLUSION

The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** the complaint, as there was no SOP violation; Ms. G provided no information that the officers could pursue and that night she made many statements that did not make sense or were false. Ms. G still has all opportunities to report possible crimes against her while not in an altered state as she was that night. The best option would be to contact the Family Advocacy Center 625 Silver Ave SW, Albuquerque, NM 87102. Their phone number is (505) 243-2333.

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

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

Letter to Ms. G
April 12, 2019
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, appearing to be 'EH' or similar initials, written in a cursive style.

Edward Harness, Esq.
Executive Director

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



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Valerie St. John

Leonard Waites

Edward Harness, Executive Director

April 12, 2019

Via Certified Mail

7007 0710 0001 8867 8611

Re: CPC #007-19

Dear Mr. L

Our office received the complaint you filed on December 4, 2018, against Albuquerque Police Department (APD) Officer P., regarding an incident which occurred on November 20, 2018. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint.

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

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

I. THE COMPLAINT

Mr. L said that on November 20, 2018, he was walking to his home and had a confrontation with someone in a parking lot and when APD Officer P. arrived he obtain personal information from Mr. L and the other party and then told Mr. L he couldn't protect himself the way he did (with OC spray), unless the other party was running towards him. Officer P. told Mr. L he could have arrested him but he didn't because the other party refused to press charges. Mr. L feels that Officer P. just took the other party's side of the story and didn't properly do his job.

II. THE INVESTIGATION

The CPOA Investigator reviewed your complaint, Officer P.'s written report and Officer P.'s lapel camera video recordings. The evidence showed Officer P. was dispatched to a battery call wherein one male sprayed another male in the face with pepper spray. After speaking with you and the other party, Officer P. learned that you started yelling at another man in the parking lot as he was on his way to the movie theatre, and the two of you exchanged words, before you sprayed pepper spray in the other man's face. The evidence showed you admitted to spraying the other man in the face with pepper spray because you felt threatened by him. You also admitted to the other man and Officer P. that you suffered from a mental health condition, which caused you to be very scared when the other man was walking behind you. Officer P. told you the other man did not want to press charges against you, so no charges were brought against you. This made you angry with Officer P. because you felt you had a right to protect yourself. The evidence showed Officer P. obtained both sides of the story from you and the man you pepper sprayed, and was professional and polite throughout his contact with both of you.

III. CONCLUSION

Based on the aforementioned information, the CPOA has made the decision to **ADMINISTRATIVELY CLOSE** your complaint because Officer P. carried out his duties as a police officer and did not violate any APD SOPs.

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

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

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

Sincerely,
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

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Chelsea Van Deventer

Chantal M. Galloway, Chair

Valerie St. John

Leonard Waites

Joanne Fine, Vice Chair

Edward Harness, Executive Director

April 12, 2019

Via Certified Mail

7007 0710 0001 8867 8628

Re: CPC #010-19

Dear Ms. J

Our office received the complaint you filed on October 18, 2018, regarding your interaction with unknown Albuquerque Police Department (APD) officers on October 1, 2018, after you were involved in a hit-and-run accident, and subsequent road rage incident. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint.

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

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

I. THE COMPLAINT

Ms. J said that on October 1, 2018, she and her boyfriend were involved in a hit-and-run accident that resulted in a chase and a physical fight between her and the other driver. She complained that when APD arrived, the male officer yelled curse words at her and punched her. She complained the male officer refused to provide aid to her boyfriend who had broken his rib in the car accident and was having a diabetic episode. She thought a police report was made regarding the accident but when she went to APD Main on October 16 and 17, 2018, she was told there wasn't a report.

Ms. J also alleged the officers gave the driver of the other vehicle her personal information, including her home address because the other driver has driven passed her house, threatening and harassing her and her family by flashing a gun at them and telling her she better drop the lawsuit against them. She tried to file a police report at the SW substation on October 5 or 6, 2018, reporting the incident, but officers refused to make a report because the name she had for the other subject was fake.

II. THE INVESTIGATION

The CPOA Investigator reviewed your complaint and was unable to locate any additional information regarding this incident. The Investigator attempted to contact you to obtain more information regarding your complaint but you have not responded to the Investigator.

III. CONCLUSION

Based on the aforementioned information, the CPOA has made the decision to **ADMINISTRATIVELY CLOSE** your complaint due to lack of information.

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

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

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

cc: Albuquerque Police Department Chief of Police

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Joanne F. Pineda, Vice Chair

Edward Harness, Executive Director

April 12, 2019

Via Certified Mail

7007 0710 0001 8867 8635

Re: CPC #013-19

Dear Ms. P

Our office received the complaint you filed on November 24, 2018, against Albuquerque Police Department (APD) Officer L., regarding an incident which occurred on September 20, 2018. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint.

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

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

I. THE COMPLAINT

Ms. P complained that Officer L. degraded her by telling her she was an unfit mom, a drug addict, and telling her she was the cause of why her windows were broken. She complained, Officer L. also basically "disgusted" that she has children when she was homeless at one point and told her she wasn't a victim. She said Officer L. told her CYFD was called because she had 4 open cases at the time. Ms. P wants Officer L. to get in trouble for putting victims down, and being disgusted with her.

II. THE INVESTIGATION

The CPOA Investigator reviewed your complaint, Officer L.'s written report and 12 lapel camera video recordings from Officer L., Officer R. and Sergeant V.. The evidence essentially showed that on September 20, 2018, at 0315 hours, Officer L. was flagged down in front of your apartment by a female, Ms. J., who was allegedly battered by you and B E the father of your children, outside your apartment. Ms. J. allowed Mr. E to borrow her cell phone to make a phone call and Mr. E never returned the cell phone. When Ms. J. and another male, L , tried to retrieve the cell phone, an argument and physical altercation ensued involving you, Mr. E Ms. J. and L during which Ms. J. sustained injuries and your front windows got broken.

Lapel videos showed Officer L. conducted an investigation into these allegations and during the investigation she became concerned for the safety of your children, who you said were lying on the floor in front of the window when it was broken. You and Officer L. discussed the 4 open cases you had with CYFD. Lapel videos showed Officer L. told you why she was calling CYFD, but it did not show Officer L. degrading you, or calling you an unfit mother. Lapel videos showed you admitted to Officer L. that you had smoked methamphetamine within the past 1-2 hours, in the presence of your three small children. They showed your house was in disarray and without sufficient furnishings for your children. They showed Officer L. trying to calm you down when you cried uncontrollably about possibly losing your children, again. Lapel videos showed Officer L. speak with your parents about the situation, and about taking custody of your children so they wouldn't have to go into foster care. They showed Officer L. speak to you about getting your life together so you could be there for your children. The lapel videos showed Officer L. was forthright in her communications with you but not condescending, insulting or unprofessional.

III. CONCLUSION

Based on the aforementioned information, the CPOA has made the decision to **ADMINISTRATIVELY CLOSE** your complaint because Officer L. carried out her duties as a police officer and did not violate any APD SOPs.

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

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

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

Letter to Ms. P
April 12, 2019
Page 3

Sincerely,
The Civilian Police Oversight Agency by

A handwritten signature in black ink, appearing to be 'EH' or similar initials, written in a cursive style.

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

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board

Dr. William J. Kass

Chelsea Van Deventer

Chantal M. Galloway, Chair Joanne Fine, Vice Chair

Valerie St. John

Leonard Waites

Edward Harness, Executive Director

April 12, 2019

Via Certified Mail

7007 0710 0001 8867 8642

Re: CPC #014-19

Dear Mr. W

Our office received the complaint you filed on December 13, 2018, against Albuquerque Police Department (APD) Detective (Det.) B., regarding numerous incidents, which have occurred over the past three years. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint.

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

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

I. THE COMPLAINT

Mr. W complained his landlord has file approximately 15 false police reports on him within the past three years, which have generated a visit from the APD Crisis Intervention Team (CIT) unit. His landlord calls APD and reports that Mr. W has made threats to blow up the office and kill the office staff. Mr. W claims these are false reports and has tried to have APD file false reporting charges against his landlord but has been told he cannot. Mr. W is in fear for his life because he worries that he made be shot by police when they come to his apartment as a result of his landlord's false reports. He said he would move out if he could but due to the issues cause by his landlord he cannot. He said Det. B., a CIT member,

Letter to Mr. L.
February 22, 2019

Page 2

told him he would assist Mr. W in finding a new place to live and if he follows through Det. B. will be the first recipient of the "Sean Wade's Good Egg Reward".

II. THE INVESTIGATION

The CPOA Investigator reviewed your complaint and spoke with Det. B. regarding your situation. Det. B. told the Investigator he is taking care of this, and is in the process of working with you to find you new housing.

III. CONCLUSION

Based on the aforementioned information, the CPOA has made the decision to **ADMINISTRATIVELY CLOSE** your complaint because Det. B. did not violate any APD SOPS and is currently working with you to address the issues between you and your landlord.

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

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

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

Sincerely,
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



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Valerie St. John

Joanne Fine, Vice Chair

Chelsea Van Deventer

Edward Harness, Executive Director

April 12, 2019

Via Certified Mail

7007 0710 0001 8867 8659

Re: CPC #016-19

Dear Ms. L

Our office received the complaint you filed on December 23, 2018, regarding an incident which occurred at the University of New Mexico Hospital (UNMH) on December 22, 2018, and allegedly involved UNM Security personnel, UNM medical staff, and two unidentified Albuquerque Police Department (APD) officers. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint.

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

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

I. THE COMPLAINT

Ms. L complained she was in the UNMH Emergency Room (ER) waiting room the night of December 22, 2018, when she encountered a couple who was loud and obnoxious and allegedly drinking alcohol. She said the couple harassed and yelled gang affiliations at her before leaving the waiting room and getting into an altercation outside the waiting room. She brought it to the attention of UNMH Security staff, who ignored her because there was a shift change of UNMH personnel occurring at the time. She said numerous APD officers were leaving the ER, so she attempted to stop one of them to complain about the male drinking in the waiting area and complained that APD officer told her he and the other officers were

dealing with a gunshot victim at that time. She was unable to get any information from any of the APD officers as it all happened so fast.

II. THE INVESTIGATION

The CPOA Investigator reviewed your complaint, which contained limited information regarding an incident that took place on UNMH property, four CADS reports and eight lapel videos related to a family dispute/shooting call on December 22, 2018. None of the lapel videos, or CADS reports indicated any of the APD officers making contact with you. The lapel videos did not show any APD SOP violations. Additionally, UNM Police Department and UNMH security have jurisdiction at UNMH and would handle the situation you described in your complaint. APD does not have jurisdiction in the UNMH ER waiting room.

III. CONCLUSION

Based on the aforementioned information, the CPOA has made the decision to **ADMINISTRATIVELY CLOSE** your complaint because the information that is available does not show any APD SOP violations.

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

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

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

Sincerely,
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



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Chantal M. Galloway, Chair

Valerie St. John

Leonard Waites

Joanne Fine, Vice Chair

Edward Harness, Executive Director

April 12, 2019

Via Certified Mail

7007 0710 0001 8867 8666

Albuquerque, NM 87111

Re: CPC #017-19

Dear Mr. I

Our office received the complaint you filed on December 28, 2018, regarding ongoing issues you have encountered with the community policing academy and Albuquerque Police Department (APD). A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint.

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

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

I. THE COMPLAINT

Mr. I complained he is being stalked and harassed daily by the community policing academy. He has video documentation of the public meetings, where APD Sergeants (Sgt.) are taking advice from these community organizations and allowing victims to be stalked and harassed continuously. He claims to have found audio bugs in his home and Bluetooth light bulbs throughout his house. He wants help because the community policing academy has destroyed every aspect of his life for the past three years. He has lost jobs, houses, friends and family members with this insanity.

II. THE INVESTIGATION

The CPOA Investigator reviewed your complaint and a police report dated December 28, 2018, written by APD Officer B., at your request, to document an incident that occurred earlier in that day. The report documented a call to APD from your neighbor who reported a disturbance at your apartment. According to the report, APD officers arrived on scene for the disturbance call but all appeared quiet at the time so no contact was made with you. The officer explained that if any caller calls police for what appears to be domestic violence then it is not considered harassment. The evidence showed there were no APD SOP violations.

III. CONCLUSION

Based on the aforementioned information, the CPOA has made the decision to **ADMINISTRATIVELY CLOSE** your complaint because the information that is available does not show any APD SOP violations.

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

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

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

Sincerely,
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



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Edward Harness, Executive Director

April 12, 2019

Via email

Re: CPC #018-19

Dear Mr. M

Our office received the complaint you filed on December 17, 2018 against Albuquerque Police Department (APD) 911 Call Center, regarding an incident that took place on December 15, 2018. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint.

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

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

I. THE COMPLAINT

Mr. M complained that he called APD 911 Call Center on December 15, 2018 regarding an attempted home invasion and the 911 Call Center sent out the Albuquerque Fire Department (AFD). He said AFD told him that only AFD personnel would knock on his door for a gas leak and told him to call APD again to have an officer respond to take a report for the attempted home invasion. He called 911, again, and they said they would send an officer out for the report but an officer never responded. On December 17, 2018, he called 242-COPS to tell them an officer never responded to his residence on December 15, 2018 and they would not take his complaint about no police response. He said he will never call 911 for problems at his home and will buy a gun for home protection.

II. THE INVESTIGATION

The CPOA Investigator reviewed your complaint, the CADS reports, and email correspondence related to your having sent your complaint directly to Mayor Tim Keller's office. The evidence showed your complaint was ultimately forwarded to the APD 911 Emergency Communications Center Manager W. for investigation into the matter. The Investigator learned from Manager W. that she contacted you on December 20, 2018 via telephone and told you that a complete review of all of your phone calls had been completed and all your concerns had been or were going to be addressed. You told Manager W. you were very satisfied with her response to your complaint and with the intended action going forward.

III. CONCLUSION

Based on the aforementioned information, the CPOA has made the decision to **ADMINISTRATIVELY CLOSE** your complaint because your complaint has already been addressed and resolved by the APD 911 Manager.

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

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

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

Sincerely,
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



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Edward Harness, Executive Director

April 12, 2019

To file

Re: CPC #026-19

Dear Ms. O

Our office received the complaint you filed on January 20, 2019, regarding a driving complaint against an Albuquerque Police Department (APD) officer. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint.

PO Box 1293

Albuquerque

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

NM 87103

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

www.cabq.gov

I. THE COMPLAINT

Ms. O complained about an APD Officer's driving on the freeway beside her and in front of her. She explained that she and the officer were both driving 75 mph on the freeway and when she signaled to change lanes, the officer did the same so as to stay in front of her. She said the officer decelerated quickly once in front of her and said they continued to drive aggressively over and in front of her until she was forced to stop between the right lane and shoulder. She said once she stopped on the freeway the officer took off without pulling her over. She complained the officer never engaged their emergency lights. She was unable to get any identifying information on the vehicle, or the officer.

II. THE INVESTIGATION

The CPOA Investigator reviewed your complaint. Driving complaints received by the CPOA are typically forwarded to the offending officer's supervisor to be addressed with the offending officer. There is no identifying information regarding the involved officer in this incident, therefore, the Investigator is unable to forward this complaint on.

III. CONCLUSION

Based on the aforementioned information, the CPOA has made the decision to **ADMINISTRATIVELY CLOSE** your complaint for lack of information.

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

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

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

Sincerely,
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



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Joanne Fine, Vice Chair

Chelsea Van Deventer

Edward Harness, Executive Director

April 12, 2019

Via Certified Mail

7007 0710 0001 8867 8673

Re: CPC #036-19

Dear C U

Our office received the complaint you filed on January 8, 2019 regarding your desire to seek financial compensation for an incident that took place at an unknown location and on an unknown date. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint.

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

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

I. THE COMPLAINT

C U complaint is very difficult to follow and it is difficult to discern when and where the incident took place but it appears that it involved his vehicle having been towed by APD. He wants financial compensation to cover the costs incurred from the incident and intends to file a tort claim.

II. THE INVESTIGATION

The CPOA Investigator reviewed your complaint, which seeks financial compensation and speaks to you filing a tort claim. The CPOA has no authority to assist with either of those and directs you to contact:

City of Albuquerque
Risk Management Division
PO Box 470
Albuquerque, NM 87103
Phone: (505) 768-3080
Email: riskmgmt@cabq.gov

III. CONCLUSION

Based on the aforementioned information, the CPOA has made the decision to **ADMINISTRATIVELY CLOSE** your complaint because your matter needs to be addressed by City of Albuquerque Risk Management Division.

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

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

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

Sincerely,
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



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Leonard Waites

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Edward Harness, Executive Director

April 12, 2019

Via Certified Mail

7007 0710 0001 8867 8680

Re: CPC #037-19

Dear Mr. W

Our office received the complaint you filed on January 09, 2019 against Albuquerque Police Department (APD) Officer W. for not having a police report available to you for an incident you reported on November 24, 2018. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint.

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

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

I. THE COMPLAINT

Mr. W said he called APD on November 24, 2018 to report an incident that occurred. Officer W. responded to the call and afterwards told Mr. W the report would be completed in two weeks. Mr. W went to the police station twice to get a copy of the report, which is needed for Crime Victim Compensation. As of January 9, 2019, he still had not received a copy of the report.

II. THE INVESTIGATION

The CPOA Investigator reviewed your complaint and located a copy of the CADS and police report about which you are complaining. The Investigator attempted to call you to notify you that the report was completed but the call could not be completed, nor were any voicemail messages allowed to be left.

III. CONCLUSION

Based on the aforementioned information, the CPOA has made the decision to **ADMINISTRATIVELY CLOSE** your complaint because the police report has been completed. Please contact APD Records to obtain a copy of your report.

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

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

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

Sincerely,
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



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Valerie St. John

Joanne Fine, Vice Chair

Chelsea Van Deventer

Edward Harness, Executive Director

April 12, 2019

Via Certified Mail

7007 0710 0001 8867 8697

Re: CPC #038-19

Dear Ms. El

Our office received the complaint you filed on January 13, 2019, regarding an incident you witnessed and reported to Albuquerque Police Department (APD), wherein it took an extended period of time for officers to respond. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint.

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

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

I. THE COMPLAINT

Ms. E said she was in the parking lot of Big Lots at San Mateo and Zuni when she witnessed a woman sitting in the car next to hers smoking a cigarette. There was a child between the ages of 2-3 roaming about the car that was holding drug paraphernalia (a pipe) and playing with it. Ms. E called 242-COPS to report the incident and was told an officer would respond; however, after an hour and a half no one had responded to the call. Instead she received a call from APD that an officer would be out soon. Ms. E complained that with the delayed response the woman and child would no longer be in the same location, and she is concerned that APD did not deem this situation more of a priority, especially in the current climate of child endangerment.

II. THE INVESTIGATION

The CPOA Investigator reviewed your complaint and was unable to locate any additional information regarding this incident.

III. CONCLUSION

Based on the aforementioned information, the CPOA has made the decision to **ADMINISTRATIVELY CLOSE** your complaint due to lack of information.

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

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

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

Sincerely,
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



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Valerie St. John

Joanne Fine, Vice Chair

Chelsea Van Deventer

Edward Harness, Executive Director

April 12, 2019

Via Certified Mail

7007 0710 0001 8867 8703

Re: CPC #041-19

Dear Mr. C:

Our office received the complaint you filed on February 4, 2019, regarding no response from Albuquerque Police Department (APD) officers to an alarm call at your residence on February 3, 2019 at 5:30 PM. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint.

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

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

I. THE COMPLAINT

Mr. C in said that on February 3, 2019 at 5:30 PM Simply Safe security called him to report a motion alarm detector had gone off in his home. Simply Safe told him they called APD. Mr. C said it took him 23 minutes to reach his residence and when he arrived APD was not on-site. He complained he had to clear his residence by himself, which took approximately 10 minutes and after it was cleared he called Simply Safe to cancel the alarm. He complained that as he was racing down Central Avenue he saw five APD cruisers parked at the McDonald's on the corner of Central and Wyoming milling around their cruisers. He complained that after 33 minutes there was still no response to his house. He said it is

unacceptable that no one responded to his residence yet there were five APD cruisers in a hamburger parking lot.

II. THE INVESTIGATION

The CPOA Investigator reviewed your complaint, CADS reports, a call summary for that area and timeframe, and APD SOPs regarding call priority.

The CADS showed the following timeline:

5:09 PM Simply Safe called APD Dispatch to report the alarm, which is a Priority 3 call.

5:10 PM RP (reporting party) pending.

5:15 PM Simply Safe called APD Dispatch to advise you were en-route to your home with a 15 minute ETA.

5:24 PM Two officers were dispatched to your residence and were en-route at this time.

5:30 PM Simply Safe called APD Dispatch canceling APD police response; stating they received the proper code and it was a false alarm.

A call summary for that area and time showed that one of the officers responding to your alarm call had been dispatched to a Priority 2 call at 5:20 PM. The call to which that officer responded was 3 blocks away from the McDonald's located at Central Avenue and Wyoming, and according to [googlemaps.com](https://www.google.com/maps) shows it is 5-6 minutes away from your residence. Given this distance and time, the officer would have been near to your home at the same time the call was canceled by Simply Safe.

APD SOPs showed that calls for service are evaluated on a priority system. A Priority 3 call, which includes alarm calls such as yours, are considered routine and are described as "Any calls regarding crime or incident which has already occurred and no life or property is in jeopardy. This includes audible alarms. The call party will be advised of a possible delay of one hour or more." A Priority 2 call is described as "An event that is not life threatening when received but could escalate and result in bodily harm, property damage, or a criminal violation. Example: family disputes, disturbances, fight in progress, mental patients, suspicious persons or vehicles, etc. The beat unit will be dispatched within 15 minutes of receipt of the call. If the beat unit cannot respond within 10 minutes, the nearest available unit will be dispatched as recommended by the CADS system."

You complained that five APD cruisers were in the McDonald's parking lot as you drove by on the way to your home. You did not provide any identifying information regarding any of these vehicles, so it is not known whether, or not, the two vehicles, which were ultimately dispatched to your residence, were from this group of five, nor whether this group of five vehicles was meeting at this location to prepare for, and/or discuss how to handle the Priority 2 call 3 blocks away.

III. CONCLUSION

Based on the aforementioned information, the CPOA has made the decision to **ADMINISTRATIVELY CLOSE** your complaint because the information that is available shows that APD Officers responded to your alarm as soon as possible and within the time required by APD SOP, and does not show any APD SOP violations.

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

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

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

Sincerely,
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department Chief of Police

CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board

Dr. William J. Kass

Leonard Waites

Chantal M. Galloway, Chair

Valerie St. John

Joanne Fine, Vice Chair

Chelsea Van Deventer

Edward Harness, Executive Director

April 12, 2019

Via Certified Mail

7007 0710 0001 8867 8710

Re: CPC #064-19

Dear Mr. R -L

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint against Officers of the Albuquerque Police Department (APD) on March 7, 2019, regarding an incident that occurred on March 1, 2017.

I. THE COMPLAINT

A R -L filed an online complaint claiming that he is being electronically harassed and stalked by the sheriff's department and group leaders in the Farmington Town homes. Mr. R -L wrote these individuals have called him several insulting names.

II. INVESTIGATION

The CPOA Investigator reviewed the complaint and the employee names Mr. R -L identified. There are no APD employees with the names he provided. The location of incident he provided is an address in Farmington, NM.

III. CONCLUSION

The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** the complaint, as there is no jurisdiction for incidents in Farmington, NM.

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

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

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

Letter to Mr. R
April 12, 2019
Page 2

-L

Sincerely,
The Civilian Police Oversight Agency by

A handwritten signature in black ink, appearing to be 'EH' or similar initials, written in a cursive style.

Edward Harness, Esq.
Executive Director

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board

Dr. William J. Kass

Leonard Waites

Edward Harness, Executive Director

Chantal M. Galloway, Chair

Valerie St. John

Joanne Fine, Vice Chair

Chelsea Van Deventer

April 12, 2019

Via Certified Mail

7007 0710 0001 8867 8727

Re: CPC #070-19

Dear Mr. G

Our office received the complaint you filed on March 1, 2019 against the Albuquerque Journal. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint.

PO Box 1293

Albuquerque

NM 87103

www.cabq.gov

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

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

I. THE COMPLAINT

Mr. G. complained that he went to the U.S. Senator's office upset about the Albuquerque Journal newspaper because they gave him a bad name and he won't get hired.

II. THE INVESTIGATION

A CPOA Investigator reviewed your complaint and, generally speaking your statements are disjointed and lack a logical flow. Additionally, there are no actionable complaints against APD in your written statements.

III. CONCLUSION

Based on the aforementioned information, the CPOA has made the decision to **ADMINISTRATIVELY CLOSE** your complaint because the CPOA has no jurisdiction over the Albuquerque Journal.

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

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

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

Sincerely,
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department Chief of Police

CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board *Chantal M. Galloway, Chair*
Dr. William J. Kass *Valerie St. John*
Chelsea Van Deventer *Leonard Waites*

Joanne Fine, Vice Chair

Edward Harness, Executive Director

April 12, 2019
Via Certified Mail
7007 0710 0001 8867 8734

Re: CPC #226-18

Dear Ms. Y

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint against Officers of the Albuquerque Police Department (APD) on November 6, 2018, regarding an incident that occurred on September 17, 2018. The CPOA thoroughly and impartially investigated the complaint.

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

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

I. THE COMPLAINT AND INVESTIGATION

Ms. Y's concern was that Officer H became aware of the damage to her daughter's car well before he came to the house to inspect the damage. He had ample time to change clothes and yet came to an incident involving his son fully dressed in his police uniform and gear. Officer H while in uniform made the statement, "If you are going to threaten anyone, threaten me" and put his hand on his gun. She took his statement to be a threat and felt his intention was to intimidate them. Ms. Y stated Officer H did not attempt to calm the heated situation.

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable SOPs, the various written complaint statements, the Computer

Aided Dispatch (CAD), the police report, the online police report, lapel videos of Officer D and Sgt. N, and interviews of Ms. Y, Mrs. Q, Mr. Q, and Officer H.

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

A) The CPOA reviewed Standard Operating General Order 1-1-4E11 regarding Officer H's conduct, which states:

Retaliation includes, but is not limited to, threats, intimidation, coercion, or other adverse action against any person in the workplace or community.

Ms. Y and her family's concerns:

Ms. Y concern was that Officer H became aware of the damage to her daughter's car well before he came to the house to inspect the damage. He had ample time to change clothes and yet came to an incident involving his son fully dressed in his police uniform and gear. She asked him if he was on or off duty to which he said off so it was inappropriate for him to be in uniform. The large group of people, especially the kids, alleged her and her family threatened them. Officer H responded by saying, "If you are going to threaten anyone, threaten me" and put his hand on his gun. She took his statement to be a threat and felt his intention was to intimidate them. She did not see Officer H stare at her son-in-law. She told Officer H several times he should change out of uniform, but he refused. Ms. Y stated Officer H did not attempt to calm the situation, she did. After everyone parted company, Officer H, now in civilian clothes, walked his dog past her home, which she agreed he has done in the past.

Mrs. Q stated she went to Officer H's home and informed him of the damage his son did to her car. While at their home, Officer H's son started screaming at her so Officer H left to deal with his son and his wife came to the door. Mrs. H seemed unconcerned about the situation and closed the door on her. Mrs. Q husband went to Officer H's home and returned with Officer H; multiple other people accompanied them. Officer H was in uniform when she first went to the house and was still in uniform when he came to inspect the damage. The group, which consisted mostly of kids, was all shouting, especially a teenage girl. Mrs. Q stated she did not recall the specifics. Officer H changed his tone and said if she wanted to threaten someone to threaten him. She did not know what he meant, but felt it was inappropriate for him to say. Officer H said something about if she threatened a boy's family she should expect a negative reaction. Mrs. Q denied threatening anyone. Things became heated and her mother asked Officer H why he came in uniform. Officer H claimed he just got off work, but Mrs. Q stated that at least an hour passed from when she first advised him of the damage to when he came to inspect the damage. Her concern was Officer H's demeanor because he raised his voice and puffed out his chest. After everyone parted company, Officer H, now in civilian clothes, walked his dog past her mother's home, which she did not know if he had done before, but thought it was an odd choice given the situation.

Mr. Q stated he went to talk to Officer H after his wife had already been to the residence. When he got to Officer H's residence there was a crowd of people outside. Officer H was still in uniform so he asked him if he needed to change before they looked at the damage and Officer H said he did not. Mr. Q was surprised because he did not think Officer H should take care of private matters while still in uniform. When they looked at the damage various members of the group, particularly a teenage girl,

accused his wife of making threats towards her family. Based on the girl's statements, Officer H's attitude shifted. Officer H looked at Mrs. Q and Ms. Y when he said, "If you guys are going to make threats then threaten me and we'll see how that goes." Officer H touched the sides of his belt when he said it so his hand was over his firearm. He was surprised at Officer H's statement. He and his family told him no one threatened anyone. The teenage girl got everyone riled up, but Officer H did nothing to calm the situation down so Mr. Q felt he had to de-escalate the situation. Mr. Q told the girl to calm down. Officer H responded by saying they had their opportunity to talk so he needed to be quiet and let her talk. Mr. Q told Officer H the girl had nothing to do with the situation. Officer H retorted that he had nothing to do with it. Mr. Q corrected him and said it was their car. Mr. Q mother-in-law asked Officer H if he was on duty or off duty. He said he was off duty so Ms. Y told him he should not be in uniform. Mr. Q stated Officer H stared at him for at least a minute and puffed up his chest. Mr. Q described that his assessment was that Officer H wanted to either say or do something bad. Officer H stepped forward while on the sidewalk while Mr. Q was at street level to look down on him. Ultimately, Officer H did not say or do anything, but Mr. Q really felt something was going to come next. After everyone parted company, Officer H, now in civilian clothes, walked his dog past his mother-in-law's home, which he had never seen him do before and Officer H gave him the same stare as he did earlier. Mr. Q has not seen him walk his dog past the home since that night.

Officer H's version:

Officer H had been home about five minutes when Mrs. Q arrived at his residence. Officer H said Mrs. Q left while he was upstairs and Mr. Q arrived at his home about five minutes later. Mr. Q was upset and used profanity with him. Officer H accompanied him to examine the damage to the car. Mr. Q said nothing about him being in uniform nor asked if he should change. Ms. Y made several allegations about the neighbors' children and activities. She used a racist term to describe ringing the bell and running away, which he told her offended him. He believed his admonishment of Ms. Y started her criticism of him being in uniform. He told her he was not there in an official capacity and did not have an opportunity to change. He did not think she told him to partially remove his uniform. The families continued to yell at each other and the children alleged the complainants threatened them. Mrs. and Mr. Q expressed a lot of vulgarity and angry cursing towards the children. He attempted to calm the situation and get everyone to focus on the specific situation that night. He did say something along the lines of not to threaten children and if they wanted to threaten someone to threaten him. It was only once and towards Mr. Q. His intention was not to intimidate, but he was defending the children. Officer H denied he moved his hand to his weapon. He added he is very conscientious about such gestures. Later he walked his dog as he often does after work. His usual route takes him past Ms. Y residence.

Overall Summary and Lapel Video Observations

There was no lapel video from Officer H of the encounter with Ms. Y and the families. There were lapel videos of Ms. Y, Mrs. Q, and Mr. Q with the officer and sergeant that later responded to the scene when Mrs. Q called police. In those videos, Ms. Y said her only issue with the whole situation was that Officer H showed up in uniform. She said she was not intimidated, but it seemed like that was his intention. The responding officers asked several times how Officer H intimidated them. The three indicated it primarily was because he was in uniform. On lapel videos, the three of them estimated Officer H had about twenty minutes from first notification to when he came

over to inspect the damage. In the interviews, they indicated it was much longer. On lapel video, Mr. Q. said his wife was at Officer H's door just before he arrived home. This contradicted Ms. Y's written witness statement she provided. When Mr. Q. arrived home, his wife was already back and he went over soon after. On lapel video, Mrs. Q. told the responding officers the approximate times, but the times did not match with the evidence provided from the CADs. Officer H provided his call history that showed he logged off the system at 7:21 pm. The CAD of Mrs. Q.'s call to police was at 7:36 pm. There is no APD SOP that dictates the length of time an officer has to remove their uniform once off duty. The off duty SOP addresses authorized and unauthorized conduct while off duty, but does not address the wearing of a uniform. Based on the available evidence, Officer H became aware of the incident shortly after arriving home, had two conversations with the parties, and therefore did not have an opportunity to change before going to look at the damage. APD SOP did not require him to be out of uniform when he specifically told them he was not there in an official capacity. His presence in uniform in this situation was a matter of timing and did not violate policy, as there is no specific policy.

The additional allegation of intimidating conduct was Ms. Y. and her family mentioned some variation that Officer H told them if they wanted to threaten someone to threaten him, which when said while in uniform was threatening. Mr. Q. did not mention to the responding officers the additional claim that Officer H said to threaten him and "see how that goes" as he said in his interview. In the videos, no one accused Officer H of placing his hand near his weapon, which Ms. Y. and Mr. Q. later alleged in their interviews. Mr. Q. told the responding officers Officer H stared at him, but he did not feel threatened. Mr. Q. did not tell the responding officers that Officer H looked as if he wanted to say or do something bad as he stated in his interview. To the responding officers Mrs. Q. mentioned Officer H puffed up his chest. Mrs. Q. told the responding officers she felt Officer H was not holding his son properly accountable for his son's actions. All three said the neighbor's family yelled and made allegations, which Mr. and Mrs. C. denied the allegations. Mrs. Q. assumed Officer H misunderstood her intention when she told Officer H's son to bring his mother. However, in Ms. Y. interview, she stated her daughter told Officer H's son, "I can't kick your ass, but I can talk to your mom about it." Ms. Y. explained her daughter was very upset because the children had been taunting her. Officer H stated his intention in his statement to "threaten him" was his way of telling Mr. and Mrs. Q. they should direct their anger at least to adults and not verbally threaten children. He was defending the children from the profanity and vulgarity Mr. and Mrs. Q. used. The videos showed Mr. C. denied using profanity, but Ms. Y. told the responding officers they should look at the damage to see if their use of profanity was justified. Based on the various versions of events, Officer H's statement about threats was in direct response to the allegations the neighborhood children made and his observed profanity directed towards the children from the complainants; there was context to the statement. Ms. Y. told the responding officers mixed signals that she was not intimidated, but thought it was his intention. She told the officers she did not fear reporting it to police or fear retaliation. Mrs. Q. also gave mixed signals by telling the responding officers she did not feel as if something would happen to her for reporting, but also expressed some concern about Officer H knowing where she lived and did not want to be pulled over for something "stupid." Mrs. Q. mentioned Officer H walking his dog was strange to her. Mr. Q. stated to the responding officers that he did not feel threatened by Officer H and did not fear he was going to do something; he told the responding sergeant that he had no concerns of retaliation. Mr. Q. said to the officers that he did not think it was Officer H's intention to challenge him and

he did not feel intimidated by reporting the incident to police. Ms. Y and Mr. Q did not want to file a complaint that night. Mrs. Q indicated some desire to file a complaint. Things changed when Officer H did not follow through in paying for the damage. A preponderance of the evidence supports Officer H's wearing of his uniform was a result of timing and Officer H did not engage in retaliation by threatening or intimidating the complainants.

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

Ms. Y raised additional issues that were investigated:

1. Ms. Y suggestion that Officer H remove at least his shirt and leather would have been a violation of SOP 2-1-2B2, which does not permit partial uniforms to be worn.
2. Ms. Y wondered since Officer H was in uniform if he used his lapel camera. Officer H considered it, but he was off duty and told Ms. Y and her family he was off duty. He was not responding as an officer, but as a father. Use of his lapel camera would have been a violation of policy 1-1-4F5 so he did not record the situation.
3. After the initial complaint, Ms. Y expressed frustration that Officer H did not provide a statement to the sergeant investigating the situation, saying he should follow the same rules as everyone else. Officer H invoked his right to refuse a minor in his household to make a statement for a criminal investigation until his attorney was present. Officer H has the same rights as everyone else; he is not compelled to make a statement in a criminal investigation.
4. In one of Ms. Y written statements, she wrote Officer H was an Area Commander, which was even more of an issue. Officer H is not an Area Commander.

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

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

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

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

Letter to Ms. Y
April 12, 2019
Page 6

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

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

Sincerely,
The Civilian Police Oversight Agency by



Ed Harness
Executive Director

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board

Dr. William J. Kass

Leonard Waites

Chantal M. Galloway, Chair

Valerie St. John

Joanne Fine, Vice Chair

Chelsea Van Deventer

Edward Harness, Executive Director

April 12, 2019

Via Certified Mail

7016 0340 0000 0323 7705

Re: CPC # 186-16

Dear Mr. S

Our office received the complaint you filed on November 18, 2016 against Officer A. regarding an incident that took place August 14, 2016. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint.

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

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

I. THE COMPLAINT

This complaint was sent by Mr. J. S., Public Defender for Mr. A. and submitted on his behalf. Mr. A. stated on August 14, 2016 he was arrested for misdemeanor domestic violence by Officer A. Mr. A. stated that upon his release from jail, he learned Officer A. began texting Mr. A. wife one hour after his arrest. Mr. A. stated Officer A. sent text and picture messages to his wife approximately 50 times a day for about two weeks. Mr. A. stated that when he learned of this he proceeded to the police department to file a complaint. Mr. A. stated while at the police substation, he ran into Officer A. and confronted him regarding the text messages. Mr. A. stated Officer A. told him "go ahead and file the complaint, nothing will happen to me, you would be wasting your time. They will just tell me to stop and that will be the end of it". Mr. A. stated he

feels he was falsely accused and believes Officer A. abused his authority and arrested Mr. A to pursue a relationship with his wife.

II. 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 a review of the applicable SOPs, the Complaint, lapel video's, interviews and reports regarding the incident.

A) The CPOA reviewed APD Standard Operating Procedure (ref. 2016:SOP) 3-13-3(b.), which states:

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. A complaint alleged he was falsely accused and arrested so that Officer A. could pursue a relationship with Mr. A wife. The investigation showed Officer A. and Officer R. were dispatched to a call of a family dispute in which Mr. A stepdaughter alleged he hit her in the face. A complete investigation was conducted by both officers. Officer R. was the primary officer assigned to the call and made the decision, based on his investigation, to place Mr. A under arrest for battery to a household member and misdemeanor battery. The investigation was conducted thoroughly and there is no evidence to support Mr. A claim that he was falsely accused and arrested.

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

B.) The CPOA reviewed APD Standard Operating Procedure (ref. 2016:SOP) 1-1-4 (F.6.), which states:

Personnel will not fraternize with, engage the services of, accept services from or do favors for, any person in the custody of the Department, except as set forth in writing by the Unit Commander. Personnel shall not associate socially with, or fraternize with, the spouse of any person in the custody of the department.

Mr. A, complained that Officer A. and Mrs. A exchanged numerous text messages over a period of time. Mr. A felt he was arrested and falsely accused so that Officer A. could pursue a relationship with Mrs. A. The investigation showed that there were numerous text messages between Officer A. and Mrs. A, however it could truly not be determined what the text messages were about. Based on interviews, some messages were about needing information in reference to the report and some texts were just general

information/conversations. As noted in the Investigative report, Mr. A never took part in an interview and Mrs. A could not be reached for any inquiry. The investigation did show that Officer A. and Mrs. A. never met in person except on the day of the incident in which Officer A. was dispatched to the home. With the investigation unable to determine the context of the messages, the burden of proof could not be weighed in one direction or the other.

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

The CPOA Board finds Officer A's conduct SUSTAINED, this decision was reached after the Board reviewed the interview of the officer. In a 4 – 2 vote the Board moved to find other than the CPOA and sustain the officer for the above referenced SOP.

C. The CPOA reviewed APD Standard Operating Procedure (ref. 2016:SOP) 1-1-4 (B.7b.), which states:

Personnel will conduct themselves both on and off duty in a manner that reflects favorably on the Department. Conduct unbecoming an officer or employee of APD includes:

b. Conduct that interferes with or compromises the efficiency of personnel, employees or the Department.

Mr. A complaint stated that he ran into Officer A. in the substation and when Mr. A confronted Officer A., Mr. A. was told, "file your complaint, nothing is going to happen to me anyway..." The Investigator was never able to obtain an interview with Mr. A. to clarify further information on this allegation. During an interview, the investigation showed that Mr. A. was at the substation and was seated in a briefing room. Officer A. informed his Lieutenant and Sergeant of the incident and Mr. A. The investigation could not determine whether Officer A. made the statement to Mr. A. or not.

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

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

You have the right to appeal this decision.

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

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

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

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

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

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

Sincerely,
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department Chief of Police

CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board

Leonard Waites

Chantal M. Galloway

Chantal Galloway, Chair

Valerie St. John

Dr. William J. Kass

Joanne Fine, Vice Chair

Chelsea Van Deventer

Edward Harness, Executive Director

April 12, 2019

Via Email

Re: CPC # 244-18

Dear Mr. D:

Our office received the complaint you filed on November 18, 2016 against Officer A. regarding an incident that took place August 14, 2016. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint.

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

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

I. THE COMPLAINT

Mr. S D wrote a lengthy complaint involving several inquiries into the conduct of the Albuquerque Police Department. This investigation was based off Mr. D's accusation that the Albuquerque Police Department and City Councilman K S conspired to cover up an alleged hit and run, aggravated assault in which K S son, Cl A was the alleged offender. Mr. D complained that Mr. S may have used his standing in the City to influence the Albuquerque Police Department.

**II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD
OPERATING PROCEDURES REGARDING THE CONDUCT OF THE
ALBUQUERQUE POLICE DEPARTMENT.**

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable SOPs, the Complaint, lapel video's, interviews and reports regarding the incident.

A) The CPOA reviewed APD Standard Operating Procedure 1-1-4 G. 1., which states:

G. Special Consideration, Privilege, and Professional Courtesy

1. Personnel will not offer special consideration, privilege or professional courtesy to other Department or City personnel or to personnel from other law enforcement or public safety agencies when such individuals are alleged to be involved in violation of any law or Department or City policy.

Mr. D submitted a complaint alleging City Councilor K S and members of the Albuquerque Police Department conspired to cover up an incident which alleged Mr. S on, C A committed a hit and run and aggravated assault with a deadly weapon.

Through numerous interviews with Albuquerque Police Department personnel, the alleged victim of the incident Mr. G C and the Assistant District Attorney S S there was no evidence to suggest that any member of the Albuquerque Police Department conspired with or spoke to Mr. S about the alleged charges against his son. Evidence showed that Mrs. C A the mother of the alleged suspect, informed the Detective investigating the case that Mr. S would like to meet with him to discuss the case. The Detective notified his chain of command of the request and was instructed not to do so and never did.

The investigation included the Chain of Command that was involved in the allegations to determine if anyone from the Albuquerque Police Department had been in contact with Councilman K S regarding this case. The only evidence in this matter is that the Chain of Command, up to Deputy Chief M., was made aware of a request that Councilman S through his ex-wife's statement to the Detective, requested a meeting. Deputy Chief M. contacted the analyst of Councilman S and informed her that it would not be a good idea and that no one from the Albuquerque Police Department would meet with Councilman S. in regards to this case.

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

**III. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD
OPERATING PROCEDURES REGARDING THE CONDUCT OF SERGEANT H.**

B.) The CPOA reviewed APD Standard Operating Procedure 3-14-4 A. 15, which states:

A. All supervisors, regardless of the level of supervision, will:

15. Review and forward as appropriate any reports or documents prepared by subordinates.

Mr. D submitted a complaint alleging City Councilor K S and members of the Albuquerque Police Department conspired to cover up an incident which alleged Mr. S son, C' A committed a hit and run and aggravated assault with a deadly weapon.

In part, Mr. D complaint alleged that a section of the Detectives report was omitted and this omission could also be part of the cover-up Mr. D A

Sgt. H. was the supervisor in charge of Detective N. Detective N. was placed in charge of investigating the incident involving C A the son of Councilman K S. During his investigation, Detective N. spoke to Mrs. C A and was informed by her that Mr. S would like to meet with him. When Detective N. informed Sgt. H. of this information, Sgt. H. told Detective N. that would not occur and that he had already spoken with Acting Commander E. in regards to the matter.

When Detective N. wrote his report about his investigation, Detective N. added the statement that Sgt. H. told him not to meet with Councilman S and that he had already spoke with higher ups about the case. Sgt. H. reviewed Detective N.'s report before approving it and asked Detective N. to remove that statement, only because it had nothing to do with the case or the investigation. Detective N. was informed he could add that same statement to a Department memo if he felt it was important, but chose not to write the memo.

The CPOA finds Sgt. H.'s conduct EXONERATED, where the investigation determines by clear and convincing evidence that the alleged conduct did occur but did not violate APD policies, procedures or training.

You have the right to appeal this decision.

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

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

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

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

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

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

Sincerely,
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department Chief of Police

CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board

Leonard Waites,

Chelsea Van Deventer

Chantal M. Galloway, Chair

Dr. William J. Kass,

Joanne Fine, Vice Chair

Valerie St. John,

Edward Harness, Executive Director

April 12, 2019

Via E-Mail

Re: CPC 275-18

Dear Mr. K

Our office received the complaint you filed against Officer D. of the Albuquerque Police Department (APD) on December 3, 2018. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate the complaint. The CPOA thoroughly and impartially investigated the complaint.

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

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

I. THE CASE

This case originated after *ABQ Report* published several pieces on Officer D. *ABQ Report* submitted IPRA Requests for Officer D's paystubs and time sheets, and "any and all payroll records" for Officer D. for 2018. As a result of their investigation into the items they received, they made several conclusions and they made allegations against Officer D. The articles attracted other media outlets and reportedly garnered the attention of Mayor T K. Mayor K ordered a review of Officer D.'s overtime pay. The requested review was assigned to the Office of the Inspector General for the City of Albuquerque, but they specifically lack jurisdiction, by ordinance, to investigate the Albuquerque Police Department or its members. The Inspector General asked the Director of the Civilian Police Oversight Agency (CPOA) to conduct the review, but at that time the CPOA did not have a Citizen Police Complaint to launch an investigation. On Monday, October 29, 2018, Mr. D K

sent an e-mail to the Internal Audit Manager L. D. which referenced the articles published by *ABQ Report* and he asked Mr. D. if the articles concerned him. Mr. K asked if Mr. D. was going to open an audit into Officer D. "earning an amount of money that appears to be humanly and mathematically impossible." It was that correspondence that was forwarded to the Inspector General and then to the CPOA. That correspondence was, for the purposes of this investigation, considered a Citizen Police Complaint. CPOA Director Harness assigned the investigation of the Citizen Police Complaint to CPOA Assistant Lead Investigator P. S. on December 3, 2018. Because the articles referenced the money made by Officer D. was from calendar year 2018, that period of time, from January 1, 2018, to December 31, 2018, was reviewed by the CPOA Investigator. All of Officer D.'s payroll records were reviewed in detail. Because of the volume of the information received and the time it took to thoroughly review the documents, an extension of time to investigate the case was requested by the CPOA Investigator on February 20, 2019. Chief G. approved that request.

II. THE COMPLAINT

As referenced above, Mr. D. K. submitted his correspondence via e-mail on October 29, 2018. A copy of that correspondence is included in this case file for the reader's review. The complaint referenced two articles written by *ABQ Report*. Mr. K. asked if an audit was going to be conducted into Officer D. "earning an amount of money that appears to be humanly and mathematically impossible."

On December 3, 2018, Mr. K. was contacted by e-mail. He was told in the e-mail that CPOA Investigator S. was going to investigate the matter he complained of. The Investigator asked Mr. K. to meet so his allegations could be reviewed and so the Investigator could go over the documents he relied on to reach his conclusions. Mr. K. promptly e-mailed back and stated that D. D. was the one who submitted the IPRA requests and who wrote the stories. Mr. K. said that he forwarded the e-mailed request for an interview to Mr. D. and he provided Mr. D. phone number. Mr. K. said that Mr. D. would be expecting a call from the Investigator. Over the next several days, attempt to contact Mr. D. by phone was unsuccessful. Voicemail messages were left asking him to call the Investigator back. Mr. D. did not return the calls. This investigation was conducted solely on the correspondence Mr. K. submitted that was forwarded to the CPOA for investigation.

III. THE INVESTIGATION

The Investigator printed out the articles that were written and published by Mr. D. concerning Officer D. as well as an article printed by the *Albuquerque Journal* referencing the matter. The *ABQ Report* alleged that Officer D. billed the City for 26 hours in a single day, that in one two week pay period he billed the City for 275.6 hours of work. One article suggested that Officer D. works more than 100 hours per week. The article suggested that Officer D. appears to have worked while on vacation and while on paid time off. The article's author seemed concerned that on Sunday, February 18, 2018, a floating holiday for Officer

D., that he billed the City for 26 hours of work. 10 hours of overtime for working the holiday, 10 hours for having taken the holiday off, and 10 hours of Chief's Overtime. On another day, Friday, April 13, 2018, Officer D. billed the City for 24 hours of work. On two other days, D. billed taxpayers for 22 hours of work. Albuquerque Police spokesman G. G. failed to respond to two emails from *ABQ Report* asking who at APD has been approving Officer D.'s timesheets and overtime hours.

This investigation showed that Officer D. did in fact work a huge amount of hours in 2018 and that it was, in fact, humanly and mathematically possible. Furthermore, the investigation showed that it is entirely possible to bill the City for more than 24 hours in a given day. The key word is "billed." The investigation showed that Officer D. never worked more than 24 hours in a given day. That of course would be impossible. However, he did bill for and was entitled to be compensated for hours worked that were billed at time and half. For example, APD Officers by contract receive holiday pay at straight time their hourly rate based on the number of hours the officer normally works on that holiday. If the designated holiday falls on the officer's scheduled work day off, the holiday shall be observed on the work day immediately preceding the holiday and will be paid based on the number of hours the officer works on that day. In the event an affected officer is required to work on a holiday, and does not take the option to take a floating holiday, the officer is paid his normal hourly salary PLUS time and one half for the duration of the affected officer's shift.

Let's take, for example, Sunday, February 18, 2018. Officer D. had Monday, Tuesday, and Wednesday, as his normal days off during that time period. The City recognized Holiday was actually February 19, 2018. Since Officer D. was normally scheduled off on the actual holiday, he would have been required to take the holiday off on the preceding day, February 18, 2018. That would have been his holiday. Instead he had to work that day. So because he worked the holiday, he was entitled to 10 hours of straight pay, and 10 hours at time and one half. After his shift, he was called out to a homicide as part of his PIO duties. This was after hours on a holiday. Because it was a holiday, he received two hours of pay at time and one half. He then went and worked a Chief's Overtime assignment for 4 hours. So on that day, he was actually compensated for 26 hours of time.

The example above shows how it is entirely possible for an officer to bill for a full day plus two hours (26 hours) when actually only physically working 16 hours. It's a concept that may seem hard to grasp, but is fully allowed by the APOA Contract with the City of Albuquerque.

The other day complained about in the articles was Friday April 13, 2018. Officer D.'s records reflect that he worked a ten hour shift on that day, then worked a 6 hour Chief's Overtime assignment for a total of 16 hours. He then submitted his 8 hours of on call pay for that week so the total on that day submitted for was 24 hours. Again, contractually allowed. This example shows the City being billed for 24 hours when Officer D. actually physically worked 16 hours.

This Investigation explores issues that lead to excessive amounts of overtime being earned by APD Officer D.: 1) Parts of the APOA Collective Bargaining Agreement (CBA) that allow for excess overtime computation that is not allowed by the Fair Labor Standards Act, 2) Something called a 12 hour Memorandum of Understanding, 3) A scarcely followed Overtime, Compensatory Time, 4) Work shift designation policy 3-20-1, 5) An explanation of what is referred to as a Comp Time Bucket and how that affects officer compensation, 6) A review of a former City of Albuquerque Audit on Police Overtime, 7) and lastly a recommendation for another audit by the City Auditor, this time with reference to Chief's overtime. The Investigation then focused on possible Standard Operating Procedure violations by Officer D. and his past supervisor, recently promoted Lieutenant M. The Investigation also developed numerous recommendations to APD and to the City of Albuquerque which are shared in this letter.

The APOA Collective Bargaining Agreement

The CPOA Investigator researched and reviewed the APOA Collective Bargaining Agreement (CBA). In particular the Investigator looked at sections 3.3 and 3.4. Under the Fair Labor Standards Act (FLSA), paid leave is NOT considered time worked for the purposes of computing overtime. In other words, for the purposes of computing overtime, if one takes a paid leave day off either comp time, vacation, or sick leave, that day is not considered a day that someone was physically present at a job. However, because of an agreement signed by City Administration and by the APOA, if an officer takes a day off, that day IS considered time worked for the purposes of computing overtime. Here is an example of how this affects how much the City pays out in overtime.

EXAMPLE:

Officer A. is assigned to work 8 hours per day, five days per week. On Monday, Officer A. takes a day of vacation. Under the FLSA that day is not considered time worked. Under the CBA with the City of Albuquerque, it is considered time worked.

Officer A. then works 32 hours; Tuesday, Wednesday, Thursday, and Friday. He has, at that time, 8 hours of vacation that would be paid at straight time, and 32 hours that would be paid at straight time. Officer A. is then required to work an 8 hour overtime shift on that Friday. Under the FLSA Officer A. would have been paid 48 hours of straight time because the initial 8 hours of vacation taken on Monday is not considered time worked for the purposes of computing overtime.

Under the City agreement with the APOA, even though Officer A. only physically worked 40 hours, his extra 8 hour shift is paid at 1.5 times his hourly rate. In essence, instead of paying Officer A. for 48 hours of straight time, Officer A. is paid for 40 hours of straight time and 8 hours at 1.5 times his hourly rate which is same as paying him for 52 hours of straight time. Because of the agreement the officer gets an additional 4 hours of pay because the City and the APOA agree that the day off should be considered time worked for the purposes of computing overtime. This is an example of only one officer doing this. Multiply the four

hours by the number of officers that exercise this option and the City of Albuquerque is paying out thousands of dollars in pay that simply is not allowed under the Fair Labor Standards Act. The City has bargained that away.

The 12 hour MOU

The 12 Hour Memorandum of Understanding was entered into by the City of Albuquerque and the APOA when APD decided to implement 12 work shifts within the APD. APD no longer assigns officers to 12 hour shifts. The MOU is in effect until June 30, 2020. The MOU outlines how the 12 hour work schedule will be implemented and how officers will only be paid overtime when they work in excess of 80 hours in a two week pay period. It was within this MOU that computing overtime was addressed.

“For the purpose of computing overtime, paid leave shall be considered time worked as per Article 3.2.1.6 of the Agreement.”

The Agreement 3.4.1 and 3.4.2 is what binds the city to considering paid leave as time worked.

3.4 Fair Labor Standards Act

3.4.1 Under the Fair labor Standards Act (FLSA), paid leave is not considered time worked for the purpose of computing overtime and the regular rate for the purpose of computing overtime includes all remunerations.

3.4.2 The current language in this subsection is retained. However, during the term of this Agreement the Parties will abide by the conditions of the 12 hour MOU. The parties hereto agree that for the purposes of computing overtime, paid leave will be considered time worked and the regular rate includes the hourly rate with no other remunerations included.

While this doesn't seem too important as it is written, it becomes extremely important in this investigation. When paid leave is considered time worked, officers can make thousands of extra dollars in pay.

Recommendation: The City of Albuquerque will be negotiating with the APOA presumably before June 30, 2020. The City of Albuquerque should insist that the Fair Labor Standards Act language which states “paid leave is not considered time worked for the purposes of computing overtime” be left in and followed. The City of Albuquerque could save thousands of dollars in overtime by insisting that the APOA and the APD follow the Fair Labor Standards Act. The City of Albuquerque should not bargain away what is established by law.

Comp Buckets

Before delving further into what the Investigation revealed, it is important to the reader to understand how Compensatory (Comp) Time is accumulated and used in the APD. It is important to see the difference between City Policy and the Policy at APD which is included in the APOA CBA. This became an important factor in the investigation as will later be displayed, and APD through this agreement with the APOA is being forced to pay out thousands of dollars of overtime when in fact the officer is only entitled to comp time.

The City of Albuquerque policy 302.2 governs overtime for City Employees not covered by any CBA. It reads in part:

...payment may be in the form of cash or overtime which is limited to a maximum accrual of sixty (60) hours. All accrued compensatory time must be utilized within 180 days of accrual. If not the balance must be paid to the employee on the next regularly scheduled payroll.

In other words, there is a built in incentive or mandate in this policy for City Employees to use their comp time within 180 days of accrual or it gets paid out taking their balance to zero.

There is no such incentive or mandate under the APOA CBA. Article 3.3.1 reads:

Time worked over 40 hours per week will be compensated at 1-1/2 times the officer's regular rate of pay, or in the form of compensatory time. Compensatory time will be computed at the rate of 1-1/2 times the hours actually worked. The maximum accrual of comp time for any officer, including Aviation Police, is 150 hours.

So APD Officers are allowed to accumulate 150 hours of comp time and by agreement, there is no language that governs or mandates when the 150 hours must be used or when the balance must be paid to an employee.

APD Payroll Personnel refer to the method of keeping comp time as "comp buckets". The reason it is plural, is that an officer earns comp time in two different ways. There is a straight time comp bucket and a 1.5 or time and one half comp bucket. The two are added to make the 150 hour maximum accrual. If an officer is "on call" he/she is compensated at straight comp time which is one to one. In this case, Officer D. claimed and submitted 398 hours of straight comp time for being on call as a PIO. He gets 8 hours or 6 hours a week depending on assignment but he only claimed 6 hours on one occasion. He submitted for on call compensation 51 times.

If an officer physically works more than 40 hours per week, he/she is compensated for comp time at 1.5 times or time and one half comp time. In this investigation, Officer D. submitted for time and one half comp time 130 hours (58 submissions) in 2018. 28 of those submissions are in two hour increments from going out before his shift and running with the recruits or Academy staff. Some hours are from working calls for service.

The investigation revealed is that Officer D. is rarely, if ever, under his 150 hour balance. What this means is that every hour that Officer D. puts in as Comp Time is actually paid out in his check as cash at either straight pay or time and 1/2.

Once an officer hits the 150 hours of comp time in their comp buckets, any comp time submitted above that is paid out. This is a mandatory pay out that comes from APD's overtime budget. Under the APOA contract, there is no incentive for any APD officer to reduce their comp time bucket under 150 hours.

Recommendation: The City of Albuquerque will be negotiating with the APOA presumably before June 30, 2020. The City of Albuquerque should insist on language that mandates that all comp time earned must be utilized within 180 days of accrual. If the comp time is not used the balance must be paid to the employee on the next regularly scheduled payroll. Without this language, APD officers have no incentive to ever reduce their comp time balances and the City is forced to pay thousands of dollars out of APD's overtime budget when overtime pay may not be warranted.

City of Albuquerque Audit and Audit Records

When the Mayor requested an investigation into this matter, the City Auditor started gathering documents related to the investigation. Mostly pay records. CPOA Executive Director Harness requested those records be shared with the CPOA when the CPOA started the investigation. The records were sent over in electronic format.

The City Auditor conducted a Special Audit regarding APD Officer Overtime in 2016 but was it was not published until early 2017. The audit is included in this case file for the reader's review. It is important to note that the audit did not cover Chief's overtime. Officer D. made considerable amounts of money in 2018 by working Chief's Overtime. In the audit, APD Command Staff cited the reason for an increase in overtime is a result of understaffing of APD officers. APD's actual overtime is always over budget and it has been all the way back to 2001.. The first finding in that audit was that APD Personnel do not consistently follow Standard Operating Procedures for pre-approving and recording overtime transactions. The CPOA found this to still be the case. Not necessarily with pre-approving and recording as that is addressed but APD's complete failure to follow its own overtime policy.

The SOP as currently written and as noted in the audit requires pre-approving of overtime by the employee's supervisor noting the call or case number, review by an on duty supervisor, and completing the non-scheduled overtime form for all overtime transactions. The form is referred to as a PD-4019 form. Those forms don't exist anymore and no one in the department uses them. When the CPOA requested these forms for Officer D. for 2018, there were none because they are not used anymore. Supposedly, everything is done in APD's Timekeeping System called Telestaff, the officer simply submits the overtime hours worked and adds a roster note to the submission leaving the Supervisor to approve the overtime after it has been worked without anyone in the field verifying that the overtime was actually worked. APD needs to rectify this. Former officers have recently been charged criminally for allegedly

submitting overtime that they didn't actually work but was signed off in Telestaff by their immediate supervisor. APD's response to the finding was that they were going to correct this by modifying their SOP by June 30, 2017. That never happened. The SOP was not modified.

Another finding in the audit was that APD should monitor officer overtime for irregular activity. The audit suggested that the highest overtime recipients be reviewed on a weekly, monthly, quarterly, and annual basis. APD should be verifying why the same officers are regularly the highest recipients of overtime and why their compensation exceeds that of many executives in City Government. 123 of the 250 top paid employees in the City are police officers. Officer D. is number one and his immediate supervisor at the time, Sergeant, now Lieutenant, M. is number 11. Officer D. has as far back as 2012 been one of the top paid City employees and before this investigation no one has looked into why or how it was possible. An analysis of the top earners on a regular basis can be very beneficial for identifying unauthorized overtime. Such monitoring for irregular activity is a detective control that would allow APD to identify collusion. Collusion can occur when an officer colludes with their supervisor to obtain a personal benefit. For example, a Supervisor may approve overtime submitted even though the supervisor knew or should have known that the officer did not actually work the overtime.

TO BE CLEAR: THIS INVESTIGATION FOUND NO EVIDENCE OF POSSIBLE CRIMINAL ACTIVITY BY ANY OF THE PARTIES INVESTIGATED.

APD responded in the audit that they were going to have their Fiscal Division take care of this and the division would design and distribute reports similar to the suggestions made by the Office of Internal Audit. They said that would be completed by March 31, 2017. To date, based on information obtained during this investigation, this has not happened.

The Audit suggested that APD reconcile between time keeping and payroll systems and the CPOA found that is occurring now. The problem is that Telestaff entries are not always accurate. It takes a Payroll person to go back and verify entries and correct them in the City time keeping system. Whether those incorrect entries to Telestaff are because of a system glitch or poor data entry, this investigation did not explore. APD needs to figure out why some of the entries in the Telestaff reports are not correct.

For example, if one were to rely on one of the reports generated from Telestaff, it would show that Officer D. was actually working at two places at one time. Had further investigation into the entries not been done, one could assume fraudulent activity was occurring. The Chief's Overtime person who makes the entries insisted that the Telestaff system was responsible for the incorrect entries but since it did not occur on every occasion worked, it is our belief that the incorrect entries are data entry error and not error built into the system. That is a supervisory issue for Payroll and was beyond the scope of this investigation.

In making our determinations, the CPOA Investigator used the Telestaff report in the format provided with some incorrect entries, a Telestaff Personal History report that contains all correct entries, and all of Officer D.'s Chief's Overtime documents that show when he was

scheduled to work and where. The reports and documents were all examined at one time and every hour that Officer D. was paid for in 2018 is documented in those documents as well as other documents that the CPOA obtained during the investigation.

The City Auditor concluded that consistently following SOP's and protocol for overtime transactions are significant controls that are intended to prevent unauthorized overtime from being approved and paid. To date APD has done little to address the auditor's findings.

The investigation revealed that Officer D. made a significant amount of money working Chief's Overtime. Some of the documents showed that City of Albuquerque is charging vendors, people who pay for having an officer at their business or at a movie shoot, \$52.00 an hour. (It was recently raised to \$55.00/hour). The officer is paid at time and one half their hourly salary for working Chief's Overtime. In this case, Officer D.'s hourly salary is \$31.50 per hour. He makes \$47.25 per hour on overtime. The City of Albuquerque is making \$4.75 per hour to place APD Officers at businesses such as Walmart, Target, and Best Buy, movie shoots, and ball games. At the same time, the City allows the officers to use City vehicles and gas to get to and from their assignments, City uniforms and equipment, and the City of Albuquerque indemnifies the officers (pays insurance and provides legal defense) when they take law enforcement action at these duty stations. We have examined multiple complaints and uses of force that come from off-duty officers working a Chief's Overtime assignment. Some litigation has occurred from those incidents and the City of Albuquerque pays to defend the officer and to settle the lawsuits, usually in the thousands of dollars. While Chief's Overtime certainly provides a service for private individuals and private companies who can afford to pay it, the question is how much is it costing the City to run this type of program? Is the \$4.75 an hour that the City is making even covering the costs of the administration of the program? The State Constitution prohibits spending public funds on private interests. The requirement is clear that Governments must receive equivalent value in consideration of the services provided. Does the Chief's Overtime Program violate the Anti-Donation Clause of the State Constitution? This question is beyond the scope of this investigation.

The APD has a minimum staffing level of 70 percent. What that means is that if ten officers are assigned to a shift and three officers are off duty for various reasons, then the shift can operate as normal without anyone having to come in and work overtime. If a shift falls below the 70% threshold, say a fourth officer calls in sick, supervisors are authorized to call in an additional officer who is paid time and one half to answer calls for service. One of the major complaints we receive is there are not enough officers on duty to handle the number of calls for service. Some calls don't get a police officer response and low priority calls often wait more than two hours before an officer can respond to the call for service. The APOA constantly opines that this City does not have enough police officers to handle calls for service.

This investigation also revealed that APD Officers can submit time off, either vacation or comp time, and while they are on that vacation or comp time, which is considered time worked, the officer can then go work a Chief's Overtime assignment.

For example, an officer is scheduled to work his assigned area from 8 AM to 4 PM on a Friday. He/she takes 8 hours of comp time or vacation on that day. He/she is signed up for a Chief's Overtime assignment, say a movie shoot, from 8 AM to 4 PM on that same Friday. The Officer's supervisor doesn't have to approve Chief's Overtime by policy and very often the supervisor does not know why the officer is taking time off. The officer has essentially abandoned his primary duty of the safety and well-being of the public, so they can go and work time and one half overtime for a private company. When the officer should have been at work answering calls for service, they instead used the City Police Car, Gas and equipment to go to work for a private vendor. When this occurs, the officer gets paid a regular rate of pay for his comp or vacation off. In Officer D.'s case, that rate of pay is \$31.50 per hour. He then goes to his Chief's Overtime assignment and for those very same hours he is getting paid to not be at work, he makes \$47.25 per hour from the private vendor. In an 8 hour day, which the officer does not work for the City of Albuquerque answering calls for service, the officer made \$78.75 per hour or \$630 for one day (8 hours) of work.

The first obligation of a police officer is to the general public's safety and well-being. Their obligations should not be to private vendors, especially at the cost of the victim of a crime who can't get a police officer to come to their crime scene because the officer who was supposed to be working that day took time off to work at Walmart, Target, or a movie production.

Some will argue that an officer's time off is their own and there is no argument there. But the Chief's Overtime Program is an incentive for officers not to work their regular duties and their regular hours so they can go instead to an assignment that pays them \$630 a day.

Officer D. as was detailed in the investigative report, did that 41 times in 2018. Granted, most were not full shifts that he took off, but it still occurred on 41 documented occasions. And while one supervisor was responsible for approving his time off for most of 2018, even now as PIO, he takes vacation or comp time, usually approved by the Chief of Staff or the Deputy Chief of Staff, and while he should be tending to PIO duties, he is off at a Chief's overtime assignment being paid \$78.75 an hour.

That is one officer. In reviewing Chief's Overtime slips, the names of many of the top earners in APD were on those same Chief's Overtime assignments that Officer D. was.

Recommendation: Request for audit: The City of Albuquerque should insist that APD follow the recommendations of the City Auditor as APD said it would do. The City of Albuquerque should ask for another Audit of APD Overtime which will include an Audit of the Chief's Overtime Program. The Audit should explore the actual cost to the City of the Chief's Overtime program versus what the Chief's Overtime Program brings in. The Audit should cover how many officers take time off from their regularly scheduled duties to go work a Chief's overtime during those same hours. The audit should also explore whether or not another officer had to be called in on overtime to handle the off duty officer's duties on that shift on that day because the staffing level was below the 70 percent threshold. Lastly, the Audit should determine whether or not

the Chief's Overtime Program violates the Anti-Donation Clause of the State Constitution.

APD's Failure to follow it's Own Overtime policy

The policy that governs APD Overtime, Comp Time, and Work Shift Designation is numbered 3-20-1. The policy still requires the use of "non-scheduled overtime" forms that are no longer in use by the department. The policy is clear that officers who are on "on-call" status cannot sign up for or accept Chief's Overtime assignments. Officer D. worked 207 such assignments in 2018 all while being in an "on-call" status. No one from APD enforced this provision of the policy.

The policy limits officers to 25 total hours of overtime for any given week and that overtime includes Chief's overtime.

APD, through Special Orders from the Chief of Police, lifted the overtime caps every month in 2018. That meant that officers were free to work as much overtime as they wanted. When it came to the Chief's Overtime Program, Officer D. was free to work 943.75 hours of Chief's Overtime in 2018. In addition, he was authorized to work his regular days off as PIO in the Chief's Office. He worked 1258 hours in that capacity. Besides that he worked 332 hours of calls for service overtime. He also earned an additional 130 hours of overtime, about half of which was for running with the recruits or academy staff. All tolled Officer D. worked 2,663.75 hours of overtime in 2018 all paid at time and one half. A full time job is 2080 hours. No one monitored his overtime and apparently the amount of overtime he worked was condoned by his supervisors. Had the overtime cap been adhered to, Officer D. would have been allowed to work no more than 1300 total hours of overtime for the year. Because the cap was lifted Officer D. worked twice the amount that would have been allowed by APD policy.

APD has often lifted the overtime caps through special order and they have done so consistently throughout the years. That's how Officer D. made so much money. The investigation showed the policy is not adhered to.

Recommendation: APD should immediately revise its policy on overtime. Officers should be limited to working no more than 25 hours per week of overtime and that is inclusive of all overtime. The policy should prohibit officers from taking comp time or vacation from their regularly assigned duties for the sole purpose of working a Chief's Overtime assignment. APD supervisors, prior to approving a leave request, should be required to check with the Chief's Overtime Program to make sure that the officer is not signed up for Chief's Overtime and/or they are not taking leave to go work a Chief's Overtime Assignment during the very same hours they are scheduled to work their assigned shift. Officers should be prohibited from working Chief's Overtime if they are in an "on-call" status. The policy should reflect any recommendations that were made by the City Auditor. Lastly, the policy should be vigorously enforced and adhered to by all APD personnel.

Officer D.'s 2018 Compensation Breakdown

The following represents in a straight forward format exactly the hours that Officer D. was compensated for in 2018.

1339 Hours of regular assigned duties paid at regular hourly salary (straight time)
333 Hours of straight comp time paid out at regular hourly salary
82 Hours of vacation paid out at straight time
74 Hours Holiday pay paid out at straight time
8 Hours Birthday leave paid out at straight time
8 Hours Paid Seasonal Leave paid out at straight time
12 Hours Comp time paid for Physical Assessment paid out at straight time
398 Hours of Comp time (Straight) for being on call

Total straight time hours paid 2,254 hours.

In addition, the following hours were paid at time and one half:

332 Hours of Calls for Service Overtime
1258 Hours working as the Public Information Officer
116 Hours of time and one half comp time
130 Hours of time, about half of which was for running with the recruits or Academy Staff
943.75 Hours of Chief's Overtime
30 Hours of Holiday worked pay.

Total Time and one half hours paid 2,809.75

Total hours compensated 5063.75. Total Compensation \$192, 973.00

Comp time or vacation submitted to leave regular assigned duties for the purpose of working a Chief's Overtime Assignment

As mentioned above, Officer D. submitted comp time or vacation time to take off from his regular assigned duties on 41 occasions in 2018. Each of the submissions were detailed in the Investigative report. The following is just one example.

Exhibit A: On January 25, 2018 Officer D., assigned to a ten hour patrol shift in the North East Heights, worked from 8:00 AM to 1:00 PM. He took off five hours of comp time and went directly to work a Chief's Overtime assignment in Glenwood Hills for four hours. He worked from 1:00 PM until 5:00 PM.

Glenwood Hills is a Neighborhood Association that pays APD for extra police patrols. Chief's Overtime Ticket Number 161121

In this example, Officer D. was paid for his leave, 4 hours of straight time. He then left his regularly assigned duties with approved leave, to go and patrol an area where a neighborhood had paid for extra police protection. Officer D. earned time and one half for that 4 hour patrol. His hourly salary at that time was \$28 per hour. Time and one half rate is \$42.00 per hour. When Officer D. left his shift on that day, it left his regular assigned duties, presumably with supervisory approval, to be shared amongst the officers who remained behind to answer calls for service that Officer D. would have responded to had been at work. While he was patrolling the Glenwood Hills Neighborhood, and his workload was being shared amongst the other Northeast Heights Officers, he was making \$70.00 per hour, utilizing City Resources while working for a private entity.

Not every neighborhood has the luxury to pay for extra police patrol. Not every business can afford \$52-\$55 an hour for a police officer. It's problematic for those citizens and businesses that cannot afford the luxury of paying for extra police services. The Investigative report details 40 more examples.

Standard Operating Procedure

As stated previously, an officer is prohibited from signing up for Chief's Overtime if they are in an "on call" status. The reason for this prohibition is to prevent an officer from having to leave a paid vendor assignment if they are called to tend to serious police matters. It is unfair for the vendor to be left without paid police protection in the event something like that happened. Previously stated, Officer D. worked 207 such assignments in 2018 all while being in an "on-call" status. Officer D. was prohibited by policy from working those assignments but did so anyway. Furthermore, on at least one documented occasion, on 08/23/18, Officer D. was called to a Homicide scene. He was scheduled to work a Chief's Overtime Assignment at Target from 4-9 PM. He obviously could not go to work at Target. It was his responsibility under SOP to find someone who could work at Target. Officer D. failed to do that and no one worked the assignment. The Overtime policy states that if an officer violates that provision of the policy, the penalty for a first offense is suspension from the Chief's Overtime Program for a period of three months. This penalty is not an offense that allows a grievance under the City's Merit System Ordinance. There is an exception in the policy that allows officers to respond from a Chief's Overtime Assignment to a life threatening situation.

OFFICER D.'s WORK PRODUCTION

The Investigator requested 2018 statistics that would document what measurable work Officer D. produced during 2018. We found the following:

Officer D. responded to 924 calls for service.

He made 3 documented traffic stops. All stops must be called out over the radio by policy.

He made 3 arrests. Verified by searching reports he wrote.

He wrote 80 reports, both original and supplemental reports included.

He went to Court 3 times.

He wrote no traffic citations using the traffic citation system TraCs that APD uses to write citations.

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

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable Standard Operating Procedures (SOPS), the Complaint, All of Officer D.'s payroll records for 2018, and interviews with Officer D., Lieutenant M., Sergeant L., Deputy Chief of Staff R. and Chief G

A) The CPOA reviewed APD Administrative Order 3-20-2 (6) which states in part:

Restrictions- Officers cannot sign-up for or accept an assignment for overtime if:

a. On "on call Status"

The investigation showed that Officer D. submitted and was compensated for being on call for his position as APD's Public Information Officer 51 times in 2018. Each week Officer D. would submit 8 hours of paid on call time, with the exception of one week where he only submitted 6 hours of time. Total time submitted was 398 hours of time for being on call. The SOP cited above prohibits officers who are on "on call status" from signing up for or accepting Chief's Overtime Program Assignments. The investigation revealed that Officer D. signed up for, accepted, and worked 207 Chief's Overtime Assignments and he was compensated for 943.75 hours at 1.5 times his hourly salary for working those assignments. There is no written exception in the policy or in any other APD documents that states that PIO's are exempt from this restriction. Officer D. worked 207 Chief's Overtime Assignments which he was, under this policy, not allowed to work.

The reason for the restriction is that an officer who is on call is supposed to be at the ready to respond to any police situation that may require their presence. If a person who is on call is working a Chief's Overtime Assignment at a store for example, the officer would have to leave and the store would be left without the security services they arranged for.

That is exactly what occurred on August 23, 2018. Officer D. was signed up to work a Chief's Overtime Assignment at Target at 4:00 PM. There was incident that occurred at about 3:30 that date where a police officer had been shot at and the offender fled the area. Neighborhoods were locked down and Officer D. responded to the scene. He did not go to Target and because of the short notice, he could not find a replacement officer to work at Target in his stead. Target went without the security they had arranged for. There is an exception in the Chief's

Overtime Policy that allows officers to respond to life threatening situations, but this is an example of why officers who are on call are prohibited from working a Chief's Overtime Assignment.

The CPOA recommends a finding of **Sustained**, where the investigation determined by a preponderance of the evidence that the alleged misconduct did occur.

B) The CPOA reviewed APD General Order 1-1-4 B 7 C which states in part:

Both on and off-duty, personnel will conduct themselves in a manner that reflects most favorably on the Department. Conduct unbecoming an officer or employee of APD includes the following:

c) Conduct that impairs the operation of efficiency of the department.

One of the items that surfaced during the investigation was that Officer D. was his submitting for compensatory time for running with the Cadets and the Academy staff. He submitted for 2 hours of compensatory time on 28 occasions for a total of 56 hours of time. The investigation showed that Officer D. is the only officer on APD besides Academy Staff who was compensated for such duties.

The investigation showed that comp time may only be submitted by an officer and approved by a supervisor if the duty being compensated accomplishes some specific objective for the Department. The evidence in the case showed that Officer D. was not asked to run with the recruits or the Academy Staff, but instead asked the Academy Sergeant if he could go out and run with the recruits. The Academy Sergeant, Officer D.'s basic academy classmate, allowed Officer D. to run, but did not know that Officer D. was being compensated for running with the Cadets. On at least two occasions Officer D. did film the Recruits and the videos were shown at a graduation ceremony and used on social media, but he did not film on all 28 occasions. Other than those two occasions, the Academy Sergeant could think of no specific objective by Officer D. that these runs were accomplishing for the Department. When Officer D.'s Supervisor, also a Basic Academy classmate of Officer D.'s, was asked what specific objective the runs accomplished for the Department, the Supervisor had no idea what they were accomplishing, yet he had no problem approving the comp time. APD Deputy Chief of Staff R conducted a preliminary inquiry to this matter and found that it was wrong that Officer D. was putting in comp time for running with the cadets and he put a stop to it. In any case, the investigation showed that Officer D. should not have been getting comp time for running with the cadets and staff and yet he did.

The investigation showed that the majority of the time, the runs accomplished no specific objective. Being compensated for an activity that accomplishes no specific objective is inefficient as it wastes public money that could be used for specific activities that do accomplish a specific objective for APD or the City.

The CPOA recommends a finding of **Sustained**, where the investigation determined by a preponderance of the evidence that the alleged misconduct did occur.

V. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING LIEUTENANT M.'S CONDUCT

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable Standard Operating Procedures (SOPS), the Complaint, All of Officer D.'s payroll records for 2018, and interviews with Officer D., Lieutenant M., Sergeant L., Deputy Chief of Staff R , and Chief G.

A) The CPOA reviewed APD General Order 1-1-4 B 6 B which states in part:

All supervisors will also be held accountable for identifying and responding to policy or procedure violations by personnel under their command.

Lt. M. was Officer D.'s immediate Supervisor for almost all of 2018, at least until mid to late October. His role was integral and critical to the operation of an effectively run and efficient department and one of his primary duties was to make sure that Officer D. was adhering to policies and procedures. His responsibility was to evaluate Officer D. for effectiveness, efficiency, and adherence to directives, policies, and procedures.

As the approving officer for almost all of Officer D.'s overtime, comp time, and on call time for 2018, Lt. M. had a responsibility to ensure that Officer D. didn't violate any policies or procedures. The investigation showed that Lt. M. was familiar with the policy governing overtime and was familiar with the restriction that Officers who are in "on call status" with a couple of exceptions, are not allowed to sign up for or work Chief's Overtime Assignments. Lt. M. knew that Officer D. was submitting for on call compensation weekly. He also knew that Officer D. was working Chief's Overtime Assignments, yet Lt. M. failed to take any appropriate or corrective action.

When the issue of Officer D. submitting comp time for running with the cadets or recruits came up, Lt. M. said he didn't have a problem approving the comp time for Officer D. for doing that. When he was asked what specific objective Officer D.'s running with the cadets or recruits accomplished he stated that he had no idea what specific objective it accomplished but he approved the time anyway.

When Officer D.'s performance was questioned as far as traffic tickets, arrests, traffic stops, court appearances etc., the Lt. said that he was unaware of those statistics but that Officer D. was a reliable officer who he could count on to show up to work.

The CPOA recommends a finding of **SUSTAINED**, where the investigation determined by a preponderance of the evidence that the alleged misconduct did occur.

Your complaint and these findings are made part of Officer D.'s and Lieutenant M.'s Internal Affairs file.

You have the right to appeal this decision.

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

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

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

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

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

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

Sincerely,
The Civilian Police Oversight Agency by



Edward Harness, Esq.
Executive Director