

CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board *Leonard Waites, Chair* *Chantal M. Galloway, Vice Chair*

Joanne Fine *Dr. William J. Kass* *Valerie St. John*

Chelsea Van Deventer

Edward Harness, Executive Director

POLICE OVERSIGHT BOARD AGENDA

Thursday, December 13, 2018 – 5:00 PM

Vincent E. Griego Chambers

- I. Welcome and call to order.**
- II. Pledge of Allegiance – *Chantal M. Galloway, Vice-Chair***
- III. Mission Statement – *Leonard Waites, 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**
- VII. Reports from City Staff**
 - a. APD**
 - 1. Internal Affairs – Statistical Data Report**
 - 2. SOP 1-3**
 - 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 – *Chantal Galloway***
 - b. Policy and Procedure Review Subcommittee – *Dr. William Kass***
 - c. Case Review Subcommittee – *Valerie St. John***
 - d. Personnel Subcommittee – *Joanne Fine***
- IX. Discussion**
 - a. New hires for APD**
 - b. 2019 POB scheduled meetings**
 - c. 2017 Annual Report**
 - d. IPRA/Next Request**
 - e. CASA and Ordinance Training**
 - f. Ordinance Amendments**

- X. **Consent Agenda Cases:**
 - a. **Administratively Closed Cases**

225-18	230-18	238-18	246-18	262-18
263-18	268-18	228-17		
 - b. **Not Sustained**
183-18
 - c. **Sustained**
184-18 222-18
 - d. **Unfounded/Sustained**
132-18
- XI. **Non-Consent Agenda:**
 - a. **Exonerated/Sustained not based on original complaint**
128-18
 - b. **Not Sustained investigation by IA**
144-18
- XII. **Non-Concurrence Cases:**
- XIII. **Appeal Hearing**
 - a. **053-18**
 - i. **Closed discussion for deliberations by the POB in connection with an administrative adjudicatory proceeding pursuant to NMSA 1978, Section 10-15-1(H)(3)**
- XIV. **Serious Use of Force/Officer Involved Shooting Cases:**
- XV. **POB's Review of Garrity Materials:**
 - a. **C45-2018**
 - b. **I-6-2017**
- XVI. **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**
 - ii. **IPRA**
 - b. **Limited personnel matters pursuant to NMSA 1978, Section 10-15-1(H)(2)**
 - i. **Executive Director Contract**
- XVII. **Other Business**
- XVIII. **Adjournment- Next Regularly scheduled POB meeting will be on January 10, 2019 at 5:00 p.m. in the Vincent E. Griego Chambers.**

CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board

*Joanne Fine
Chelsea Van Deventer*

Leonard Waites, Chair

Dr. William J. Kass

Chantal M. Galloway, Vice Chair

Valerie St. John

Edward Harness, Executive Director

December 14, 2018

Via Certified Mail

7017 2680 0000 5951 8337

Re: CPC #225-18

Dear Ms. D

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint against Officers of the Albuquerque Police Department (APD) on September 17, 2018, regarding an incident that occurred on August 27, 2018.

I. THE COMPLAINT

T D submitted an online complaint regarding her allegation that Operator A did not listen to her concerns when she came home to find an intruder on her property. The Operator threatened to have her arrested if she did not follow orders. Ms. D wrote Operator A was argumentative and unnecessary.

II. INVESTIGATION

The CPOA Investigator reviewed the 911 call between Ms. D and the Operator. In general, the Operator was trying to get relevant information and dissuade the citizen from following the person that she suspected was about to break into her home. Operator A told the citizen she could be taken into custody if she refused to follow orders. This was after multiple times of telling her not to follow the person in her car, which she indicated she was going to refuse to follow those instructions. Operator A also felt it necessary to retort he too was a taxpayer when Ms. D said she was a taxpayer and expected better.

Ms. D wrote she wanted the supervisor of the Operator to review the call and counsel the Operator about how to handle the call better. The CPOA Investigator contacted the Communications Manager who stated she had been made aware of the call a few days after the incident occurred. She advised Operator A his handling of the call was inappropriate and documented as much in his file. Mr. A is no longer an employee with the city and left in September. The Communications Manager thought she had spoken with Ms. D and advised the call was not handled appropriately, but she was not sure at this point.

III. CONCLUSION

The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** the complaint, as the CPOA no longer has jurisdiction over Mr. A and the complaint was resolved at the supervisor level.

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

cc: Albuquerque Police Department Chief of Police

CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board

Joanne Fine

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Edward Harness, Executive Director

Leonard Waites, Chair

Dr. William J. Kass

Chantal M. Galloway, Vice Chair

Valerie St. John

December 14, 2018

Via Email

Re: CPC #230-18

Dear Ms. M

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint against Officers of the Albuquerque Police Department (APD) on September 19, 2018, regarding an incident that occurred on or about March 14, 2018.

I. THE COMPLAINT

N M submitted an online complaint regarding the attempted kidnapping of her daughter on March 14, 2018 and the release of videos about the incident. Ms. M believed she should have been consulted and offered the opportunity to give her consent before the videos were released to the media. Ms. M wanted the videos to be removed from media outlets use and given the opportunity to give consent for any future releases.

II. INVESTIGATION

The CPOA Investigator contacted the records custodian for APD and was informed there were two Inspection of Public Records Act (IPRA) requests from the media for this incident. The assistant city attorney determined that no exemptions applied regarding the request so the information as requested, including the lapel videos, were provided.

The CPOA Investigator reviewed the videos locatable in media outlets regarding this incident. Only one story located had a brief visual of the 14-year-old victim, but she was not identified by name and her face was blurred. More than one additional media story had the eldest victim, not Ms. M daughter, featured by soundbites recounting what happened. The eldest victim also was not identified by name nor was her face shown. The CPOA Investigator did not locate a story that featured the 17-year-old victim.

The CPOA Investigator tried to contact Ms. M via phone without response. The CPOA Investigator contacted Ms. M via email. The CPOA Investigator informed Ms. M that one media outlet requested information including the lapel videos from the incident. There is not an exception built into IPRA that takes into account the age of victims or parental authorization for minors who are victims. Ms. M responded by email asking to review the Inspection of Public Records Act. The CPOA Investigator copied the entirety of the

Act to her in email. She asked if there was not a requirement that a guardian of a minor must give consent before a video is published in media outlets. The CPOA Investigator reiterated that IPRA required the City of Albuquerque to release the information. As to what a person or entity did with that information exceeded the scope of the CPOA. Ms. M would need to research or seek assistance to determine if the media had any obligations in a situation like this. Ms. M stated if her daughter was to be exploited then so should the other victims. The media stories located highlighted the oldest victim far more than they did the youngest victim. Ms. M did not request additional answers in her emails. Ms. M did not provide information about videos beyond what the CPOA Investigator located that were more revealing of the youngest victim's identity.

III. CONCLUSION

The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** the complaint, as there was no violation of APD Standard Operating Procedures. The City of Albuquerque complied with an IPRA request and there were no applicable exceptions. Any issues with the use of the information obtained by the media are outside of the CPOA/POB jurisdiction.

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

cc: Albuquerque Police Department Chief of Police

CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board

Joanne Fine

Chelsea Van Deventer

Edward Harness, Executive Director

Leonard Waites, Chair

Dr. William J. Kass

Chantal M. Galloway, Vice Chair

Valerie St. John

December 14, 2018

To File

Re: CPC #238-18

Dear Mr. C

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint against Officers of the Albuquerque Police Department (APD) on October 3, 2018, regarding an incident that occurred on or about August 19, 2016.

I. THE COMPLAINT

A C submitted an online complaint as an anonymous complainant, but signed his name. Mr. C provided no information to contact him. Mr. C provided an incorrect address for the incident location, but it was close enough that the incident from 2016 was located. Mr. C wrote as his complaint, "Missing pages in police report as well as mishandled information and dismissal or unwillingness to work on case due to nature of the situation and information given." Mr. C sought the outcome of finding the person that shot him over two years ago.

II. INVESTIGATION

The CPOA Investigator reviewed the police report from the incident. According to the report, Mr. C and a witness were renovating a property when an unknown male subject entered the premises and shot Mr. C. Field officers took Mr. C's statement and the witness' statement. There had been discussion of an unreported vehicle burglary as possibly being relevant to the situation. Mr. C also mentioned something about a Facebook threat coming from a fake account, but he had no idea as to the person's identity. There were also theories about drug involvement, specifically marijuana.

Detective A was assigned to conduct a follow-up investigation. Detective A conducted additional interviews of Mr. C and the witness. Mr. C gave Detective A information about friends and acquaintances, which Detective A interviewed some of them. Detective A followed up several months later with Mr. C. Mr. C was convinced his friends and acquaintances had nothing to do with the attempted robbery, but accused the witness as being involved somehow. Detective A was unsuccessful at speaking with the witness a second time. Detective A closed the case pending future leads on an offender.

The police report was not missing pages so it is unclear what Mr. C meant in his complaint. Mr. C did not elaborate on what information was mishandled or why he felt

Letter to Mr. C
December 14, 2018
Page 2

the detective did not work on his case. Mr. C did not provide contact information to get more information from him from an incident that occurred over two years ago.

III. CONCLUSION

The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** the complaint, as there was not enough information to move forward with the investigation.

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

cc: Albuquerque Police Department Chief of Police

CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board

Joanne Fine

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Dr. William J. Kass

Chantal M. Galloway, Vice Chair

Valerie St. John

Edward Harness, Executive Director

December 14, 2018

Via Email

Anonymous

RE: CPC 246-18

Dear Anonymous:

On September 17, 2018 you telephoned our agency so you could file a complaint on something that you witnessed. Your complaint was taken over the phone by a CPOA Staff Member.

I. THE COMPLAINT

You told the CPOA Staff Member that earlier in the day you were leaving the Walmart located at San Mateo and Zuni and you saw a young shoplifter run from the store. The shoplifter was pursued by an APD Officer. You alleged the officer tripped the boy and put the boy down hard on the ground. You said that the officer used violent and excessive force when the officer handcuffed the boy. You alleged that when you asked the officer for his name that the officer responded, "Go suck your own d*** is my name." You wanted the officer to apologize for abusing his privilege.

II. THE INVESTIGATION

In an effort to assist you, a CPOA Investigator was assigned to your complaint. The CPOA Investigator reviewed your complaint, the police reports related to the incident, and all of the officer's lapel videos. Officer W. was the arresting officer of the boy who fled. He was running his lapel camera and the video captured the entire incident. The lapel video showed that the boy ran from the store and the officer chased him and caught him about ¾ of the way to where the parking lot ends. The officer did not trip the boy as you alleged. The lapel video showed the officer grab the boy's sweatshirt and the officer ordered the boy to the ground and the boy complied. The officer did not commit any violent or excessive actions as you alleged. The officer assisted the boy up and grabbed the boy's hat and cell phone. As the officer was walking the boy back to the store, the lapel video captured you telling the boy that you saw everything and you asked the boy if he was okay. He replied to you that he was. The boy then asked the officer why people are so nosy. The video showed that the officer asked the boy if he was injured and the boy said that he did not have any injuries and was fine. Most

importantly, the lapel video showed that you never asked the officer for his name and he never replied to you as you reported.

III. CONCLUSION

The investigation conducted by the CPOA Investigator determined that you were untruthful in your allegations. The lapel video showed that the details you reported are fictional and there is no evidence to minimally substantiate your allegations. Because of that we are administratively closing your complaint and no further investigation by our office will occur. Administratively closed complaints may be re-opened if additional information becomes available.

Sincerely,



Ed Harpess
Executive Director
(505) 924-3774

CC: Albuquerque Police Department, Chief of Police

CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board

Joanne Fine

Chelsea Van Deventer

Leonard Waites, Chair

Dr. William J. Kass

Chantal M. Galloway, Vice Chair

Valerie St. John

Edward Harness, Executive Director

December 14, 2018

Via Email

RE: CPC 262-18

Dear Ms. P,

On October 15, 2018 we received your complaint about an incident that occurred on October 14, 2018 on Alameda Street near the Balloon Fiesta Park. You complained against an unidentified APD Officer.

I. THE COMPLAINT

You wrote in your complaint that as you were leaving the Balloon Fiesta an officer on foot stopped you from proceeding into traffic by hitting the windshield of your car with the red plastic cone on his flashlight. You thought the officer had signaled for you to go but the officer told you he had signaled for you to stop. You wrote that that the officer aggressively stared you down and intimidated you. You did not get the name of the officer but described him as a white or Hispanic male with black hair and an average build. You wanted the unprofessional behavior by the officer addressed by his supervisor.

II. THE INVESTIGATION

In an effort to assist you, a CPOA Investigator was assigned to your complaint. The CPOA Investigator reviewed your complaint and determined that there isn't enough information in your complaint to conduct any further investigation into the matter.

III. CONCLUSION

There are numerous police officers matching the description you provided to us who are assigned to work the Balloon Fiesta. Even if we were able to identify the officer you described, the alleged violation, if found to be true, would be a minor policy violation that would not constitute a pattern of misconduct. Because we were unable to identify the officer you complained of, we are administratively closing your complaint and no further investigation by our office will occur. Administratively closed complaints may be re-opened if additional information becomes available.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ed Harness', written over the printed name.

Ed Harness
Executive Director
(505) 924-3774

CC: Albuquerque Police Department, Chief of Police

CIVILIAN POLICE OVERSIGHT AGENCY

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Dr. William J. Kass

Chantal M. Galloway, Vice Chair

Valerie St. John

Edward Harness, Executive Director

December 14, 2018

Via Certified Mail

7017 2680 0000 5951 8344

RE: CPC 263-18

Dear S^r A

On October 7, 2018 we received your complaint about an incident that occurred on that same date near the intersection of Carlisle and Menaul. You complained against someone whom you believed to be an APD Officer.

I. THE COMPLAINT

You wrote in your complaint that you along with your wife and children observed a domestic violence incident occur between a male and female subject who appeared to be homeless. You saw the female batter the male and the male then appeared to choke the female. You called 911 to report the incident. You wrote in your complaint that about 15 minutes later a black unmarked vehicle with civilian plates arrived on scene. You stated that the occupant of the black car never exited the vehicle and never identified the subjects. After a brief 5 minute contact the unmarked unit departed the area. The male and female continued to fight. You wrote that as a Sheriff you understand that APD is overtasked but the responding officer did nothing to prevent the incident from escalating. The people could have had warrants for other crimes but the officer never checked. You complained that when you visit Albuquerque you are exposed to the homeless element on every corner. The homeless element have the potential for violence and if calls like these are not taken seriously, you family is placed in harm's way.

II. THE INVESTIGATION

In an effort to assist you, a CPOA Investigator was assigned to your complaint. The CPOA Investigator reviewed your complaint and your call to 911. The CPOA Investigator also reviewed the Computer Assisted Dispatch (CAD) report for your call. The Investigator identified the officer who was dispatched and responded to the call and reviewed his two lapel camera videos of the contact with the people who were reported to be fighting. There was no APD unmarked car dispatched to the call for service nor is there any evidence to support that

an APD unmarked car responded to the scene. You did not provide any information on the black car other than it had civilian plates. You assumed the car and the operator of the car was APD. You called 911 at 10:06 AM. A marked car with a uniformed officer in it was dispatched at 10:13 AM. The officer arrived on scene at 10:19 AM. The lapel videos showed the uniformed officer make contact with the people who were involved in the incident. The officer obtained identification from both the male and female and checked them for warrants. There were none. The male and female denied they were fighting with one another. The female told the officer that she was having a panic attack so he called for Rescue and an Ambulance. Prior to their arrival, the female decided that she did not need any medical assistance and she walked away.

III. CONCLUSION

There was no evidence found in the investigation that the black unmarked car with civilian plates was an APD car or that its occupant was an APD officer. The call was responded to quickly by a uniformed APD officer in a marked APD car. Perhaps you had left the area before the arrival of that officer but the evidence showed that the call was responded to and that the incident was handled properly by the officer. The lapel videos showed that the officer made contact with the people, asked them about the incident, and ran them for wants and warrants. Because we were unable to minimally substantiate your complaint and because the evidence showed the incident was responded to and handled correctly by APD, we are administratively closing your complaint and no further investigation by our office will occur. Administratively closed complaints may be re-opened if additional information becomes available.

Sincerely,



Ed Harness
Executive Director
(505) 924-3774

CC: Albuquerque Police Department, Chief of Police

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board

Joanne Fine

Chelsea Van Deventer

Leonard Waites, Chair

Valerie St. John

Chantal M. Gaffney, Vice Chair

Dr. William J. Kass

Edward Harness, Executive Director

December 14, 2018

Via email

Re: CPC #268-18

Dear Ms. V

Our office received the complaint you filed on October 19, 2018 against Albuquerque Police Department (APD) False Alarm Reporting Unit (FARU) employee F. regarding an alarm permit you said you paid for in March 2018 but have yet to receive. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint.

PO Box 1293

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

Albuquerque

NM 87103

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

www.cabq.gov

I. THE COMPLAINT

Ms. V complained she sent an alarm permit payment in to the APD FARU in March 2018 but as of October 19, 2018 had not received a permit. She complained that FARU employee F. would not release the alarm permit because the City of Albuquerque (COA) alarm ordinance requires two emergency contacts, which she provided and which included her alarm company. She said employee F. would not accept these contacts and therefore would not release Ms. V permit until the ordinance requirements were met. Ms. V has also contacted APD Deputy Chief B. and the Mayor's office with this same complaint. She said she didn't want to file a complaint but if she doesn't get a response from anyone, she will have no choice but to escalate.

II. THE INVESTIGATION

The CPOA Investigator reviewed your complaint and spoke with FARU employee F. regarding your permit. According to employee F. your permit was issued on April 19, 2018 and released and sent to you via US postal service on October 12, 2018. The CPOA Investigator attempted to contact you via email on November 1, 2018, to confirm whether, or not, you received your permit; however, has not received any response from you. Your email address is the only contact information you provided on your complaint; therefore, no other means to contact you about your complaint were available.

III. CONCLUSION

Based on the aforementioned information, the CPOA has made the decision to **ADMINISTRATIVELY CLOSE** your complaint because there are no APD Standard Operating Procedure or City Ordinance violations and it appears that you may have already received your alarm permit and the issue is resolved.

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

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Leonard Waites, Chair

Dr. William J. Kass

Chelsea Van Deventer

Chantal M. Galloway, Vice Chair

December 14, 2018

Via Certified Mail

7017 2680 0000 5951 8306

Re: CPC #228-17

Dear Ms. H

We received your complaint on July 1, 2017 A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint against Officers of the Albuquerque Police Department (APD) on December 19, 2017, regarding an incident that occurred on or about June 25, 2017.

I. THE COMPLAINT

D. H submitted an online complaint about how an incident with her adult son was handled. Ms. H went to the substation seeking help because her son struck her the previous night. Ms. H explained her son had mental health problems. Ms. H wrote that officers assured her that if she filed the complaint about the battery that her son would be placed in jail on the mental health side. Ms. H wrote she was told her son would be evaluated for three to four days and appropriate action would be taken. Ms. H wrote officers told her that her son would be safe and in jail until his hearing in July. Ms. H was upset because what actually happened was very different. Her son was arrested, but did not have his phone or wallet with him. The jail released him less than 24 hours later and dropped off on a corner at 2 a.m. with nothing. Ms. H wrote APD has done nothing to assist in finding her son.

II. INVESTIGATION

The CPOA Investigator reviewed the police report and the lapel videos of the incident. Ms. H came into the substation and reported a domestic violence incident with her son from the previous night. Officers expressed concern for her safety, took her statement about what happened, and had a victim's advocate respond to assist her. The officers explained the victim's advocate would assist her in obtaining an emergency restraining order so that Mr. H could not return home to commit more violence. The officers broached the subject of restraining orders, because at some point he would be released from custody. There was no specific talk of keeping him in jail until July. Ms. H expressed her son had nowhere to go when released so another officer mentioned there were shelters and halfway homes her son could stay at while applying for services. The sound was poor on many of the videos, but as best as could be heard

there were no specific promises made as to what would happen. When officers took Mr. H into custody, he did not have property on him and did not request anything.

The issues Ms. H wrote about concerning her son's release are issues with the jail and not APD. The arrested person's placement in jail and how long they are held are outside of APD's control. The jail runs the psychiatric unit and it is the jail's decision as to who will be referred to that unit. Generally, both APD and the jail must adhere to State Statute 43-1-10 when making referrals to psychiatric services. When Mr. H was arrested, he did not fit the criteria outlined in the State Statute so APD's options and possibly the jail's options were limited. The CPOA made several attempts to retrieve the booking records from MDC, but was unable to do so. The CPOA has no ability to compel MDC to produce requested records.

Ms. H wrote APD did nothing to help when she reported her son missing, but officers took a missing person's report and entered Mr. H information into NCIC. The cause for Mr. H arrest did not fit the criteria for jail diversion.

III. CONCLUSION

The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** the complaint, as Ms. H concern about how the jail handled her son's brief incarceration and release is outside of APD's control and therefore outside of the CPOA's jurisdiction. In reviewing and researching this complaint, some issues with APD policy were discovered. Recommendations to the Police Oversight Policy Subcommittee will be made in order to forward these recommendations to APD.

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

cc: Albuquerque Police Department Chief of Police

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Leonard Waites, Chair

Dr. William J. Kass

Chantal M. Galloway, Vice Chair

Valerie St. John

December 14, 2018

Via Certified Mail

7017 2680 0000 5951 8368

Re: CPC #183-18

Dear Mr. W

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint against Officers of the Albuquerque Police Department (APD) on August 27, 2018, regarding an incident that occurred on August 6, 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

Mr. W complained Sgt. L drove unsafely. Mr. W complained he and Sgt. L got into a verbal argument where Sgt. L challenged him to fight.

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable SOPs, the complaint, the Computer Aided Dispatch (CAD), the non-emergency call to police, Sgt. L's interview, and Lt. G's interview.

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

A) The CPOA reviewed Standard Operating General Order 1-1-4F2 regarding Sgt. L's conduct, which states:

Personnel will operate official vehicles in a careful and prudent manner and will obey all laws and all department orders about such operation...

Mr. W changed lanes when his path looked clear. When he did, he noticed a marked APD truck come up on his tail hard and fast in an aggressive manner. The APD truck, driven by Sgt. L, then changed lanes and came up next to him. He did not think he cut Sgt. L off when Sgt. L accused him of doing so.

Mr. W claimed Sgt. L came up on his tail hard and fast while he was on his motorcycle. Sgt. L stated Mr. W cut him off so the lack of space between the motorcycle and his vehicle was due to Mr. W's actions not his. There was no identified witness.

The CPOA finds Sgt. L's conduct to be **NOT SUSTAINED** where the investigation was unable to determine whether the alleged misconduct occurred.

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

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

Mr. W stated Sgt. L angrily told him he needed to learn how to drive. Mr. W admitted he used profanity and called Sgt. L names. In response, Sgt. L asked him if he wanted to pull over. Since Sgt. L was not in uniform and he did not have his emergency lights engaged, it was clearly not for conducting a traffic stop. Mr. W took Sgt. L's statement to be a challenge to fight. Sgt. L never specifically said he wanted to fight. Sgt. L turned off and he went home. He was angry about Sgt. L's conduct so he went down the street to find Sgt. L. He found Sgt. L in a parking lot and told him it was fine to have a bad day, but he should not take it out on others. Sgt. L apologized, but it did not make it right.

Sgt. L stated Mr. W immediately demanded what his problem was, and asked why he was tailgating. Sgt. L informed him that he cut him off. Mr. W continued complaining about Sgt. L's driving especially being in a police vehicle. Sgt. L told him he was not going to argue on the road with him and said if he wanted to pull over to talk then they could talk. Mr. W immediately accused him of wanting to pull over and fight. Sgt. L told him he did not want to fight him and only wanted to talk to him. Mr. W kept going on so he rolled up his window. He assumed Mr. W followed him since Mr. W yelled from the street they were not done. Sgt. L said they were done and he could file a complaint. Mr. W called police and he provided his information when asked.

Mr. W and Sgt. L had different versions of how the conversation went. There was no identified witness and no lapel video as Sgt. L was in civilian clothing. Sgt. L was on duty going to a meeting. Mr. W stated from Sgt. L's tone and attitude it was clear to him that Sgt. L was challenging him to fight. Sgt. L said he specifically suggested they pull over to talk about the situation and he never implied or stated that he wanted to fight.

The CPOA finds Sgt. L's conduct to be **NOT SUSTAINED** where the investigation was unable to determine whether the alleged misconduct occurred.

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



Ed Harness
Executive Director

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board

Joanne Fine

Chelsea Van Deventer

Edward Harness, Executive Director

Leonard Waites, Chair

Dr. William J. Kass

Chantal M. Gaffney, Vice Chair

Valerie St. John

December 14, 2018

Via Email

Re: CPC # 184-18

Dear Mr. N

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint against Officers of the Albuquerque Police Department (APD) on August 7, 2018, regarding an incident that occurred on July 21, 2018. The CPOA thoroughly and impartially investigated the complaint.

PO Box 1293

Albuquerque

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

NM 87103

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

www.cabq.gov

I. THE COMPLAINT AND INVESTIGATION

Mr. N stated Officer M approached him and accused him of being parked in a handicap spot. Mr. N felt Officer M attempted to intimidate him with an authoritarian tone.

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable SOPs, the complaint, the Computer Aided Dispatch (CAD), photos of the parking lot, Mr. N interview, 2 employees' interviews, and Officer M's interview.

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

A) The CPOA reviewed Standard Operating General Order 1-4-3A1 regarding Officer M's conduct, which states:

Biased-based policing and/or profiling by any member of this Department are prohibited. Investigative detentions, field contacts, traffic stops, arrests, searches, property seizures, and forfeiture efforts will be based on a standard of reasonable suspicion or probable cause in accordance with the Fourth Amendment of the U.S. Constitution.

Mr. N stated Officer M approached him and improperly accused him of being parked in a handicap spot in an authoritarian tone. He showed she was in error once outside and she never apologized for the mistake. Employees later told him Officer M asked for him by race. Officer M's actions were harassment and he attributed it to racism. He based his assessment on her tone, which he has experienced before as a black individual.

Two managers stated when Officer M entered the store she asked for Mr. N by race. One manager overheard Officer M and Mr. N argue about him being parked in a handicap space, which Mr. N was not; the manager corrected Officer M when he had the opportunity.

Mr. N and Officer M have different accounts of how the interaction went. Mr. N felt Officer M approached him for no reason and harassed him. The managers did not know Officer M's original motivation for asking about Mr. N identifying him by race. Officer M did not think she had asked about Mr. N using race as a descriptor. Based on the independence of the employees, the preponderance of the evidence supports that Officer M identified Mr. N by race. Mr. N described that Officer M had an authoritarian and threatening tone whereas Officer M described her tone as conversational. The independent witness characterized the contact as an argument not conversational. Officer M agreed she did not apologize for the mistake, as she did not think she hurt Mr. N's feelings and the issue was minimal. Officer M maintained that the parking lot was improperly marked. Mr. N and the employees characterized Officer M as insisting she was in the right. The call did not involve urgency or rapidly evolving events. Officer M failed to do a proper assessment of the parking space despite her self-initiated enforcement of handicap parking. Officer M contacted an individual that she identified by a specific race before she handled her call for service. When shown to be mistaken, Officer M did not apologize or admit the error.

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

B) The CPOA reviewed Standard Operating Procedural Order 2-8-5B8i regarding Officer M's conduct, which states:

Subject to the limitations in this policy, Department personnel shall use Department-issued OBRDs to document the incidents listed below. i. Any other legitimate law enforcement contact where the Department personnel believe that recording an incident would be appropriate or valuable. In these contacts, the Department personnel shall balance the law enforcement objectives and need to record against the individual's expectation of privacy, particularly with respect to sensitive victims.

Officer M did not believe a recording was necessary at the time. Mr. N and the independent witness characterized the encounter as negative. The contentiousness and Officer M's belief a violation occurred indicated that recording would have been appropriate.

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

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

Joanne Fine

Chelsea Van Deventer

Leonard Waites, Chair

Dr. William J. Kass

Chantal M. Galloway, Vice Chair

Valerie St. John

Edward Harness, Executive Director

December 14, 2018

Via E-Mail

Re: CPC 222-18

Dear Ms. C

Our office received the complaint you filed against Telecommunications Operator M. of the Albuquerque Police Department (APD) regarding an incident that occurred on August 18, 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 Telecommunications Operator 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 Telecommunications Operator Union, AFSCME, and the City of Albuquerque requires that personnel cooperate in the investigation; therefore, the Operator's statement may not be made public. Below is a summary of the complaint, the CPOA's investigation and findings.

I. THE COMPLAINT

On August 18, 2018 at about 3:07 AM, Ms. C wrote an e-mail to Assistant US Attorney E M: complaining about the way she was treated by APD Telecommunications Operator M. when Ms. Cl called to report multiple shots being fired near her home. That email was forwarded to Communications Director Erika Wilson who made the e-mail a Citizen Police Complaint and Ms. W in turn forwarded the email and complaint to the CPOA for formal investigation.

Ms. C wrote in her e-mail that over 50 shots had been fired near her home and she called 911 to report it. Telecommunications Operator M., identified by her assigned employee number, answered the call and Ms. C alleged that Operator M. was really rude to her. Ms. C alleged that Operator M. questioned her about her being the one that "always calls". Ms. C had heard someone cry out and was terrified. When Telecommunications Operator M. was rude to Ms. C, Ms. C "said a few choice words to" Operator M.. Ms. C complained to Ms. M about past incidents of shots fired near her home in the e-mail. She wrote that she was offended by the way she was treated by Operator M. especially when she was begging for help. Ms. C stated that she learned that there were other callers who had called in the incident as well including a Sheriff's Deputy, and she was baffled as to why Telecommunications Operator M. would question her about making false claims to the police. Ms. C wrote in her e-mail that she did not want the Operator fired but she did want to make someone aware of the call.

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

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable Standard Operating Procedures (SOPS), the Complaint, the Computer Assisted Dispatch (CAD) report, the recorded 911 call, an interview with Ms. C, and an interview with Telecommunications Operator M..

A) The CPOA reviewed Standard Operating Procedure 1-1-4 B 7 which states:

Both on and off duty, personnel will conduct themselves in a manner that reflects favorably on the Department.

Ms. C complained Operator M. was accusatory, rude and disrespectful.

On 08/18/18 at about 2:11 AM, Ms. C called the APD to report numerous shots being fired near her home. Operator M. answered her call. Within the first few minutes of the call, Ms. C reported that multiple shots were being fired near her home, that she heard someone cry out, and that she needed officers sent to the scene. Ms. C said that she wanted to remain anonymous.

The recorded phone call was reviewed by the CPOA Investigator. The recorded phone call showed that Operator M. told Ms. C that she would not send out any officers until Ms. C answered her questions. Operator M. told Ms. C that reporting false information to the police was a crime. Operator M. snickered and laughed at Ms. C during the call. Operator M. engaged in argumentative behavior with Ms. C.

The phone call also revealed that Ms. C displayed some unprincipled behavior. Ms. C became upset when she was questioned about calling incidents like this in "quite often." When Operator M. told Ms. C that it was against the law to report false

information to the police, Ms. C became really upset. Ms. C used a lot of profanity and she called Operator M. "a bitch".

Ms. C was interviewed. She stated that she felt bad about using so much profanity and saying the things she did and that wasn't really within her character. Ms. C said that Operator M. just got her so angry that she said those things. Ms. C said that she does call in things in her neighborhood frequently because that was what she was instructed to do by officers assigned to her area. She said that she was not truthful when she told Operator M. that she doesn't call in often but only because she wanted to remain anonymous. She said that she felt like Operator M. didn't believe her and she later found out that there were other neighbors who were calling in at the same time. One of those was an off duty deputy. Ms. C said what really got her angry was that she was accused by Operator M. of providing false information to the police.

Operator M. was interviewed. She listened to the recorded version of the call and said that she could have done a better job. Operator M. explained that when she entered Ms. C phone number into the database the return showed that Ms. C had called the police about 5-6 times in the past in a short period of time. She said that as she was speaking with Ms. C she felt that Ms. C was exaggerating the event. Ms. C had reported hearing 50-100 shots during the phone call and Ms. C said she had heard someone cry out but couldn't tell Operator M. what the person cried out. She said that information is important as to what type of weapon was being used and if someone had actually been shot. It also changes the priority of the call. Operator M. said that she believed based on the history of past phone calls from the caller that the caller, Ms. C, may have not been happy with police response to her other calls in the past and that Ms. C may have exaggerated what was happening out there to get a faster response. She said that was why she informed Ms. C that it was a crime to report false information to the police. Operator M. said that Ms. C acted outrageously and used much profanity. Operator M. admitted that she snickered and laughed at Ms. C during the call but only in response to Ms. C outrageous comments. Operator M. said that she does have the ability to see real time information as it comes in, such as another caller reporting the same incident, but in this case, she didn't remember if there were other callers or not.

The evidence showed that the call was elevated to a priority one call and APD protocol prohibits Telecommunications Operators on a 911 call from terminating the phone call prior to the arrival of an officer. Even if the caller becomes angry, irate, or abusive, the operator must stay on the line. In this case, the evidence showed, Operator M. argued with the caller.

The evidence showed that Ms. C displayed unprincipled and abusive language. The evidence showed she had called frequently in the past and was untruthful when asked about that by Operator M. Those actions though do not warrant a doubtful or unprofessional response from a Telecommunications Operator. Telecommunications Operators have an incredibly difficult and stressful job. Handling a call when it comes in and looking at it in hindsight present two very different perspectives. When reviewed in hindsight, the evidence in this case proved that Operator M. violated APD Standard Operating procedure.

The CPOA finds Telecommunications Operator M.'s conduct to be **SUSTAINED**, as the investigation determined by a preponderance of the evidence that the alleged misconduct did occur.

Your complaint and these findings are made part of Telecommunications Operator 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/iro/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, Esq.
Executive Director

CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board

Joanne Fine

Chelsea Van Deventer

Leonard Waites, Chair

Dr. William J. Kass

Chantal Galloway, Vice Chair

Valerie St. John

Edward Harness, Executive Director

December 11, 2018

Michael Geier, Chief of Police
C/O Internal Affairs Unit
Albuquerque Police Department
400 Roma NW
Albuquerque, NM 87102

Re: CPC-144-18

Dear Chief Geier:

We concurred on our findings in this case. This investigation will be presented to the Police Oversight Board for final review and, if approved, these findings will be final.

It is always difficult to investigate a case with an anonymous complainant. The investigator should be commended for getting the information he did. However, there are aspects of the investigation I find incomplete:

1. Did the investigator inquire about workplace surveillance video? Those may have revealed some of the behavior described in the complaint. This is particularly relevant because the employer commenced an investigation into the employee.
2. There should have been more follow-up with the complainant as he described his cop friends told him to “drop it” or “let it go” words to that affect. That is possible retaliation or investigation tampering.

If any changes to these findings are ever contemplated, inform the POB and the CPOA immediately.

Please ensure the findings are placed in the officer’s retention file.

Please contact me if there are questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to be 'EH', with a long horizontal stroke extending to the right.

Edward Harness, Esq.
Executive Director
Civilian Police Oversight Agency
(505) 924-3770

CIVILIAN POLICE OVERSIGHT AGENCY

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Joanne Fine

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Edward Harness, Executive Director

Leonard Waites, Chair

Dr. William J. Kass

Chantal M. Galloway, Vice Chair

Valerie St. John

December 27, 2018

Re: CPC #053-18

Dear Mr. P

On December 13, 2018, the Police Oversight Board held an Appeal Hearing. The Board heard your presentation and the presentation of the Civilian Police Oversight Agency. It then went into a closed session to deliberate and reach it's conclusions.

The Board recommended as follows:

1. The findings of the CPOA are upheld
2. Officer V. should be sustained for a violation of APD Policy 2-19-5 and 2-19-7

As with all recommendations from the POB, the final decision to sustain findings is the decision of the Chief of Police.

Sincerely,

The Civilian Police Oversight Agency by



Ed Harness

Executive Director