

Civilian Police Oversight Agency Board

Patricia J. French, Chair *Jesse Crawford, Vice-Chair*

Chantal M. Galloway

Eric Nixon

Michael Wartell

Diane McDermott, Interim Executive Director

BOARD AGENDA

Thursday, May 19, 2022 - 5:00 p.m.

Attendance: In response to the Public Health Emergency, the Civilian Police Oversight Agency (CPOA) Board meeting on Thursday, May 19, 2022 at 5:00 pm will be held via Zoom video conference.

Viewing: Members of the public will have the ability to view the meeting through GOVTV on Comcast Channel 16, or to stream live on the GOVTV website at: <https://www.cabq.gov/culturalservices/govtv>, or on YouTube at: <https://www.cabq.gov/cpoa/events/cpoa-board-meeting-05-19-2022>. (Please note that the link for YouTube has not yet been generated, however, the link could easily be found on the link provided above prior to the start of the meeting). The GOVTV live stream can be accessed at these addresses from most smartphones, tablets, or computers.

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

Public Comment: The agenda for the meeting will be posted on the CPOA website by 5:00 p.m., Monday, May 16, 2022 at www.cabq.gov/cpoa.

The CPOA Board will take general public comment and comment on the meeting's specific agenda items in written form via email through 4:00 p.m. on Thursday, May 19, 2022. Submit your public comments to: POB@cabq.gov. These comments will be distributed to all CPOA Board members for review.

- I. Welcome and call to order**
- II. Approval of the Agenda**
- III. Approval of Consent Agenda**
 - a. Administratively Closed**

234-21	265-21	269-21	005-22
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 - b. Unfounded**

243-21	253-21	007-22	025-22
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 - c. Exonerated**

245-21	009-22
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- d. Unfounded and Exonerated**
260-21
- e. Not Sustained**
255-21 019-22
- f. Not Sustained and Exonerated**
232-21

IV. Public Comments

- V. Review and Approval of Minutes from April 14, 2022 Meeting and Special Meeting on May 11, 2022.**

VI. Reports from City Departments

- a. APD**
 - 1. IA Professional Standards Division (SOP 7-1, SOP 3-41, SOP 3-46) – Acting Commander Mark Landavazo**
 - 2. IA Force Division (SOP 2-52 through SOP 2-57) – Acting Commander Richard Evans**
- b. City Council – Chris Sylvan**
- c. Public Safety Committee - Chris Sylvan**
- d. Mayor’s Office – Pastor David Walker**
- e. City Attorney**
- f. CPC – Kelly Mensah**
- g. APOA – Shaun Willoughby**
- h. CPOA – Diane McDermott, Interim Executive Director**
 - 1. 3 Firms and Cost for CPOA Staff Study**
 - 2. IMR-15 Concerns for CPOA And CPOAB – Diane McDermott and Patricia J. French**
 - 3. Protest Investigations update**

VII. Requests for Reconsideration

- a. None.**

VIII. Non-Concurrence Cases – APD Representative

- a. 191-21**
- b. 202-21**
- c. 214-21**
- d. 248-21**

IX. Serious Use of Force Cases/Officer Involved Shooting – Diane McDermott, Interim Executive Director

- a. 21-0063380**
- b. 21-0065420**
- c. 21-0072619**
- d. 21-0078682**

- e. **File Requests:**
- f. **Proposed Case(s) for May 2022 Review:**
 - 1. **TBD**

X. Reports from Subcommittees

- a. **Case Review Subcommittee – *Eric Nixon***
 - 1. **Met April 26, 2022**
 - 2. **Next May 24, 2022 at 4:30 p.m.**

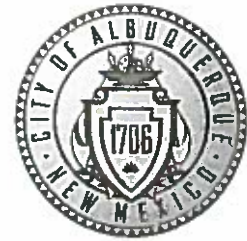
XI. Discussion and Possible Action:

- a. **Update on Vendor’s to Complete CPOA Staff Study – *Diane McDermott, Interim Executive Director***
- b. **Consideration of PPRB Policies with No Recommendation: - *Jesse Crawford***
- c. **Response from Deputy Chief Griego Concerning OIS APD Case #19-0077270 – *Patricia J. French***
- d. **Findings Letter Sent from CPOA to Complainant – *Patricia J. French***
- e. **Approval of CPOA Board Letterhead – *Patricia J. French***
- f. **Consideration of Proposed MOU between the City of Albuquerque, CPOA/CPOAB and APOA on OIS/SUOF Materials – *Tina Gooch, CPOA/CPOAB Legal Counsel***
- g. **CPA Training Requirement for CPOA Board – *Patricia J. French***
- h. **Ride-along Scheduling – *Patricia J. French***
- i. **Response from CPOAB concerning IMR-15 – *Jesse Crawford***
- j. **APD Chief Response to Social Media Policy – *Diane McDermott, Interim Executive Director***
- k. **Scheduling CPOA Board Special Meeting for Review of SUOF/OIS Backlog**
- l. **Approval of Response to OMA Complaint – *Patricia J. French and Tina Gooch, CPOA/CPOAB Legal Counsel***
- m. **Motion to Approve CPOA Board Selection of Candidate for Executive Director – *Patricia J. French***

XII. Other Business

- XIII. Adjournment- *Next Regularly scheduled CPOA Board meeting will be on June 9, 2022 at 5:00 p.m.***

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Civilian Police Oversight Agency Board

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Chantal M. Galloway *Eric Nixon*

Diane McDermott, Interim Executive Director

Michael Wartell

May 20, 2022

Via Certified Mail

7020 1810 0000 6296 7081

Re: CPC # 264-21

Dear Mr. A:

PO Box 1293

COMPLAINT:

Albuquerque

Mr. A alleged Chief M, Deputy Chief L, Chief Policy Advisor M, Deputy Superintendent G, Superintendent of Police Reform/Deputy Chief Administrative Officer S and Chief Administrative Officer N violated but not limited to key APD Policies related to the Court Approved Settlement Agreement.

NM 87103

Mr. A reported to refer to the Federal Court Transcript from 12/16/2021, CASA status hearing before the Honorable Judge James Browning and the Albuquerque Journal Article 'Justice Dept. decries logjam of use-of-force cases at APD.'

www.cabq.gov

EVIDENCE REVIEWED:

Video(s): N/A

APD Report(s): N/A

CAD Report(s): N/A

Complainant Interviewed: No

Witness(es) Interviewed: N/A

APD Employee Interviewed: No

APD Employee Involved: not APD employee, but named in complaint CAO Nair

Other Materials: Court Approved Settlement Agreement (CASA)

Date Investigation Completed: April 7, 2022

FINDINGS

1. **Unfounded.** Investigation classification when the investigator(s) determines, by clear and convincing evidence, that alleged misconduct did not occur or did not involve the subject officer.

2. **Sustained.** Investigation classification when the investigator(s) determines, by a preponderance of the evidence, the alleged misconduct did occur by the subject officer.

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4. **Exonerated.** Investigation classification where the investigator(s) determines, by a preponderance of the evidence, that alleged conduct in the underlying complaint did occur but did not violate APD policies, procedures, or training.

5. **Sustained Violation Not Based on Original Complaint.** Investigation classification where the investigator(s) determines, by a preponderance of the evidence, misconduct did occur that was not alleged in the original complaint (whether CPC or internal complaint) but that other misconduct was discovered during the investigation, and by a preponderance of the evidence, that misconduct did occur.

6. **Administratively Closed.** Investigation classification where the investigator determines: The policy violations of a minor nature and do not constitute a pattern of misconduct (i.e. a violation subject to a class 7 sanction, -the allegations are duplicative; -the allegations, even if true, do not constitute misconduct; or -the investigation cannot be conducted because of the lack of information in the complaint, and further investigation would be futile.

Additional Comments:

Please be advised the Chief Administrative Officer does not fall under the CPOA Jurisdiction.

This incident was Administratively Closed via out of Jurisdiction

You have the right to appeal this decision. If you are not satisfied with the findings of the CPOA Executive Director within 30 calendar days (inclusive of holiday and weekends) of receipt of this letter, communicate your desire to have an appeal hearing before the CPOA Board in a signed writing addressed to the CPOA Director. Please send your request to P.O. Box 1293, Albuquerque, NM 87103 or by email CPOA@cabq.gov. Include your CPC number. **Upon receipt of the communication, a hearing will be scheduled at the Board's next regularly scheduled meeting provided there is at least ten days between the receipt of the request and the next meeting.**

In order for the Board to change the findings and/or recommendations or make further recommendations, proof must be offered that:

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Administratively closed complaints may be re-opened if additional information becomes available.

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



Diane McDermott
Interim Executive Director (505) 924-3770

cc: Albuquerque Police Department

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Complainant Interviewed: No Witness(es) Interviewed: N/A

APD Employee Interviewed: No

APD Employee Involved: Chief Policy Advisor M

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Additional Comments:

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The Monitoring team assesses, reviews and audits APD Personnel relating to compliance with the CASA. This Incident was Administratively Closed via duplicative investigation

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Sincerely,
The Civilian Police Oversight Agency by



Diane McDermott
Interim Executive Director
(505) 924-3770

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



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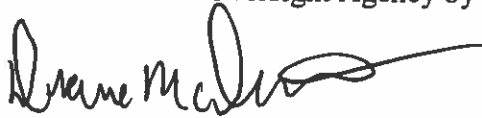
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Being that this case involves the Chief of Police, the review of the case was conducted by the City's Chief Administrative Officer. The City's Chief Administrative Officer is the final disciplinary authority in reference to the Chief of Police.

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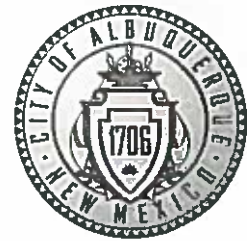
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Date Investigation Completed: April 7, 2022

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You have the right to appeal this decision. If you are not satisfied with the findings of the CPOA Executive Director within 30 calendar days (inclusive of holiday and weekends) of receipt of this letter, communicate your desire to have an appeal hearing before the CPOA Board in a signed writing addressed to the CPOA Director. Please send your request to P.O. Box 1293, Albuquerque, NM 87103 or by email CPOA@cabq.gov. Include your CPC number. **Upon receipt of the communication, a hearing will be scheduled at the Board's next regularly scheduled meeting provided there is at least ten days between the receipt of the request and the next meeting.**

In order for the Board to change the findings and/or recommendations or make further recommendations to the Chief of Police, proof must be offered that:

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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



Diane McDermott
Interim Executive Director
(505) 924-3770

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Civilian Police Oversight Agency Board

Patricia J. French, Chair *Jesse Crawford, Vice-Chair*

Chantal M. Galloway *Eric Nixon*

Diane McDermott, Interim Executive Director

Michael Wartell

May 20, 2022

Via Certified Mail

7020 1810 0000 6296 7081

Re: CPC # 264-21

Dear Mr. A:

PO Box 1293

COMPLAINT:

Albuquerque

Mr. A alleged Chief M, Deputy Chief L, Chief Policy Advisor M, Deputy Superintendent G, Superintendent of Police Reform/Deputy Chief Administrative Officer S and Chief Administrative Officer N violated but not limited to key APD Policies related to the Court Approved Settlement Agreement.

NM 87103

Mr. A reported to refer to the Federal Court Transcript from 12/16/2021, CASA status hearing before the Honorable Judge James Browning and the Albuquerque Journal Article 'Justice Dept. decries logjam of use-of-force cases at APD.'

www.cabq.gov

EVIDENCE REVIEWED:

Video(s): N/A APD Report(s): N/A CAD Report(s): N/A

Complainant Interviewed: No Witness(es) Interviewed: N/A

APD Employee Interviewed: No

APD Employee Involved: Former Superintendent of Police Reform S

Other Materials: Court Approved Settlement Agreement (CASA)

Date Investigation Completed: April 7, 2022

FINDINGS

1. **Unfounded.** Investigation classification when the investigator(s) determines, by clear and convincing evidence, that alleged misconduct did not occur or did not involve the subject officer.

2. **Sustained.** Investigation classification when the investigator(s) determines, by a preponderance of the evidence, the alleged misconduct did occur by the subject officer.

3. **Not Sustained.** Investigation classification when the investigator(s) is unable to determine one way or the other, by a preponderance of the evidence, whether the alleged misconduct either occurred or did not occur.

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6. **Administratively Closed.** Investigation classification where the investigator determines: The policy violations of a minor nature and do not constitute a pattern of misconduct (i.e. a violation subject to a class 7 sanction, -the allegations are duplicative; -the allegations, even if true, do not constitute misconduct; or -the investigation cannot be conducted because of the lack of information in the complaint, and further investigation would be futile.

Additional Comments:

Per the CASA, in part, the Monitor will assess and report whether the requirements of this Agreement have been implemented, and whether this implementation is resulting in high-level, quality service; officer safety and accountability; effective, constitutional policing; and increased community trust of APD. The Monitor shall conduct compliance reviews or audits as necessary to determine whether the City has implemented and continues to comply with the material requirements of the Agreement. In addition to compliance reviews and audits, the Monitor shall conduct qualitative and quantitative assessments to measure whether implementing this Agreement has resulted in the outcomes expressed in paragraph 294. The Monitor may make recommendations to the Parties regarding measures to ensure timely, full, and effective implementation of this Agreement and its underlying objectives.

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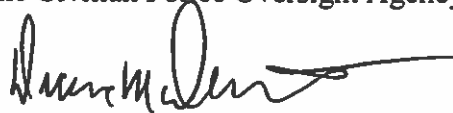
Administratively closed complaints may be re-opened if additional information becomes available.

Being that this case involves the Superintendent, the review of the case was conducted by the City's Chief Administrative Officer. The City's Chief Administrative Officer is the final disciplinary authority in reference to the Superintendent.

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.

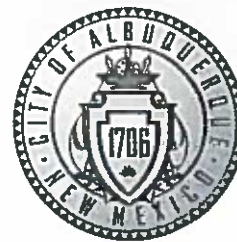
Sincerely,
The Civilian Police Oversight Agency by



Diane McDermott
Interim Executive Director (505) 924-3770

cc: Albuquerque Police Department

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Civilian Police Oversight Agency Board

Patricia J. French, Chair *Jesse Crawford, Vice-Chair*

Chantal M. Galloway *Eric Nixon*

Diane McDermott, Interim Executive Director

Michael Wartell

May 20, 2022

Via Email

Re: CPC # 265-21

Dear S -C

PO Box 1293

COMPLAINT:

Mr. S -C reported that the Operator discouraged him from filing a complaint.

Mr. S -C reported his next concern was the Operator's response was blatant

Albuquerque

sarcasm. Mr. S -C reported that there was lack of appreciation of a health concern and the complaint was not being filed appropriately.

NM 87103

www.cabq.gov

EVIDENCE REVIEWED:

Video(s): N/A

APD Report(s): N/A

CAD Report(s): N/A

Complainant Interviewed: Yes

Witness(es) Interviewed: N/A

APD Employee Interviewed: N/A

APD Employee Involved: n/a

Other Materials: 242-Cops Audio Recordings

Date Investigation Completed: April 7, 2022

FINDINGS

1. **Unfounded.** Investigation classification when the investigator(s) determines, by clear and convincing evidence, that alleged misconduct did not occur or did not involve the subject officer.

2. **Sustained.** Investigation classification when the investigator(s) determines, by a preponderance of the evidence, the alleged misconduct did occur by the subject officer.

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Additional Comments:

This complaint was made against a 311 Operator. The CPOA does not have jurisdiction over 311 Personnel. It was confirmed the complainant called 242-cops line in order to determine who the supervisor was of the operators at 311.

This incident will be Administratively closed via out of jurisdiction

You have the right to appeal this decision. If you are not satisfied with the findings of the CPOA Executive Director within 30 calendar days (inclusive of holiday and weekends) of receipt of this letter, communicate your desire to have an appeal hearing before the CPOA Board in a signed writing addressed to the CPOA Director. Please send your request to P.O. Box 1293, Albuquerque, NM 87103 or by email CPOA@cabq.gov. Include your CPC number. **Upon receipt of the communication, a hearing will be scheduled at the Board's next regularly scheduled meeting provided there is at least ten days between the receipt of the request and the next meeting.**

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Sincerely,
The Civilian Police Oversight Agency by



Diane McDermott
Interim Executive Director
(505) 924-3770

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



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Patricia J. French, Chair *Jesse Crawford, Vice-Chair*

Chantal M. Galloway *Eric Nixon*

Diane McDermott, Interim Executive Director

Michael Wartell

May 20, 2022

Via Email

Re: CPC # 005-22

Dear Felix G

PO Box 1293

COMPLAINT:

Albuquerque

Felix G. submitted a complaint that alleged his son, Eric G., posed no threat but was shot by an officer with a 40mm impact launcher after being ordered not to take independent action until a residence was cleared during an incident on 09/17/2021.

NM 87103

www.cabq.gov

EVIDENCE REVIEWED:

Video(s): Yes

APD Report(s): Yes

CAD Report(s): Yes

Complainant Interviewed: No

Witness(es) Interviewed: N/A

APD Employee Interviewed: No

APD Employee Involved: n/a

Other Materials: IAFD/EFIT Force Investigation

Date Investigation Completed: April 8, 2022

FINDINGS

1. **Unfounded.** Investigation classification when the investigator(s) determines, by clear and convincing evidence, that alleged misconduct did not occur or did not involve the subject officer.

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Additional Comments:

This complaint was Administratively Closed as the investigation would be duplicative in nature. The incident was investigated by APD Internal Affairs Force Division (IAFD) and the External Force Investigation Team (EFIT) and found to be within policy. The Civilian Police Oversight Agency (CPOA) investigator reviewed the force investigation and found the investigation was conducted thoroughly and determined the investigation conducted addressed the issues raised by the complaint.

The officer took independent action and shot E with the 40mm impact round because the residence had not yet been cleared of occupants. E approached the rear door of the residence; E failed to follow the officers' commands, thereby posing a threat requiring intervention.

The CPOA did not investigate the alleged criminal matter associated with the incident E was allegedly involved in and does not have the authority to do so.

You have the right to appeal this decision. If you are not satisfied with the findings of the CPOA Executive Director within 30 calendar days (inclusive of holiday and weekends) of receipt of this letter, communicate your desire to have an appeal hearing before the CPOA Board in a signed writing addressed to the CPOA Director. Please send your request to P.O. Box 1293, Albuquerque, NM 87103 or by email CPOA@cabq.gov. Include your CPC number. **Upon receipt of the communication, a hearing will be scheduled at the Board's next regularly scheduled meeting provided there is at least ten days between the receipt of the request and the next meeting.**

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Sincerely,
The Civilian Police Oversight Agency by



Diane McDermott
Interim Executive Director
(505) 924-3770

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



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Civilian Police Oversight Agency Board

Patricia J. French, Chair *Jesse Crawford, Vice-Chair*

Chantal M. Galloway *Eric Nixon*

Diane McDermott, Interim Executive Director

Michael Wartell

May 20, 2022

Via Email

Re: CPC # 243-21

Dear Mr. P:

PO Box 1293

Albuquerque

NM 87103

www.cabq.gov

COMPLAINT:

According to your complaint, PSA P tried to open the door to my RV and I asked why he was touching my private property. I went outside and we had a conversation. He told me more than once I needed police services and I said I do not need "fucking" police services and he tried to walk into my RV holding on to his pistol (he had his hand on it). I pursued toward the officer to get the fuck away from my RV. Then the officer walks away toward his vehicle. I sat in my RV for a minute and then left and when I returned I had a citation on my window. Since I told the officer what I felt, I feel he is retaliating against me; I am scared and have mental issues. Every day since this incident a PSA, and two APD officers drive by the street in black and white cars.

EVIDENCE REVIEWED:

Video(s): Yes APD Report(s): No CAD Report(s): No

Complainant Interviewed: Yes Witness(es) Interviewed: No

APD Employee Interviewed: Yes

APD Employee Involved: PSA P

Other Materials: photo of illegal parking, email correspondence, unit history

Date Investigation Completed: April 30, 2022

FINDINGS

Policies Reviewed: *1.1.5.C.3*

1. **Unfounded.** Investigation classification when the investigator(s) determines, by clear and convincing evidence, that alleged misconduct did not occur or did not involve the subject officer.

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Additional Comments:

1.1.5.C.3: According to the lapel, Porter's RV was clearly parked in the red zone marked fire lane and an obvious fire hydrant was within near proximity. PSA P approached the RV and placed a red sticker onto the complainant's windshield. PSA P then headed back to his vehicle and then shut off the video, marking the end. It should be noted that CPOA Investigator conducted detailed video search from a week prior to a week after the incident (11/14/2021-11/28/2021) including searches at both addresses provided by the complainant: . . . and . . . This is the only existing lapel and there are no other videos showing PSA P or Porter ever interacting with one another. PSA P stated there is just one lapel video and it's this one above. There were no other incidences in which PSA P or any other officer having involvement with Porter during this time frame. Also, APD records were unable to find any reports, CADs, or calls of service referencing complainant Porter. A unit history showed PSA P was engaged in issuing a citation at a different location shortly before issuing the citation to Porter's RV. This investigation revealed that there is no evidence to support the allegations that PSA P acted officiously and behaved in a way as P. described. This issue will be **UNFOUNDED**.

You have the right to appeal this decision. If you are not satisfied with the findings of the CPOA Executive Director within 30 calendar days (inclusive of holiday and weekends) of receipt of this letter, communicate your desire to have an appeal hearing before the CPOA Board in a signed writing addressed to the CPOA Director. Please send your request to P.O. Box 1293, Albuquerque, NM 87103 or by email CPOA@cabq.gov. Include your CPC number. **Upon receipt of the communication, a hearing will be scheduled at the Board's next regularly scheduled meeting provided there is at least ten days between the receipt of the request and the next meeting.**

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The Civilian Police Oversight Agency by



Diane McDermott
Interim Executive Director
(505) 924-3770

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



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Civilian Police Oversight Agency Board

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Chantal M. Galloway *Eric Nixon*

Diane McDermott, Interim Executive Director

Michael Wartell

May 20, 2022

Via Certified Mail

7020 1810 0000 6296 7050

Re: CPC # 253-21

Dear A N

PO Box 1293

COMPLAINT:

Albuquerque

Mr. A N had alleged that he was assaulted by his former landlord and the police took too long to respond, which could have resulted in injury. The police report and investigation was completed incorrectly by the officer.

NM 87103

www.cabq.gov

EVIDENCE REVIEWED:

Video(s): Yes APD Report(s): Yes CAD Report(s): Yes

Complainant Interviewed: Yes Witness(es) Interviewed: Yes

APD Employee Interviewed: Yes

APD Employee Involved: Officer B

Other Materials: citizen's cell phone video

Date Investigation Completed: April 26, 2022

FINDINGS

Policies Reviewed: 2.60.4.A.5.a-f

1. Unfounded. Investigation classification when the investigator(s) determines, by clear and convincing evidence, that alleged misconduct did not occur or did not involve the subject officer.



2. Sustained. Investigation classification when the investigator(s) determines, by a preponderance of the evidence, the alleged misconduct did occur by the subject officer.



3. Not Sustained. Investigation classification when the investigator(s) is unable to determine one way or the other, by a preponderance of the evidence, whether the alleged misconduct either occurred or did not occur.



4. Exonerated. Investigation classification where the investigator(s) determines, by a preponderance of the evidence, that alleged conduct in the underlying complaint did occur but did not violate APD policies, procedures, or training.



5. Sustained Violation Not Based on Original Complaint. Investigation classification where the investigator(s) determines, by a preponderance of the evidence, misconduct did occur that was not alleged in the original complaint (whether CPC or internal complaint) but that other misconduct was discovered during the investigation, and by a preponderance of the evidence, that misconduct did occur.



6. Administratively Closed. Investigation classification where the investigator determines: The policy violations of a minor nature and do not constitute a pattern of misconduct (i.e. a violation subject to a class 7 sanction, -the allegations are duplicative; -the allegations, even if true, do not constitute misconduct, or -the investigation cannot be conducted because of the lack of information in the complaint, and further investigation would be futile.



Additional Comments:

Officer B's lapel videos showed an investigation that had begun at the Valero Gas Station, potential witnesses had been interviewed, and potential surveillance videos reviewed. Later that evening, Officer B called Mr. N _____ and shared the results of his investigation and the results of video footage that showed no assault. Mr. N _____ disagreed with Officer B's investigation and had additional evidence to prove the assault. Officer B collected the additional evidence, but after review, determined the additional video did not provide sufficient evidence of the assault in order to initiate charges against Mr. N _____ landlord. Officer B documented the investigation on the report accurately. The length of time it took for the officer to arrive was reviewed. The call was prioritized correctly, but there was about a seven minute delay in dispatching an officer as there was no one to send. Notations on the CAD indicated additional area commands were contacted. The officer arrived timely once dispatched.

You have the right to appeal this decision. If you are not satisfied with the findings of the CPOA Executive Director within 30 calendar days (inclusive of holiday and weekends) of receipt of this letter, communicate your desire to have an appeal hearing before the CPOA Board in a signed writing addressed to the CPOA Director. Please send your request to P.O. Box 1293, Albuquerque, NM 87103 or by email CPOA@cabq.gov. Include your CPC number. Upon receipt of the communication, a hearing will be scheduled at the Board's next regularly scheduled meeting provided there is at least ten days between the receipt of the request and the next meeting.

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The Civilian Police Oversight Agency by



Diane McDermott
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(505) 924-3770

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



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Chantal M. Galloway *Eric Nixon*

Diane McDermott, Interim Executive Director

Michael Wartell

May 20, 2022

Via Certified Mail

7020 1810 0000 6296 7098

Re: CPC # 269-21

Dear E. Bl. :

PO Box 1293

COMPLAINT:

On 12/24/21, Ms. B. alleged that an officer came into her home and pointed his gun at her as she approached the door.

Albuquerque

NM 87103

www.cabq.gov

EVIDENCE REVIEWED:

Video(s): Yes APD Report(s): N/A CAD Report(s): Yes

Complainant Interviewed: Yes Witness(es) Interviewed: N/A

APD Employee Interviewed: Yes

APD Employee Involved: Officer F

Other Materials: n/a

Date Investigation Completed: April 26, 2022

FINDINGS

Policies Reviewed: 2.52.4.F.1.b or e and 1.1.4.A

1. Unfounded. Investigation classification when the investigator(s) determines, by clear and convincing evidence, that alleged misconduct did not occur or did not involve the subject officer.

2. Sustained. Investigation classification when the investigator(s) determines, by a preponderance of the evidence, the alleged misconduct did occur by the subject officer.

3. Not Sustained. Investigation classification when the investigator(s) is unable to determine one way or the other, by a preponderance of the evidence, whether the alleged misconduct either occurred or did not occur.

4. Exonerated. Investigation classification where the investigator(s) determines, by a preponderance of the evidence, that alleged conduct in the underlying complaint did occur but did not violate APD policies, procedures, or training.

5. Sustained Violation Not Based on Original Complaint. Investigation classification where the investigator(s) determines, by a preponderance of the evidence, misconduct did occur that was not alleged in the original complaint (whether CPC or internal complaint) but that other misconduct was discovered during the investigation, and by a preponderance of the evidence, that misconduct did occur.

6. Administratively Closed. Investigation classification where the investigator determines: The policy violations of a minor nature and do not constitute a pattern of misconduct (i.e. a violation subject to a class 7 sanction, -the allegations are duplicative; -the allegations, even if true, do not constitute misconduct; or -the investigation cannot be conducted because of the lack of information in the complaint, and further investigation would be futile.

Additional Comments:

A review of the lapel video showed that during the call, Officer F did not enter inside of Ms. B home and no weapon was pointed at Ms. B. Officer F remained in the courtyard as backup. The video showed the door was open by some inches when Officer W had approached. When Officer F did draw his firearm, it remained at the "low ready" position with the muzzle pointed at the ground. The weapon being in the low ready position is not a reportable show of force. Officer F remained outside in the courtyard of Ms. B' home for the entire duration of the call. The video showed Ms. B did not exit the residence or ask about the presence of weapons.

You have the right to appeal this decision. If you are not satisfied with the findings of the CPOA Executive Director within 30 calendar days (inclusive of holiday and weekends) of receipt of this letter, communicate your desire to have an appeal hearing before the CPOA Board in a signed writing addressed to the CPOA Director. Please send your request to P.O. Box 1293, Albuquerque, NM 87103 or by email CPOA@cabq.gov. Include your CPC number. **Upon receipt of the communication, a hearing will be scheduled at the Board's next regularly scheduled meeting provided there is at least ten days between the receipt of the request and the next meeting.**

In order for the Board to change the findings and/or recommendations or make further recommendations to the Chief of Police, proof must be offered that:

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

Administratively closed complaints may be re-opened if additional information becomes available.

If you are not satisfied with the final disciplinary decision of the Chief of Police or any matter relating to the Chief's handling of the complaint you may request a review of the complaint by the City's Chief Administrative Officer. Your request must be in writing and within 30 calendar days (inclusive of holidays and weekends) 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



Diane McDermott
Interim Executive Director
(505) 924-3770

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Civilian Police Oversight Agency Board

Patricia J. French, Chair *Jesse Crawford, Vice-Chair*

Chantal M. Galloway *Eric Nixon*

Diane McDermott, Interim Executive Director

Michael Wartell

May 20, 2022

Via Certified Mail

7020 1810 0000 6296 7098

Re: CPC # 269-21

Dear E B .

PO Box 1293

COMPLAINT:

On 12/24/21, Ms. B alleged that an officer came into her home and pointed his gun at her as she approached the door.

Albuquerque

NM 87103

www.cabq.gov

EVIDENCE REVIEWED:

Video(s): Yes APD Report(s): N/A CAD Report(s): Yes

Complainant Interviewed: Yes Witness(es) Interviewed: N/A

APD Employee Interviewed: Yes

APD Employee Involved: Officer W

Other Materials: n/a

Date Investigation Completed: April 26, 2022

FINDINGS

Policies Reviewed: 2.52.4.F.1.b or e and 1.1.4.A

1. **Unfounded.** Investigation classification when the investigator(s) determines, by clear and convincing evidence, that alleged misconduct did not occur or did not involve the subject officer.

2. **Sustained.** Investigation classification when the investigator(s) determines, by a preponderance of the evidence, the alleged misconduct did occur by the subject officer.

3. **Not Sustained.** Investigation classification when the investigator(s) is unable to determine one way or the other, by a preponderance of the evidence, whether the alleged misconduct either occurred or did not occur.

4. **Exonerated.** Investigation classification where the investigator(s) determines, by a preponderance of the evidence, that alleged conduct in the underlying complaint did occur but did not violate APD policies, procedures, or training.

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6. **Administratively Closed.** Investigation classification where the investigator determines: The policy violations of a minor nature and do not constitute a pattern of misconduct (i.e. a violation subject to a class 7 sanction, -the allegations are duplicative; -the allegations, even if true, do not constitute misconduct; or -the investigation cannot be conducted because of the lack of information in the complaint, and further investigation would be futile.

Additional Comments:

A review of the lapel video showed that during the call, Officer W did not enter inside of Ms. B' home and no weapon was pointed at Ms. B. Officer W remained outside at the front door. The video showed the door was open by some inches when Officer W approached. When Officer W did draw his firearm, it remained at the "low ready" position with the muzzle pointed at the ground. The weapon being in the low ready position is not a reportable show of force. Officer W remained outside in the courtyard of Ms. B' home for the entire duration of the call. The video showed Ms. B' did not exit the residence or ask about the presence of weapons.

You have the right to appeal this decision. If you are not satisfied with the findings of the CPOA Executive Director within 30 calendar days (inclusive of holiday and weekends) of receipt of this letter, communicate your desire to have an appeal hearing before the CPOA Board in a signed writing addressed to the CPOA Director. Please send your request to P.O. Box 1293, Albuquerque, NM 87103 or by email CPOA@cabq.gov. Include your CPC number. **Upon receipt of the communication, a hearing will be scheduled at the Board's next regularly scheduled meeting provided there is at least ten days between the receipt of the request and the next meeting.**

In order for the Board to change the findings and/or recommendations or make further recommendations to the Chief of Police, proof must be offered that:

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

Administratively closed complaints may be re-opened if additional information becomes available.

If you are not satisfied with the final disciplinary decision of the Chief of Police or any matter relating to the Chief's handling of the complaint you may request a review of the complaint by the City's Chief Administrative Officer. Your request must be in writing and within 30 calendar days (inclusive of holidays and weekends) 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



Diane McDermott
Interim Executive Director
(505) 924-3770

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



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Civilian Police Oversight Agency Board

Patricia J. French, Chair *Jesse Crawford, Vice-Chair*

Chantal M. Galloway *Eric Nixon*

Diane McDermott, Interim Executive Director

Michael Wartell

May 20, 2022

Via Certified Mail

7020 1810 0000 6296 7036

Re: CPC # 007-22

Dear Ms. M

PO Box 1293

COMPLAINT:

Albuquerque

Ms. R. M. had alleged in her written complaint, that Officer C did not take a report for her when she had a non-physical altercation with the staff employee. According to Ms. M the officer stated that Ms. M had abused the employee with a deadly weapon, and that the officer failed to check her room for weapons before papers were filed in court. The police only believed the employee because Ms. M was a man that was turning into a woman.

NM 87103

www.cabq.gov

EVIDENCE REVIEWED:

Video(s): Yes APD Report(s): Yes CAD Report(s): Yes

Complainant Interviewed: Yes Witness(es) Interviewed: No

APD Employee Interviewed: Yes

APD Employee Involved: Officer C

Other Materials: n/a

Date Investigation Completed: April 28, 2022

FINDINGS

Policies Reviewed: 1.1.5.A.2 & 2.60.4.A.5.a.b.d.f

1. **Unfounded.** Investigation classification when the investigator(s) determines, by clear and convincing evidence, that alleged misconduct did not occur or did not involve the subject officer.

2. **Sustained.** Investigation classification when the investigator(s) determines, by a preponderance of the evidence, the alleged misconduct did occur by the subject officer.

3. **Not Sustained.** Investigation classification when the investigator(s) is unable to determine one way or the other, by a preponderance of the evidence, whether the alleged misconduct either occurred or did not occur.

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Additional Comments:

A review of Officer C's lapel video showed no transgender related concerns or complaints from Ms. M during her interview nor transgender related comments from Officer W or Officer C. The incident report did not refer to transgender concerns or comments. Also, the lapel video did not contain a conversation about weapons, weapons used, or consent to search for any weapons in Ms. M's room.

After reviewing the evidence, Officer W's investigation determined that an argument occurred between Ms. M and Ms. T. According to a witness, the argument became physical when Ms. M pushed Ms. T. There was no weapon involved nor any mention of a weapon by Ms. M or Ms. T during the interviews. The incident had been fully and accurately captured in an incident report.

No evidence had been presented or viewed that showed discrimination against Ms. M based on her gender identity, nor did the actions of Officer W or Officer C suggest bias.

You have the right to appeal this decision. If you are not satisfied with the findings of the CPOA Executive Director within 30 calendar days (inclusive of holiday and weekends) of receipt of this letter, communicate your desire to have an appeal hearing before the CPOA Board in a signed writing addressed to the CPOA Director. Please send your request to P.O. Box 1293, Albuquerque, NM 87103 or by email CPOA@cabq.gov. Include your CPC number. **Upon receipt of the communication, a hearing will be scheduled at the Board's next regularly scheduled meeting provided there is at least ten days between the receipt of the request and the next meeting.**

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Administratively closed complaints may be re-opened if additional information becomes available.

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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



Diane McDermott
Interim Executive Director
(505) 924-3770

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



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Patricia J. French, Chair *Jesse Crawford, Vice-Chair*

Chantal M. Galloway *Eric Nixon*

Diane McDermott, Interim Executive Director

Michael Wartell

May 20, 2022

Via Certified Mail

7020 1810 0000 6296 7036

Rachel Miller
1024 Jackson St NE
Albuquerque, NM 87108

Re: CPC # 007-22

Dear Ms. M

PO Box 1293

COMPLAINT:

Albuquerque

Ms. R M had alleged in her written complaint, that Officer W did not take a report for her when she had a non-physical altercation with the staff employee. According to Ms. M the officer stated that she had abused the employee with a deadly weapon and the officer failed to check her room for weapons before papers were filed in court. The police only believed the employee because Ms. M was a man that was turning into a woman.

NM 87103

www.cabq.gov

EVIDENCE REVIEWED:

Video(s): Yes APD Report(s): Yes CAD Report(s): Yes

Complainant Interviewed: Yes Witness(es) Interviewed: No

APD Employee Interviewed: Yes

APD Employee Involved: Officer W

Other Materials: n/a

Date Investigation Completed: April 28, 2022

FINDINGS

Policies Reviewed: 1.1.5.A.2 & 2.60.4.A.5.a.b.d.f

1. **Unfounded.** Investigation classification when the investigator(s) determines, by clear and convincing evidence, that alleged misconduct did not occur or did not involve the subject officer.

2. **Sustained.** Investigation classification when the investigator(s) determines, by a preponderance of the evidence, the alleged misconduct did occur by the subject officer.

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Additional Comments:

A review of Officer W's lapel video showed no transgender related concerns or complaints from Ms. M during her interview nor transgender related comments from Officer W or Officer C. The incident report did not refer to transgender concerns or comments. Also, the lapel video did not contain a conversation about weapons, weapons used, or consent to search for any weapons in Ms. M room.

After reviewing the evidence, Officer W's investigation determined that an argument occurred between Ms. M and Ms. T s. According to a witness, the argument became physical when Ms. M pushed Ms. T s. There was no weapon involved nor any mention of a weapon by Ms. M or Ms. T s during the interviews. The incident had been fully and accurately captured in an incident report.

No evidence had been presented or viewed that showed discrimination against Ms. M based on her gender identity, nor did the actions of Officer W or Officer C suggest bias.

You have the right to appeal this decision. If you are not satisfied with the findings of the CPOA Executive Director within 30 calendar days (inclusive of holiday and weekends) of receipt of this letter, communicate your desire to have an appeal hearing before the CPOA Board in a signed writing addressed to the CPOA Director. Please send your request to P.O. Box 1293, Albuquerque, NM 87103 or by email CPOA@cabq.gov. Include your CPC number. **Upon receipt of the communication, a hearing will be scheduled at the Board's next regularly scheduled meeting provided there is at least ten days between the receipt of the request and the next meeting.**

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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



Diane McDermott
Interim Executive Director
(505) 924-3770

cc: Albuquerque Police Department Chief of Police



CIVILIAN POLICE OVERSIGHT AGENCY

Civilian Police Oversight Agency Board

Patricia J. French, Chair *Jesse Crawford, Vice-Chair*

Chantal M. Galloway *Eric Nixon*

Diane McDermott, Interim Executive Director

Michael Wartell

May 20, 2022

Via Certified Mail

7020 1810 0000 6296 7029

Re: CPC # 025-22

Dear D M

PO Box 1293

COMPLAINT:

Albuquerque

Ms. M reported that on 02/15/2022, at approximately 8:30 A.M. while at Douglas MacArthur Elementary school's drop off location, Officer G's vehicle entered the drop off area in the wrong direction and almost hit Ms. M vehicle.

NM 87103

Ms. M reported that when she asked the driver of the vehicle "what the hell T was doing" as he almost hit her, Thomas replied, "I saw you" and Officer G covered her face and laughed.

www.cabq.gov

Ms. M reported that Officer G and her husband tried to intimidate her. Ms. M reported both Officer G and her husband were in law enforcement and should be more safety conscious.

EVIDENCE REVIEWED:

Video(s): N/A APD Report(s): N/A CAD Report(s): N/A

Complainant Interviewed: No Witness(es) Interviewed: Yes

APD Employee Interviewed: Yes

APD Employee Involved: Officer G

Other Materials: Street and aerial view of Douglas MacArthur Elementary School

Date Investigation Completed: May 2, 2022

FINDINGS

Policies Reviewed: 1.1.6.A.1

1. Unfounded. Investigation classification when the investigator(s) determines, by clear and convincing evidence, that alleged misconduct did not occur or did not involve the subject officer.



2. Sustained. Investigation classification when the investigator(s) determines, by a preponderance of the evidence, the alleged misconduct did occur by the subject officer.



3. Not Sustained. Investigation classification when the investigator(s) is unable to determine one way or the other, by a preponderance of the evidence, whether the alleged misconduct either occurred or did not occur.



4. Exonerated. Investigation classification where the investigator(s) determines, by a preponderance of the evidence, that alleged conduct in the underlying complaint did occur but did not violate APD policies, procedures, or training.



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6. Administratively Closed. Investigation classification where the investigator determines: The policy violations of a minor nature and do not constitute a pattern of misconduct (i.e. a violation subject to a class 7 sanction, -the allegations are duplicative; -the allegations, even if true, do not constitute misconduct; or -the investigation cannot be conducted because of the lack of information in the complaint, and further investigation would be futile.



Additional Comments:

The complainant did not respond to the CPOA's attempts to be interviewed. Most of the complaint did not focus on the employee's actions other than allegedly laughing. A witness and the APD employee were interviewed as well as a family member to better understand the family dynamic since the investigation determined the complainant was the ex-mother-in-law to the APD employee. There was not a CAD, incident report, or video reviewed in this incident as it was an off-duty contact. The investigation determined there are no directional indications in the parking lot therefore, there is no "wrong way." Additionally, the APD employee was not the one driving. The complainant felt an intimidating aspect came from the APD employee's husband saying goodbye to the complainant's son, but wrote the APD employee was already walking her children to class. The complainant's son believed his mother's complaint was an exaggeration against Officer G. Officer G's current husband is not law enforcement. Upon review of the case, it was determined, by clear and convincing evidence, that alleged misconduct did not occur or did not involve the subject officer.

You have the right to appeal this decision. If you are not satisfied with the findings of the CPOA Executive Director within 30 calendar days (inclusive of holiday and weekends) of receipt of this letter, communicate your desire to have an appeal hearing before the CPOA Board in a signed writing addressed to the CPOA Director. Please send your request to P.O. Box 1293, Albuquerque, NM 87103 or by email CPOA@cabq.gov. Include your CPC number. **Upon receipt of the communication, a hearing will be scheduled at the Board's next regularly scheduled meeting provided there is at least ten days between the receipt of the request and the next meeting.**

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Administratively closed complaints may be re-opened if additional information becomes available.

If you are not satisfied with the final disciplinary decision of the Chief of Police or any matter relating to the Chief's handling of the complaint you may request a review of the complaint by the City's Chief Administrative Officer. Your request must be in writing and within 30 calendar days (inclusive of holidays and weekends) of receipt of this letter. Include your CPC number.

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Sincerely,
The Civilian Police Oversight Agency by



Diane McDermott
Interim Executive Director
(505) 924-3770

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



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Patricia J. French, Chair *Jesse Crawford, Vice-Chair*

Chantal M. Galloway *Eric Nixon*

Diane McDermott, Interim Executive Director

Michael Wartell

May 20, 2022

Via Certified Mail

7020 1810 0000 6296 7043

Re: CPC # 245-21

Dear Mr. A :

PO Box 1293

COMPLAINT:

Mr. A reported that Chief M and APOA President Detective W violated but not limited to APD SOP 1-1-5C.2 and SOP 1-1-5C.3.

Albuquerque

Mr. A reported that Chief M publicized his personal feelings and animosity by making a derogatory, contemptuous, and disrespectful remark directed at Dr. James Ginger when Chief M stated to KOBTV4 that Dr. Ginger's (IMR14) conclusions "couldn't be further from the truth" leading the public to believe Dr. Ginger was a liar.

NM 87103

www.cabq.gov

EVIDENCE REVIEWED:

Video(s): Yes APD Report(s): N/A CAD Report(s): N/A

Complainant Interviewed: Yes Witness(es) Interviewed: No

APD Employee Interviewed: Yes

APD Employee Involved: Chief M

Other Materials: KOBTV News Story and Court Transcripts

Date Investigation Completed: March 31, 2022

FINDINGS

1. **Unfounded.** Investigation classification when the investigator(s) determines, by clear and convincing evidence, that alleged misconduct did not occur or did not involve the subject officer.

2. **Sustained.** Investigation classification when the investigator(s) determines, by a preponderance of the evidence, the alleged misconduct did occur by the subject officer.

3. **Not Sustained.** Investigation classification when the investigator(s) is unable to determine one way or the other, by a preponderance of the evidence, whether the alleged misconduct either occurred or did not occur.

Policies Reviewed: General Order 1.1.5.C.2

4. **Exonerated.** Investigation classification where the investigator(s) determines, by a preponderance of the evidence, that alleged conduct in the underlying complaint did occur but did not violate APD policies, procedures, or training.

5. **Sustained Violation Not Based on Original Complaint.** Investigation classification where the investigator(s) determines, by a preponderance of the evidence, misconduct did occur that was not alleged in the original complaint (whether CPC or internal complaint) but that other misconduct was discovered during the investigation, and by a preponderance of the evidence, that misconduct did occur.

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Additional Comments:

After interviewing Chief M, a review of the news report dated 11/18/21, and reviewing the court transcripts dated 12/16/21 and 02/09/22, it was noted that Chief M made several comments that he did not always agree with the verbiage Dr. Ginger used in the IMR Reports, however the statements and comments did not rise to the level of a violation of a Standard Operating Procedure.

Mr. A specifically cited 1.1.5.C.3 as being violated. This policy addresses department personnel acting officiously, abusing their lawful authority, or permitting personal feelings to influence their official decisions. This is not an applicable SOP to the situation as Chief M has not taken official action against any member of the Monitoring Team.

You have the right to appeal this decision. If you are not satisfied with the findings of the CPOA Executive Director within 30 calendar days (inclusive of holiday and weekends) of receipt of this letter, communicate your desire to have an appeal hearing before the CPOA Board in a signed writing addressed to the CPOA Director. Please send your request to P.O. Box 1293, Albuquerque, NM 87103 or by email CPOA@cabq.gov. Include your CPC number. **Upon receipt of the communication, a hearing will be scheduled at the Board's next regularly scheduled meeting provided there is at least ten days between the receipt of the request and the next meeting.**

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- D) The findings by the Director were not supported by evidence that was available at the time of the investigation.


Administratively closed complaints may be re-opened if additional information becomes available.

Being that this case involves the Chief of Police, the review of the case was conducted by the City's Chief Administrative Officer. The City's Chief Administrative Officer is the final disciplinary authority in reference to the Chief of Police.

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



Diane McDermott
Interim Executive Director (505) 924-3770

cc: Albuquerque Police Department



CIVILIAN POLICE OVERSIGHT AGENCY

Civilian Police Oversight Agency Board

Patricia J. French, Chair *Jesse Crawford, Vice-Chair*

Chantal M. Galloway *Eric Nixon*

Diane McDermott, Interim Executive Director

Michael Wartell

May 20, 2022

Via Certified Mail

7020 1810 0000 6296 7043

Re: CPC # 245-21

Dear Mr. A:

PO Box 1293

COMPLAINT:

Mr. A reported that Chief M and Detective W violated but not limited to APD SOP 1-1-5C.2 and SOP 1-1-5C.3.

Albuquerque

Mr. A reported that Detective W also publicized his personal feelings and animosity by making derogatory, contemptuous, and disrespectful remarks directed at Dr. James Ginger when Detective W stated to KOATTV7 that Dr. Ginger's (IMR14) conclusions are an "absolute absurd joke" and "a lie" telling the public, without any doubt, that Dr. Ginger was a liar.

NM 87103

www.cabq.gov

EVIDENCE REVIEWED:

Video(s): Yes APD Report(s): N/A CAD Report(s): N/A

Complainant Interviewed: Yes Witness(es) Interviewed: No

APD Employee Interviewed: Yes

APD Employee Involved: Detective W

Other Materials: KOBTV News Story and Court Transcripts

Date Investigation Completed: March 31, 2022

FINDINGS

1. **Unfounded.** Investigation classification when the investigator(s) determines, by clear and convincing evidence, that alleged misconduct did not occur or did not involve the subject officer.

2. **Sustained.** Investigation classification when the investigator(s) determines, by a preponderance of the evidence, the alleged misconduct did occur by the subject officer.

3. **Not Sustained.** Investigation classification when the investigator(s) is unable to determine one way or the other, by a preponderance of the evidence, whether the alleged misconduct either occurred or did not occur.

Policies Reviewed: General Order 1.1.5.C.2

4. **Exonerated.** Investigation classification where the investigator(s) determines, by a preponderance of the evidence, that alleged conduct in the underlying complaint did occur but did not violate APD policies, procedures, or training.

5. **Sustained Violation Not Based on Original Complaint.** Investigation classification where the investigator(s) determines, by a preponderance of the evidence, misconduct did occur that was not alleged in the original complaint (whether CPC or internal complaint) but that other misconduct was discovered during the investigation, and by a preponderance of the evidence, that misconduct did occur.

6. **Administratively Closed.** Investigation classification where the investigator determines: The policy violations of a minor nature and do not constitute a pattern of misconduct (i.e. a violation subject to a class 7 sanction, -the allegations are duplicative; -the allegations, even if true, do not constitute misconduct; or -the investigation cannot be conducted because of the lack of information in the complaint, and further investigation would be futile.

Additional Comments:

After an interview with Detective W and a review of the news story dated 11/17/21, and reviewing the court transcripts dated 12/16/21 and 2/9/22, Detective W made several comments regarding the monitoring process and Dr. Ginger's verbiage used in the IMR Reports. However, the statements and comments did not rise to the level of a violation of a Standard Operating Procedure. Mr. A specifically cited 1.1.5.C.3 as being violated. This policy addresses department personnel acting officiously, abusing their lawful authority, or permitting personal feelings to influence their official decisions. This is not an applicable SOP to the situation as Detective W has not taken official action against any member of the Monitoring Team.

You have the right to appeal this decision. If you are not satisfied with the findings of the CPOA Executive Director within 30 calendar days (inclusive of holiday and weekends) of receipt of this letter, communicate your desire to have an appeal hearing before the CPOA Board in a signed writing addressed to the CPOA Director. Please send your request to P.O. Box 1293, Albuquerque, NM 87103 or by email CPOA@cabq.gov. Include your CPC number. **Upon receipt of the communication, a hearing will be scheduled at the Board's next regularly scheduled meeting provided there is at least ten days between the receipt of the request and the next meeting.**

In order for the Board to change the findings and/or recommendations or make further recommendations to the Chief of Police, proof must be offered that:

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

Administratively closed complaints may be re-opened if additional information becomes available.

If you are not satisfied with the final disciplinary decision of the Chief of Police or any matter relating to the Chief's handling of the complaint you may request a review of the complaint by the City's Chief Administrative Officer. Your request must be in writing and within 30 calendar days (inclusive of holidays and weekends) 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



Diane McDermott
Interim Executive Director
(505) 924-3770

cc: Albuquerque Police Department Chief of Police



CIVILIAN POLICE OVERSIGHT AGENCY

Civilian Police Oversight Agency Board

Patricia J. French, Chair *Jesse Crawford, Vice-Chair*

Chantal M. Galloway *Eric Nixon*

Diane McDermott, Interim Executive Director

Michael Wartell

May 20, 2022

Via Certified Mail

7020 1810 0000 6296 6992

Re: CPC # 009-22

Robert P:

PO Box 1293

COMPLAINT:

Albuquerque

NM 87103

Mr. P had alleged on Friday, January 21, 2022 he had been pulled for speeding by Officer P. When Mr. P asked questions about the traffic stop, Officer P became very aggressive which he felt threatened. At one point during the traffic stop, Mr. P was unclear about the process and asked Officer P about the citations that he had to sign. Officer P stated to him "sign all of these or I am gonna physically take you to jail" Officer P was physically agitated. Mr. P felt intimidated by the very unprofessional and confrontational behavior displayed by Officer P.

www.cabq.gov

EVIDENCE REVIEWED:

Video(s): Yes APD Report(s): N/A CAD Report(s): Yes

Complainant Interviewed: Yes Witness(es) Interviewed: N/A

APD Employee Interviewed: Yes

APD Employee Involved: Officer P

Other Materials: n/a

Date Investigation Completed: April 19, 2022

FINDINGS

1. **Unfounded.** Investigation classification when the investigator(s) determines, by clear and convincing evidence, that alleged misconduct did not occur or did not involve the subject officer.

2. **Sustained.** Investigation classification when the investigator(s) determines, by a preponderance of the evidence, the alleged misconduct did occur by the subject officer.

3. **Not Sustained.** Investigation classification when the investigator(s) is unable to determine one way or the other, by a preponderance of the evidence, whether the alleged misconduct either occurred or did not occur.

Policies Reviewed: 1.1.5.A.1

4. **Exonerated.** Investigation classification where the investigator(s) determines, by a preponderance of the evidence, that alleged conduct in the underlying complaint did occur but did not violate APD policies, procedures, or training.

5. **Sustained Violation Not Based on Original Complaint.** Investigation classification where the investigator(s) determines, by a preponderance of the evidence, misconduct did occur that was not alleged in the original complaint (whether CPC or internal complaint) but that other misconduct was discovered during the investigation, and by a preponderance of the evidence, that misconduct did occur.

6. **Administratively Closed.** Investigation classification where the investigator determines: The policy violations of a minor nature and do not constitute a pattern of misconduct (i.e. a violation subject to a class 7 sanction, -the allegations are duplicative; -the allegations, even if true, do not constitute misconduct; or -the investigation cannot be conducted because of the lack of information in the complaint, and further investigation would be futile.

Additional Comments:

A review of Officer P's lapel video revealed no policy violations. Most of the driver's audio could not fully be heard over the roadway background noise. Conversations did occur between Officer P and Mr. P. during the traffic stop about validity of the citations issued and Officer P did caution Mr. P. about his attitude. He was stern in emphasizing the importance of safety measures such as seat belts. However, Officer P's actions and words did not escalate to suggest that he was unprofessional, disrespectful, or not courteous to Mr. P.

You have the right to appeal this decision. If you are not satisfied with the findings of the CPOA Executive Director within 30 calendar days (inclusive of holiday and weekends) of receipt of this letter, communicate your desire to have an appeal hearing before the CPOA Board in a signed writing addressed to the CPOA Director. Please send your request to P.O. Box 1293, Albuquerque, NM 87103 or by email CPOA@cabq.gov. Include your CPC number. **Upon receipt of the communication, a hearing will be scheduled at the Board's next regularly scheduled meeting provided there is at least ten days between the receipt of the request and the next meeting.**

In order for the Board to change the findings and/or recommendations or make further recommendations to the Chief of Police, proof must be offered that:

- A) The APD policy or APD policies that were considered by the Director were the wrong policies or they were used in the wrong way; or,
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- D) The findings by the Director were not supported by evidence that was available at the time of the investigation.

Administratively closed complaints may be re-opened if additional information becomes available.

If you are not satisfied with the final disciplinary decision of the Chief of Police or any matter relating to the Chief's handling of the complaint you may request a review of the complaint by the City's Chief Administrative Officer. Your request must be in writing and within 30 calendar days (inclusive of holidays and weekends) of receipt of this letter. Include your CPC number.

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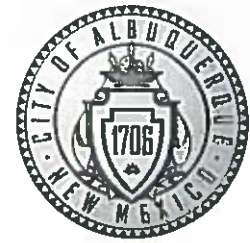
Thank you for participating in the process of civilian oversight of the police, ensuring officers and personnel of the APD are held accountable, and improving the process.

Sincerely,
The Civilian Police Oversight Agency by



Diane McDermott
Interim Executive Director
(505) 924-3770

cc: Albuquerque Police Department Chief of Police



CIVILIAN POLICE OVERSIGHT AGENCY

Civilian Police Oversight Agency Board

Patricia J. French, Chair *Jesse Crawford, Vice-Chair*

Chantal M. Galloway *Eric Nixon*

Diane McDermott, Interim Executive Director

Michael Wartell

May 20, 2022

Via Certified Mail

7020 1810 00 6296 7074

Re: CPC # 260-21

Dear Mr. A

PO Box 1293

COMPLAINT:

On 12/14/2021, complainant Arasim stated KRQE13 News reported a death of a child; in their report, APD had deleted a tweet on one or more of the Twitter accounts used by APD personnel. A alleges APD personnel, Communications Specialist A, violated but not limited to APD policies that require the adherence to all New Mexico State laws and the retention of possible evidence.

Albuquerque

NM 87103

As a result of this investigation, complainant A stated that Communications Specialist A was impersonating an officer. He alleged that only sworn officers are able to work as PIOs and mentioned that she is a civilian.

www.cabq.gov

EVIDENCE REVIEWED:

Video(s): N/A APD Report(s): N/A CAD Report(s): N/A

Complainant Interviewed: Yes Witness(es) Interviewed: Yes

APD Employee Interviewed: Yes

APD Employee Involved: Communications Specialist A

Other Materials: IPRA, AI 1-5, SOP2-36, 1-1, Records destruction Act

Date Investigation Completed: April 26, 2022

FINDINGS

Policies Reviewed: **2.36.4.B.1**

1. **Unfounded.** Investigation classification when the investigator(s) determines, by clear and convincing evidence, that alleged misconduct did not occur or did not involve the subject officer.



2. **Sustained.** Investigation classification when the investigator(s) determines, by a preponderance of the evidence, the alleged misconduct did occur by the subject officer.



3. **Not Sustained.** Investigation classification when the investigator(s) is unable to determine one way or the other, by a preponderance of the evidence, whether the alleged misconduct either occurred or did not occur.



Policies Reviewed: **1.1.4.A**

4. **Exonerated.** Investigation classification where the investigator(s) determines, by a preponderance of the evidence, that alleged conduct in the underlying complaint did occur but did not violate APD policies, procedures, or training.



5. **Sustained Violation Not Based on Original Complaint.** Investigation classification where the investigator(s) determines, by a preponderance of the evidence, misconduct did occur that was not alleged in the original complaint (whether CPC or internal complaint) but that other misconduct was discovered during the investigation, and by a preponderance of the evidence, that misconduct did occur.



6. **Administratively Closed.** Investigation classification where the investigator determines: The policy violations of a minor nature and do not constitute a pattern of misconduct (i.e. a violation subject to a class 7 sanction, -the allegations are duplicative; -the allegations, even if true, do not constitute misconduct; or -the investigation cannot be conducted because of the lack of information in the complaint, and further investigation would be futile.



Additional Comments:

1.1.4.A- A tweet is non-record in nature, a tweet could be deleted such as it was in this case. Also, during this investigation, APD was able to furnish the official copy of record which was the final tweet and final news releases (per AI 1-5, Section III D). According to AI 1-5, Section X: Upon issuance of the final press release, the draft and correspondence about the draft may be disposed of when no longer needed for reference. It has been determined that PIO A did not violate 1.1.4.A as Arasim alleged. This issue will be "**EXONERATED**".

2.36.4.B.1- Communications Specialist A is a civilian and is not a sworn officer. By definition, she does not have to be a sworn officer and is able to serve as a liaison between the Department and the news outlets. Communications Specialist A is of a select and very controlled few who have full access to APD's social media accounts. It has been determined that Communications Specialist A did not violate 2-36-4B1 as A alleged. This issue will be "**UNFOUNDED**".

You have the right to appeal this decision. If you are not satisfied with the findings of the CPOA Executive Director within 30 calendar days (inclusive of holiday and weekends) of receipt of this letter, communicate your desire to have an appeal hearing before the CPOA Board in a signed writing addressed to the CPOA Director. Please send your request to P.O. Box 1293, Albuquerque, NM 87103 or by email CPOA@cabq.gov. Include your CPC number. **Upon receipt of the communication, a hearing will be scheduled at the Board's next regularly scheduled meeting provided there is at least ten days between the receipt of the request and the next meeting.**

In order for the Board to change the findings and/or recommendations or make further recommendations to the Chief of Police, proof must be offered that:

- A) The APD policy or APD policies that were considered by the Director were the wrong policies or they were used in the wrong way; or,
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Administratively closed complaints may be re-opened if additional information becomes available.

If you are not satisfied with the final disciplinary decision of the Chief of Police or any matter relating to the Chief's handling of the complaint you may request a review of the complaint by the City's Chief Administrative Officer. Your request must be in writing and within 30 calendar days (inclusive of holidays and weekends) 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



Diane McDermott
Interim Executive Director
(505) 924-3770

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

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Patricia J. French, Chair *Jesse Crawford, Vice-Chair*

Chantal M. Galloway *Eric Nixon*

Diane McDermott, Interim Executive Director

Michael Wartell

May 20, 2022

Via Certified Mail

7020 1810 0000 6296 7067

Re: CPC # 255-21

Dear Mr. A:

PO Box 1293

COMPLAINT:

Albuquerque

Cl : A submitted a complaint that alleged Chief M violated CPOA Ordinance (9-4-1-4-C-3-g), paragraph 285 of the Court Approved Settlement Agreement, and APD policies concerning his duties as Chief, the code of conduct concerning adherence to all laws, and acts that would tarnish the overall professionalism, esteem, pride, and morale of APD employees.

NM 87103

www.cabq.gov

EVIDENCE REVIEWED:

Video(s): No APD Report(s): No CAD Report(s): No

Complainant Interviewed: No Witness(es) Interviewed: No

APD Employee Interviewed: Yes

APD Employee Involved: Former Superintendent S

Other Materials: YouTube Videos, CPOAB Minutes, Findings Letters, Non-Concurrence

Date Investigation Completed: April 18, 2022

FINDINGS

1. **Unfounded.** Investigation classification when the investigator(s) determines, by clear and convincing evidence, that alleged misconduct did not occur or did not involve the subject officer.

2. **Sustained.** Investigation classification when the investigator(s) determines, by a preponderance of the evidence, the alleged misconduct did occur by the subject officer.

Policies Reviewed: 3.44.4.F.5

3. **Not Sustained.** Investigation classification when the investigator(s) is unable to determine one way or the other, by a preponderance of the evidence, whether the alleged misconduct either occurred or did not occur.

4. **Exonerated.** Investigation classification where the investigator(s) determines, by a preponderance of the evidence, that alleged conduct in the underlying complaint did occur but did not violate APD policies, procedures, or training.

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Additional Comments:

The investigation determined the statements claimed by the complainant in a 12/9/21 CPOAB meeting did not occur. The investigation determined non-concurrence memorandums were not received within the required time period on civilian police complaints as listed in the CPOA Ordinance. The CPOA Ordinance does not list a violation section or a punishment section and therefore does not constitute criminal activity or conduct. APD SOP provides a time frame by which non-concurrence letters are to be submitted to the CPOAB and places that responsibility with the Chief. However, City administration created the position of the Superintendent and placed matters of discipline by job description and verbal discussion to that position. The CPOA Ordinance, SOP at the time and CASA do not mention the Superintendent being responsible for this task since the position was created before modifying those documents. The required memos have been issued by the Superintendent and provided to the CPOAB. The CASA is deemed to take precedence and Paragraph 285 does not specify a time frame. Due to the conflicting information created by the bifurcation of duties this issue is not sustained. Retired Superintendent S declined to be interviewed.

You have the right to appeal this decision. If you are not satisfied with the findings of the CPOA Executive Director within 30 calendar days (inclusive of holiday and weekends) of receipt of this letter, communicate your desire to have an appeal hearing before the CPOA Board in a signed writing addressed to the CPOA Director. Please send your request to P.O. Box 1293, Albuquerque, NM 87103 or by email CPOA@cabq.gov. Include your CPC number. **Upon receipt of the communication, a hearing will be scheduled at the Board's next regularly scheduled meeting provided there is at least ten days between the receipt of the request and the next meeting.**

In order for the Board to change the findings and/or recommendations or make further recommendations to the City's Chief Administrative Officer, proof must be offered that:

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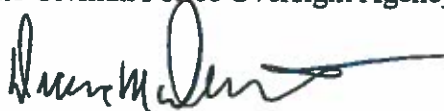
Administratively closed complaints may be re-opened if additional information becomes available.

Being that this case involves the Superintendent, the review of the case was conducted by the City's Chief Administrative Officer. The City's Chief Administrative Officer is the final disciplinary authority in reference to the Superintendent.

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



Diane McDermott
Interim Executive Director (505) 924-3770

cc: Albuquerque Police Department

CITY OF ALBUQUERQUE



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Civilian Police Oversight Agency Board

Patricia J. French, Chair *Jesse Crawford, Vice-Chair*

Chantal M. Galloway *Eric Nixon*

Diane McDermott, Interim Executive Director

Michael Wartell

May 20, 2022

Via Certified Mail

7020 1810 0000 6296 7067

Re: CPC # 255-21

Dear Mr. A

PO Box 1293

COMPLAINT:

Albuquerque

C A submitted a complaint that alleged Chief M violated CPOA Ordinance (9-4-1-4-C-3-g), paragraph 285 of the Court Approved Settlement Agreement, and APD policies concerning his duties as Chief, the code of conduct concerning adherence to all laws, and acts that would tarnish the overall professionalism, esteem, pride, and morale of APD employees.

NM 87103

www.cabq.gov

EVIDENCE REVIEWED:

Video(s): No APD Report(s): No CAD Report(s): No

Complainant Interviewed: No Witness(es) Interviewed: No

APD Employee Interviewed: Yes

APD Employee Involved: Chief M

Other Materials: YouTube Videos, CPOAB Minutes, Findings Letters, Non-Concurrence

Date Investigation Completed: April 18, 2022

FINDINGS

1. **Unfounded.** Investigation classification when the investigator(s) determines, by clear and convincing evidence, that alleged misconduct did not occur or did not involve the subject officer.

2. **Sustained.** Investigation classification when the investigator(s) determines, by a preponderance of the evidence, the alleged misconduct did occur by the subject officer.

Policies Reviewed: 3.44.4.F.5

3. **Not Sustained.** Investigation classification when the investigator(s) is unable to determine one way or the other, by a preponderance of the evidence, whether the alleged misconduct either occurred or did not occur.

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Additional Comments:

The investigation determined the statements claimed by the complainant in a 12/9/21 CPOAB meeting did not occur. The investigation determined non-concurrence memorandums were not received within the required time period on civilian police complaints as listed in the CPOA Ordinance. The CPOA Ordinance does not list a violation section or a punishment section and therefore does not constitute criminal activity or conduct. APD SOP provides a time frame by which non-concurrence letters are to be submitted to the CPOAB and places that responsibility with the Chief. However, City administration created the position of the Superintendent and placed that responsibility with the Superintendent by job description and verbal discussion that the Superintendent was responsible for matters involving discipline. The memos have been issued by the Superintendent. The CASA is deemed to take precedence and Paragraph 285 does not specify a time frame. The necessary non-concurrence memos have been completed and provided to the CPAOB. Due to the conflicting information created by the bifurcation of duties this issue is not sustained.

You have the right to appeal this decision. If you are not satisfied with the findings of the CPOA Executive Director within 30 calendar days (inclusive of holiday and weekends) of receipt of this letter, communicate your desire to have an appeal hearing before the CPOA Board in a signed writing addressed to the CPOA Director. Please send your request to P.O. Box 1293, Albuquerque, NM 87103 or by email CPOA@cabq.gov. Include your CPC number. **Upon receipt of the communication, a hearing will be scheduled at the Board's next regularly scheduled meeting provided there is at least ten days between the receipt of the request and the next meeting.**

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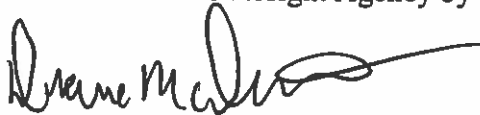
Administratively closed complaints may be re-opened if additional information becomes available.

Being that this case involves the Chief of Police, the review of the case was conducted by the City's Chief Administrative Officer. The City's Chief Administrative Officer is the final disciplinary authority in reference to the Chief of Police.

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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Sincerely,
The Civilian Police Oversight Agency by



Diane McDermott
Interim Executive Director (505) 924-3770

cc: Albuquerque Police Department

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Civilian Police Oversight Agency Board

Patricia J. French, Chair *Jesse Crawford, Vice-Chair*

Chantal M. Galloway *Eric Nixon*

Diane McDermott, Interim Executive Director

Michael Wartell

May 20, 2022

Via Email

Re: CPC # 019-22

Dear Mr. Krisher

PO Box 1293

COMPLAINT:

Albuquerque

NM 87103

On 01/30/2022, Mr. K submitted a complaint to CPOA. He reported he witnessed several illegal dirt bikes, ATV's and UTV's around his neighborhood of Eldorado Park. Mr. K stated he witnessed the park's grass being destroyed by these illegal bikes. Mr. K called 242-COPS to make a formal complaint by phone and stated an APD Officer did respond, however; Mr. K stated the officer only confronted the bike riders with an unknown statement. Then the officer observed the bike riders ride their bikes down the street illegally from the park parking lot. Mr. K stated illegal bike riding has been an issue for sometime within the city limits and he would like the city to make a change before innocent people get hurt.

www.cabq.gov

EVIDENCE REVIEWED:

Video(s): Yes APD Report(s): N/A CAD Report(s): Yes

Complainant Interviewed: Yes Witness(es) Interviewed: N/A

APD Employee Interviewed: No

APD Employee Involved: Officer H

Other Materials: n/a

Date Investigation Completed: April 18, 2022

FINDINGS

1. **Unfounded.** Investigation classification when the investigator(s) determines, by clear and convincing evidence, that alleged misconduct did not occur or did not involve the subject officer.

2. **Sustained.** Investigation classification when the investigator(s) determines, by a preponderance of the evidence, the alleged misconduct did occur by the subject officer.

Policies Reviewed: 1.1.5.A.4

3. **Not Sustained.** Investigation classification when the investigator(s) is unable to determine one way or the other, by a preponderance of the evidence, whether the alleged misconduct either occurred or did not occur.

4. **Exonerated.** Investigation classification where the investigator(s) determines, by a preponderance of the evidence, that alleged conduct in the underlying complaint did occur but did not violate APD policies, procedures, or training.

5. **Sustained Violation Not Based on Original Complaint.** Investigation classification where the investigator(s) determines, by a preponderance of the evidence, misconduct did occur that was not alleged in the original complaint (whether CPC or internal complaint) but that other misconduct was discovered during the investigation, and by a preponderance of the evidence, that misconduct did occur.

6. **Administratively Closed.** Investigation classification where the investigator determines: The policy violations of a minor nature and do not constitute a pattern of misconduct (i.e. a violation subject to a class 7 sanction, -the allegations are duplicative; -the allegations, even if true, do not constitute misconduct; or -the investigation cannot be conducted because of the lack of information in the complaint, and further investigation would be futile.

Additional Comments:

Mr. K reported APD has said there is a zero tolerance for illegal vehicle usage. He called police for off-road vehicle usage at the park and the responding officer did nothing. The officer yelled at the individuals and then left after a short time later. The officer was no longer employed with APD and did not respond to the CPOA Investigator's request for an interview. It is unknown if Officer H was aware or had been informed of a "zero tolerance" policy or if he used appropriate law enforcement discretion given the totality of the circumstances. Therefore, this is not sustained.

You have the right to appeal this decision. If you are not satisfied with the findings of the CPOA Executive Director within 30 calendar days (inclusive of holiday and weekends) of receipt of this letter, communicate your desire to have an appeal hearing before the CPOA Board in a signed writing addressed to the CPOA Director. Please send your request to P.O. Box 1293, Albuquerque, NM 87103 or by email CPOA@cabq.gov. Include your CPC number. Upon receipt of the communication, a hearing will be scheduled at the Board's next regularly scheduled meeting provided there is at least ten days between the receipt of the request and the next meeting.

In order for the Board to change the findings and/or recommendations or make further recommendations to the Chief of Police, proof must be offered that:

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

Administratively closed complaints may be re-opened if additional information becomes available.

If you are not satisfied with the final disciplinary decision of the Chief of Police or any matter relating to the Chief's handling of the complaint you may request a review of the complaint by the City's Chief Administrative Officer. Your request must be in writing and within 30 calendar days (inclusive of holidays and weekends) 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



Diane McDermott
Interim Executive Director
(505) 924-3770

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Civilian Police Oversight Agency Board

Patricia J. French, Chair *Jesse Crawford, Vice-Chair*

Chantal M. Galloway *Eric Nixon*

Diane McDermott, Interim Executive Director

Michael Wartell

May 20, 2022

Via Email

Re: CPC # 232-21

Dear Ms. F

PO Box 1293

Albuquerque

NM 87103

www.cabq.gov

COMPLAINT:

Your complaint stated: I went to the station and encountered Assistant C; I requested accident forms on behalf of my boyfriend. She said he would need to be physically at the station to fill it out. I told her I just got off the phone with an operator who gave conflicting information earlier today. She told me she doesn't know who I spoke with and why they'd say that. I told her that my boyfriend works until 4:00pm so he'd arrive after that time. She said he needs to figure out his schedule if he'd like to file the report. She said this has been the rules for years even though I had gotten in an accident about two years prior and they informed me to simply take the form home and return it within 5 days. Assistant C was very unhelpful and rude.

EVIDENCE REVIEWED:

Video(s): N/A

APD Report(s): N/A

CAD Report(s): N/A

Complainant Interviewed: Yes

Witness(es) Interviewed: Yes

APD Employee Interviewed: Yes

APD Employee Involved: Officer Assistant C

Other Materials: photo of lobby requirements

Date Investigation Completed: April 30, 2022

FINDINGS

1. **Unfounded.** Investigation classification when the investigator(s) determines, by clear and convincing evidence, that alleged misconduct did not occur or did not involve the subject officer.

2. **Sustained.** Investigation classification when the investigator(s) determines, by a preponderance of the evidence, the alleged misconduct did occur by the subject officer.

Policies Reviewed: 1.1.5.A.1

3. **Not Sustained.** Investigation classification when the investigator(s) is unable to determine one way or the other, by a preponderance of the evidence, whether the alleged misconduct either occurred or did not occur.

Policies Reviewed: 1.1.6.C.1

4. **Exonerated.** Investigation classification where the investigator(s) determines, by a preponderance of the evidence, that alleged conduct in the underlying complaint did occur but did not violate APD policies, procedures, or training.

5. **Sustained Violation Not Based on Original Complaint.** Investigation classification where the investigator(s) determines, by a preponderance of the evidence, misconduct did occur that was not alleged in the original complaint (whether CPC or internal complaint) but that other misconduct was discovered during the investigation, and by a preponderance of the evidence, that misconduct did occur.

6. **Administratively Closed.** Investigation classification where the investigator determines: The policy violations of a minor nature and do not constitute a pattern of misconduct (i.e. a violation subject to a class 7 sanction, -the allegations are duplicative; -the allegations, even if true, do not constitute misconduct; or -the investigation cannot be conducted because of the lack of information in the complaint, and further investigation would be futile.

Additional Comments:

1.1.5.A.1: Assistant C said she does not remember the incident and does not remember interacting with F. Assistant C said she was following the rules of her station and was abiding by her training. F. did not have a recording to support her allegations and there is no station recording to show Assistant C violated SOP 1.1.5.A.1. This issue is "Not Sustained."

1.1.6.C.1: Assistant C said people who request reports are required to have all three documents ready (driver license, registration and insurance) so the forms could be filled at the station and can't take them home. "This is the required information and all substations should be doing it. That is the way I was trained, this is the information required on any accident report. This is a requirement and I have no control over how other substations do their reports. I am doing only what I was trained to do." APD Records stated these forms are "controlled forms" via NM tracking number and are not allowed to go home. The supervisor of the substation agreed that forms must be completed at the substation by the person involved. A policy recommendation is being made for substation consistency. This issue is "Exonerated."

You have the right to appeal this decision. If you are not satisfied with the findings of the CPOA Executive Director within 30 calendar days (inclusive of holiday and weekends) of receipt of this letter, communicate your desire to have an appeal hearing before the CPOA Board in a signed writing addressed to the CPOA Director. Please send your request to P.O. Box 1293, Albuquerque, NM 87103 or by email CPOA@cabq.gov. Include your CPC number. **Upon receipt of the communication, a hearing will be scheduled at the Board's next regularly scheduled meeting provided there is at least ten days between the receipt of the request and the next meeting.**

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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



Diane McDermott
Interim Executive Director
(505) 924-3770

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Civilian Police Oversight Agency Board

Patricia J. French, Chair *Jesse Crawford, Vice-Chair*

Chantal M. Galloway *Eric Nixon*

Diane McDermott, Interim Executive Director

Michael Wartell

May 20, 2022

Via Email

Re: CPC # 232-21

Dear Ms. F

PO Box 1293

Albuquerque

NM 87103

www.cabq.gov

COMPLAINT:

Your complaint stated: My boyfriend stopped by the Westside PD to pick up a police report for an accident. He was in the building waiting in line for 5 minutes, before it was finally his turn. He asked for the forms to take home, but Assistant K told him he was 2 minutes late and that he could not assist him. My boyfriend said he was in the building waiting and therefore not late. Assistant K gave him a hard time, told him he could not take the form home, it must be filled out in the station, and that he needed to arrive sooner in order to have time to fill out the report. I (C F) figured I'd call to find out if I would be able to pick up the forms, have my boyfriend fill it and return the next day. Assistant K was very unhelpful.

EVIDENCE REVIEWED:

Video(s): N/A

APD Report(s): N/A

CAD Report(s): N/A

Complainant Interviewed: Yes

Witness(es) Interviewed: Yes

APD Employee Interviewed: Yes

APD Employee Involved: Officer Assistant K

Other Materials: photo of lobby requirements

Date Investigation Completed: April 30, 2022

FINDINGS

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Additional Comments:

1.1.5.A.1: Assistant K said he does not remember the incident and does not remember interacting with F boyfriend. Assistant K said he was following the rules of the station and was abiding by his training. F did not have a recording to support her allegations and there is no station recording to show that Assistant K violated 1.1.5.A.1. This issue is "Not Sustained."

1.1.6.C.1: Assistant K's supervisor said people who request reports are required to have all three documents ready (driver license, registration and insurance) so the forms could be filled at the station and can't take them home. According to Assistant K's supervisor, he was following the station's rules. APD Records stated these forms are "controlled forms" via NM tracking number and are not allowed to go home. The supervisor of the substation agreed that forms must be completed at the substation by the person involved. A policy recommendation is being made for substation consistency. This issue is "Exonerated."

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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



Diane McDermott
Interim Executive Director
(505) 924-3770

cc: Albuquerque Police Department Chief of Police

CIVILIAN POLICE OVERSIGHT AGENCY

Civilian Police Oversight Agency Board

Patricia J. French, Chair *Jesse Crawford, Vice-Chair*

Eric Nixon

Michael Wartell

Diane McDermott, Interim Executive Director

May 19, 2022

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

RE: APD Case # 21-0063380, IAFD Case # F2021-000511

Dear Chief Medina:

The Interim Executive Director's review of this case included:

- Computer Aided Dispatch Reports
- Criminalistics Reports
 - Crime scene photos
- Use of Force Narratives
 - Officer Interviews
- Internal Affairs Force Division Reports
 - Supervisor Review
 - Command Review
- On Body Recording Device Videos
- APD Policy 2-52 Use of Force
- Attending the Force Review Board Briefing 1/13/22
 - Power Point Presentation

On August 12, 2021, Mr. O was intoxicated and caused a disturbance in a hotel. Mr. O disturbed several individuals, fought with individuals, and allegedly attempted to strike an individual with a car. As a result, police were called. Officers investigated and determined there was probable cause to arrest Mr. O.

Officers 1 and 2 utilized low level control tactics on numerous occasions to overcome minimal resistance. Mr. O initially cooperated, but then offered passive resistance. At the police vehicle, Mr. O refused to get inside. Mr. O became agitated and hit his head on the police car causing a dent in the vehicle. Officers moved him away to prevent further injury to himself or damage.

Types of Force analyzed:

Level 3 empty hand takedown (handcuffed subject)

Mr. O attempted to trip officers. Mr. O struggled with officers and so he was put on the ground.

The use of force by Officers 1 and 2 was within policy

Level 1 resisted handcuffing

Once in handcuffs on the ground, Mr. O continued to struggle. Officer 2 prevented Mr. O from kicking. Officer 2 applied a PRS to Mr. O.

The use of force by Officers 1 and 2 was within policy

The specific policies identified in the investigation regarding the use of force were:

2-52-4-E-1 When force is used, the decision to use force and the level of force must be reasonable, necessary, and proportional given the totality of the circumstances. The use of force was within policy

2-52-4-E-2 Factors defining the totality of the circumstances include, but are not limited to the following: a. The severity of the crime (s) at issue; b. Whether the individual actively resisted arrest or attempting to evade arrest by flight; and c. Whether the individual poses an immediate threat to the safety of the officer (s) or others.

2-53-Q-1 Minimum Amount of Force Necessary 1. The lowest level of force within the range of objectively reasonable force that is necessary to make an arrest or to achieve a lawful objective without increasing the risk to the officers or others.

Post use of force action:

Mr. O remained uncooperative. He was assessed by Rescue.

The Civilian Police Oversight Board reviewed the case at their May 19, 2022 meeting.

The Board did not make any additional recommendations or considerations. The Board voted to approve the findings of the Interim Executive Director and the FRB.

Sincerely,



Diane McDermott
Interim Executive Director
Civilian Police Oversight Agency
(505) 924-3770

CIVILIAN POLICE OVERSIGHT AGENCY

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Patricia J. French, Chair *Jesse Crawford, Vice-Chair*

Eric Nixon *Michael Wartell*

Diane McDermott, Interim Executive Director

May 19, 2022

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

RE: APD Case # 21-0065420, IAFD Case # F2021-000526

Dear Chief Medina:

The Interim Executive Director's review of this case included:

- Computer Aided Dispatch Reports
- Criminalistics Reports
 - Crime scene photos
- Use of Force Narratives
 - Officer Interviews
- Internal Affairs Force Division Reports
 - Supervisor Review
 - Command Review
- On Body Recording Device Videos
- APD Policy 2-52 Use of Force
- Attending the Force Review Board Briefing 1/13/22
 - Power Point Presentation

On August 19, 2021, Sgt. 1 observed 2 individuals loitering. The management complained of loiterers. Sgt. 1 requested backup, Officer 1 arrived, and they contacted the individuals. One individual was allowed to depart as he had demonstrated he had conducted business at the establishment. Mr. G was detained for trespassing. Sgt. 1 noticed evidence of paraphernalia in plain view in Mr. G's backpack. Officer 1 requested to remove the paraphernalia, was given permission, and located narcotics. As a result, Mr. G was informed he was under arrest.

Types of Force analyzed:

Level 3 empty hand control (handcuffed subject)

During the search incident to arrest, Mr. G tried to pull free and reach into his pockets. Officer 1 and Sgt. 1 grabbed his arm from within his pocket. Mr. G denied doing anything, but

clenched something in his hand. Officer 1 tried to force his hand open. Mr. G tried to conceal the narcotics in his anus. Officers physically wrestled with his hands and arms to release what was in his hand and not conceal it.

The use of force by Officer 1 and Sgt. 1 was within policy

Level 3 empty hand takedown (handcuffed subject)

Mr. G raised his leg to kick and Officer 1 and Sgt. 1 put Mr. G to the ground.

The use of force by Officer 1 and Sgt. 1 was within policy

Level 3 empty hand control (handcuffed subject)

Sgt. 1 straddled Mr. G. Officer 1 still struggled with Mr. G's clenched fist to get him to release what he held while he was on the ground. Officer 1 applied pressure to Mr. G's arm and lifted it. He then pried Mr. G's hand open.

The use of force by Officer 1 and Sgt. 1 was within policy

The specific policies identified in the investigation regarding the use of force were:

2-52-5C C. Officers shall not use force against a restrained or handcuffed individual unless the force is necessary: 1. To prevent imminent bodily harm to the officer or another person or persons; 2. To overcome active resistance; or 3. To move an individual who is passively resisting.

2-52-5A.6 6. The use of leg sweeps, arm-bar takedowns, or a passive restraint system (P.R.S) shall only be considered and used in the following circumstances: a. To prevent imminent bodily harm to the officer or to another person or persons; or b. To overcome active resistance.

Post use of force action:

He was assessed by Rescue.

The Civilian Police Oversight Board reviewed the case at their May 19, 2022 meeting.

The Board did not make any additional recommendations or considerations. The Board voted to approve the findings of the Interim Executive Director and the FRB.

Sincerely,



Diane McDermott
Interim Executive Director
Civilian Police Oversight Agency
(505) 924-3770

CIVILIAN POLICE OVERSIGHT AGENCY

Civilian Police Oversight Agency Board

Patricia J. French, Chair

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Michael Wartell

Diane McDermott, Interim Executive Director

May 19, 2022

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

RE: APD Case # 21-0072619, IAFD Case # F2021-574

Dear Chief Medina:

The Interim Executive Director's review of this case included:

- Computer Aided Dispatch Reports
- Field reports
- Criminalistics Reports
 - Crime scene photos
- Use of Force Narratives
 - Officer Interviews
- Internal Affairs Force Division Reports
 - Supervisor Review
 - Command Review
- On Body Recording Device Videos
- APD Policy 2-52 Use of Force
- Attending the Force Review Board Briefing 1/27/22
 - Power Point Presentation

On September 13, 2021, Officers 1 and 2 were dispatched in reference to a disturbance. Ms. F was pulling a fire alarm and breaking lights. There was a restraining order against Ms. F for being at the location. Officer 2 advised Ms. F she was under arrest for the violation. Ms. F ran from officers. However, she returned and was placed in handcuffs.

Types of Force analyzed:

Low level control tactics were used several times during the encounter to guide Ms. F.

Level 3 empty hand takedown (handcuffed subject)

Once in handcuffs Ms. F took several steps forward and leaned her body back. She sat on the ground, but used her legs to push herself back up. Officer 1 grabbed the back of her shirt and pushed her back down. She made a biting motion towards the officer.

The use of force by Officer 1 was within policy

Level 1 empty hand control

While being escorted she was uncooperative. She wrapped her legs around Officer 1's legs. She clamped her knee around his leg and refused to release. Officer 1 pried Ms. F's legs apart to release his leg.

The use of force by Officer 1 was within policy

The specific policies identified regarding the use of force were:

2-52-4-A-2 Use of force Requirements

A. General Requirements

2. When feasible, officers shall allow an individual a reasonable amount of time to submit to arrest or a lawful order before using force.

2-52-6-A-6-a-b Use of Force Procedures

A. General Procedures

6. The use of leg sweeps, arm-bar takedowns, or a passive restraint system (P.R.S) shall only be considered and used in the following circumstances:

- a. To prevent imminent bodily harm to the officer or to another person or persons;
- b. To overcome active resistance.

The Civilian Police Oversight Board reviewed the case at their May 19, 2022 meeting.

The Board did not make any additional recommendations or considerations. The Board voted to approve the findings of the Interim Executive Director and the FRB.

Sincerely,



Diane McDermott
Interim Executive Director
Civilian Police Oversight Agency
(505) 924-3770

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Diane McDermott, Interim Executive Director

May 19, 2022

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

RE: APD Case # 21-0078682, IAFD Case # F2021-00608

Dear Chief Medina:

The Interim Executive Director's review of this case included:

- Computer Aided Dispatch Reports
- Field reports
- Criminalistics Reports
 - Crime scene photos
- Use of Force Narratives
 - Officer Interviews
- Internal Affairs Force Division Reports
 - Supervisor Review
 - Command Review
- On Body Recording Device Videos
- Misconduct investigation
- APD Policy 2-52 Use of Force
- Attending the Force Review Board Briefing 1/27/22
 - Power Point Presentation

On October 3, 2021, Officers 1 and 3 were dispatched to an intersection at Coors Blvd Bypass and Ellison for an individual huffing computer duster while walking in lanes of traffic. Officer 1 contacted Mr. S while Mr. S was walking in traffic and screaming. Mr. S would not comply with orders such as stop or get on the ground and instead ran into traffic on Coors multiple times.

Types of Force analyzed:

Show of Force (ECW)

Upon arrival Officer 2 observed Mr. S running at Officer 1. Officer 2 had his ECW and pointed it at Mr. S. However, he did not use the ECW over the concern of a fire hazard due to the canned air.

The show of force by Officer 2 was within policy (however potentially an issue of not reporting it, see misconduct investigation)

Level 2 takedown (leg sweep)

Officer 1 grabbed both of Mr. S' shoulders and used his foot to kick Mr. S' leg out from under him in order to get Mr. S into custody. Officer 1 and Mr. S fell to the ground.

The use of force by Officer 1 was within policy

Level 1 resisted handcuffing

Officers 1 and 2 tried to handcuff Mr. S by pulling on his arms. Officer 1 cautioned Mr. S he would be tased if he did not comply. Mr. S tried to bite Officer 1. Officer 1 told Mr. S to stop biting. Mr. S then stopped resisting, but officers waited for more backup before trying to handcuff him to avoid further physical fighting.

The use of force by Officers 1 and 2 was within policy.

Low level control tactics were used to get Mr. S into handcuffs and escort him to the police vehicle. At the police vehicle, Mr. S started to kick. The decision was to place Mr. S in a PRS. In order to do so he had to be on the ground. Orders were given for several minutes.

level 3 takedown (handcuffed subject)

Lt. 1, Officer 3, Officer 2, and Officer 1 all grabbed various positions on Mr. S and lowered him to the ground.

The uses of force by Officers 1-3 and Lt. 1 were within policy.

Level 1 resisted handcuffing 2nd incident

Officers held Mr. S, but Mr. S pulled away from Officers 1 and 3 while trying to kick. Officers 1 and 3 pulled and struggled against Mr. S.

The uses of force by Officer 1 and 3 were within policy

The specific policies identified in the investigation regarding the use of force were

2-52-6-A-6: Leg Sweep Takedown; P.R.S.

The use of leg sweeps, arm-bar takedowns, or a passive restraint system (P.R.S) shall only be considered and used in the following circumstances: a. To prevent imminent bodily harm to the officer or to another person or persons; or
b. To overcome active resistance.

2-52-4-F-1: Lawful Objective

1. Officers shall only use force to achieve a lawful objective. Officers are authorized to use force:

- a. To effect a lawful arrest or detention of a person;
- e. To defend an officer or person from the physical acts of another

2-52-5-C: Use of Force Prohibitions

C. Officers shall not use force against a restrained or handcuffed individual unless the force is necessary:

- 1. To prevent imminent bodily harm to the officer or another person or persons;
- 2. To overcome active resistance

2-54-B-1: ECW Use

An officer shall issue a verbal warning to an individual, and allow that person a reasonable time to comply with the warning prior to deploying any ECW, unless doing so would place an officer or other person at increased risk. An example of a verbal warning is: "Stop or you will be tased!"

The potential misconduct involved 2-52-6A8 where Officer 2 allegedly did not document that he had a show of force with his ECW. An Internal Affairs referral was created for investigation.

Post use of force action:

Rescue was called to check Mr. S, but he refused. Mr. S started banging his head inside the patrol car. He also was spitting at officers. Officer 3 and Sgt. 1 put a protective helmet and spit sock on him.

The Civilian Police Oversight Board reviewed the case at their May 19, 2022 meeting. The Board did not make any additional recommendations or considerations. The Board voted to approve the findings of the Interim Executive Director and the FRB.

Sincerely,



Diane McDermott
Interim Executive Director
Civilian Police Oversight Agency
(505) 924-3770