

**CIVILIAN POLICE OVERSIGHT AGENCY**

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

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

*Chelsea Van Deventer*

Edward Harness, Executive Director

**POLICE OVERSIGHT BOARD AGENDA**

Thursday, January 10, 2019 – 5:00 PM

Vincent E. Griego Chambers

- I. Welcome and call to order.
- II. Pledge of Allegiance – *Joanne Fine*
- III. Mission Statement – *Leonard Waites, Chair*

*“Advancing Constitutional policing and  
accountability for APD and the Albuquerque  
Community.”*
- IV. Approval of the Agenda
- V. Public Comments
- VI. Review and Approval of Minutes
- VII. Reports from City Staff
  - a. APD
  - b. City Council
  - c. Mayor’s Office
  - d. City Attorney
  - e. CPC
  - f. APOA
  - g. CPOA – *Edward Harness, Executive Director*
- VIII. Reports from Subcommittees
  - a. Community Outreach Subcommittee – *Chantal Galloway*
  - b. Policy and Procedure Review Subcommittee – *Dr. William Kass*
    1. PPRB Policies: 2-8 OBRD, 2-5 Use of Dept. Vehicles, APD Aviation  
Criminal Trespass Notice, 1-46 Field Training and Evaluation
  - c. Case Review Subcommittee – *Valerie St. John*
  - d. Personnel Subcommittee – *Chantal Galloway*
- IX. Discussion
  - a. Ordinance Amendments
  - b. POB Members Reappointment
  - c. Resolution of the communication ban between the POB and the City

- X. **Consent Agenda Cases:**
  - a. **Administratively Closed Cases**  
130-18          269-18          271-18          272-18
  - b. **Sustained**  
202-18
  - c. **Not Sustained investigation by IA**  
047-18
  
- XI. **Non-Consent Agenda:**
  
- XII. **Non-Concurrence Cases:**
  
- XIII. **Review of Appeals**
  
- XIV. **Serious Use of Force/Officer Involved Shooting Cases:**
  
- XV. **POB's Review of Garrity Materials:**
  
- XVI. **Meeting with Counsel re: Pending Litigation or Personnel Issues:**  
  
**Closed Discussion and Possible Action re: Pending Litigation or Personnel Issues**
  - a. **Matters subject to the attorney-client privilege pertaining to threatened or pending litigation in which the public body is or may become a participant pursuant to NMSA 1978, Section 10-15-1(H)(7); and**
    - i. **Pending Litigation to include *Arasim v. CPOA et al.*, D-202-CV-2018-08758**
  - b. **Limited personnel matters pursuant to NMSA 1978, Section 10-15-1(H)(2)**
    - i. **Executive Director Contract**
  
- XVII. **Vote on Executive Director's Employment Agreement**
  
- XVIII. **Other Business**
  
- XIX. **Adjournment- *Next Regularly scheduled POB meeting will be on February 14, 2019 at 5:00 p.m. in the Vincent E. Griego Chambers.***

**CIVILIAN POLICE OVERSIGHT AGENCY**

**Police Oversight Board**

*Joanne Fine*

*Chelsea Van Deventer*

*Leonard Waites, Chair*

*Dr. William J. Kass*

*Chantal M. Galloway, Vice Chair*

*Valerie St. John*

Edward Harness, Executive Director

January 11, 2019

Via Certified Mail

7017 2680 0000 5951 8382

**RE: CPC 130-18**

Dear Mr. P

On May 21, 2018 we received your complaint about an incident that occurred on May 29, 2018.

**I. THE COMPLAINT**

You wrote in your complaint that on May 29, 2018 at about 2:00 AM, you were on a bike ride and you rode through the downtown area. The bars were letting out. As you passed by a bar at 4<sup>th</sup> and Central, you noticed APD Officer P. not performing his duties. You stated that the officer was not being a gentleman and his behavior was unbecoming of an officer. You stated that you had video of the officer.

**II. THE INVESTIGATION**

In an effort to assist you, a CPOA Investigator was assigned to your complaint. The CPOA Investigator reviewed your complaint. You did not submit any video of the alleged bad behavior and you did not name the bar where the incident occurred. The CPOA Investigator left you phone messages and sent you an e-mail in an attempt to contact you. The CPOA Investigator never received any response from you.

**III. CONCLUSION**

You did not submit any video with your complaint. You did not state what the behavior was that offended you. When the Investigator tried to contact you in an effort to obtain the video and get more details from you, you did not return the Investigator's phone calls or respond to his e-mail to you. Because you did not respond and because of the lack of information in the complaint, we are administratively closing your complaint and no further investigation by our office will occur. Administratively closed complaints may be re-opened if additional information becomes available.

Sincerely,

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

Ed Harness  
Executive Director  
(505) 924-3774

CC: Albuquerque Police Department, Chief of Police

## **CIVILIAN POLICE OVERSIGHT AGENCY**

**Police Oversight Board**

*Joanne Fine*

*Chelsea Van Deventer*

Edward Harness, Executive Director

*Leonard Waites, Chair*

*Dr. William J. Kass*

*Chantal M. Galloway, Vice Chair*

*Valerie St. John*

January 11, 2019

Via Certified Mail

7017 2680 0000 5951 8399

**Re: CPC #269-18**

Dear Mr. S

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint against Officers of the Albuquerque Police Department (APD) on November 15, 2018, 2018, regarding an incident that occurred on or about October 31, 2018.

### **I. THE COMPLAINT**

Mr. S submitted an online complaint via the CPOA staff regarding an encounter he had with an officer on October 31, 2018. Mr. S stated he pulled to the side of the road to check directions when an officer pulled behind him and engaged his emergency lights. Mr. S exited his vehicle and apologized for being stopped on the side of the road. Mr. S relayed, "some things happened between him and the officer during that time." His lawyer advised that he not repeat what happened. The incident ended with the police officer yelling at Mr. S to "get off the f'ing road." Mr. S did not have a name or car number for the officer because the officer refused to provide his name when asked.

### **II. INVESTIGATION**

The CPOA Investigator submitted a CAD request and received the result that the search did not locate anything that matched Mr. S description of location, time, and incident. Mr. S provided a physical description of the officer that was not specific enough in order to identify the officer. His description was based primarily on a look the officer gave. The CPOA Investigator tried to contact Mr. S on the phone number he provided, but the mailbox was full and did not accept messages. The CPOA Investigator emailed Mr. S asking for his license plate in case the officer ran his plate, but Mr. S never responded.

### **III. CONCLUSION**

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

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

**Letter to Mr. S**  
**January 11, 2019**  
**Page 2**

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

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

Sincerely,  
The Civilian Police Oversight Agency by



Edward Harness, Esq.  
Executive Director

cc: Albuquerque Police Department Chief of Police

**CIVILIAN POLICE OVERSIGHT AGENCY**

**Police Oversight Board**  
*Joanne Fine*  
*Chelsea Van Deventer*

*Leonard Waites, Chair*  
*Dr. William J. Kass*

*Chantal M. Galloway, Vice Chair*  
*Valerie St. John*

Edward Harness, Executive Director

January 11, 2019  
Via Email

**RE: CPC 271-18**

Dear Ms. A

On September 27, 2018 we received your complaint about an incident that occurred on that same day.

**I. THE COMPLAINT**

You wrote in your complaint that on September 27, 2018 at about 3:25 PM, you were getting off the freeway at Coors and I-40 when a police officer, later identified as Officer B., passed by you, switched lanes suddenly without his blinker on, and then slammed on his brakes coming to a screeching halt. That action caused a car behind you to almost hit you. When the officer stopped, you got out of your car and confronted the officer about his driving behavior. The officer admitted to cutting you off but told you that you should not have been speeding. You said that the officer made that statement with no proof that you had been speeding. The officer allegedly told you that you needed to watch how you drive. You asked for the officer's man number which he provided quickly to you and the officer drove off real fast. You sated that you felt that the officer's actions were "road rage" and you wanted the officer to get anger management training in how to remain calm in every situation.

**II. THE INVESTIGATION**

In an effort to assist you, a CPOA Investigator was assigned to your complaint. The CPOA Investigator reviewed your complaint and checked for videos from the incident that may have been recorded by the officer. There were none. The CPOA Executive Director reviewed the officer's disciplinary history and the officer had no history of poor driving complaints. Your complaint was sent to Officer B.'s Supervisor for review and investigation. Officer B.'s Supervisor spoke with you about your complaint. Officer B.'s Supervisor then met with Officer B. and counselled Officer B. on the importance of his behavior and how that behavior can reflect on the Albuquerque Police Department as a whole.

### **III. CONCLUSION**

The officer's Supervisor handled your complaint and addressed the alleged behavior with the officer. The allegations in your complaint were minor policy violations and minor policy violations are usually handled and resolved by the officer's supervisor. Because of that and because the allegations were resolved by the Supervisor, we are administratively closing your complaint and no further investigation by our office will occur. Administratively closed complaints may be re-opened if additional information becomes available.

Sincerely,  
  
Ed Harness  
Executive Director  
(505) 924-3774

CC: Albuquerque Police Department, Chief of Police



**CIVILIAN POLICE OVERSIGHT AGENCY**

**Police Oversight Board**

*Joanne Fine*

*Chelsea Van Deventer*

*Leonard Waites, Chair*

*Dr. William J. Kass*

*Chantal M. Galloway, Vice Chair*

*Valerie St. John*

Edward Harness, Executive Director

January 11, 2019

Via Certified Mail

7017 2680 0000 5951 8405

**RE: CPC 272-18**

Dear Mr. N.

On October 1, 2018 we received your complaint about an incident that occurred on August 27, 2018.

**I. THE COMPLAINT**

You wrote in your complaint that on August 27, 2018, you were attacked outside Indian Health Services and suffered injuries. While you were at the hospital being treated you called the police to report the attack. You had no complaint about the APD Officer, Officer S., who documented the incident. When you dropped off your complaint at the CPOA Office you spoke with the CPOA Investigator and you told the Investigator that you wanted to find out why the Security Guard at the IHS lied to the officer. You asked for our assistance in getting charges filed against the man who attacked you.

**II. THE INVESTIGATION**

In an effort to assist you, the same CPOA Investigator you spoke with when you dropped off your complaint was assigned to your complaint. The CPOA Investigator reviewed your complaint and the associated police report. Officer S. did in fact go to IHS and reviewed the Security Officer's report. The report written by the Security Guard indicated that you attacked the other man which you claim is false. There were no security cameras at the facility that could be reviewed by the officer. Your medical report which you submitted with your complaint indicated that you suffered broken ribs.

**III. CONCLUSION**

You stated that you had no problem with the APD Officer who took the report from you. Unfortunately, we have no jurisdiction to question the Security Guard or the man who you say attacked you. We also have no way of having charges filed against that man. Perhaps the

Bernalillo County District Attorney may be of some help to you. Since there is no allegation of misconduct against APD Officer S. in your complaint and because you made it clear that you had no complaint against Officer S., we are administratively closing your complaint and no further investigation by our office will occur. Administratively closed complaints may be re-opened if additional information becomes available.

Sincerely,



Ed Harness  
Executive Director  
(505) 924-3774

CC: Albuquerque Police Department, Chief of Police

## **CIVILIAN POLICE OVERSIGHT AGENCY**

**Police Oversight Board**

*Joanne Fine*

*Chelsea Van Deventer*

Edward Harness, Executive Director

*Leonard Waites, Chair*

*Dr. William J. Kass*

*Chantal M. Galloway, Vice Chair*

*Valerie St. John*

January 11, 2019

To file

Anonymous

87106

**Re: CPC #202-18**

Dear Anonymous:

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint against Officers of the Albuquerque Police Department (APD) on August 28, 2018, regarding an incident that occurred on August 13, 2018. The CPOA thoroughly and impartially investigated the complaint.

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

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

### **I. THE COMPLAINT AND INVESTIGATION**

An anonymous complaint was filed concerning the twitter page run by Officer T. The citizen pointed out a specific tweet from August 13, 2018 where Officer T stated, "Son of a man implicated in the World Trade Center Bombing, kidnaps his child from GA, moves to a remote uninhabitable compound in NM, (allegedly to teach other children how to commit mass murder), & the body of a child is recovered at the compound. Judge: not a danger to society." This tweet was directly followed by the image of a Hollywood star expressing apparent disbelief. The anonymous complainant stated the tweet violated the social media policy.

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable SOPs, the complaint, the officer's Twitter page, and the interview of Officer T.

**II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING OFFICER T'S CONDUCT**

A) The CPOA reviewed Standard Operating General Order 1-2-2D1c regarding Officer T's conduct, which states:

*Department personnel representing the Department via social media outlets shall: Not make statements about the guilt or innocence of any suspect or arrestee, or comments concerning pending prosecution, nor post, transmit, or otherwise disseminate confidential information.*

The complainant complained about a specific tweet on Officer T's personal Twitter page. The complainant complained the tweet made a personal comment about an investigation that was not part of the official investigation. The complainant stated Officer T's tweet made a statement about the guilt or innocence of a suspect and pending prosecution. The complainant further alleged the tweet incited violence against the Judge.

Officer T used his page to highlight the controversy and confusion about the NM Constitutional Amendment concerning bonds, release of individuals pending trials, and the court's determinations of dangerousness of individuals. Officer T did not comment on privileged information, as the case in question did not involve APD. Officer T explained the use of "allegedly" in his tweet was for the express reason of not making commentary on the guilt or innocence of a person. Officer T acknowledged that the shocked face image implied something, but he stood behind the tweet. There were no threats from him in his comments. Officer T justified his statement that it was a national media story that revealed details far beyond his vague statements about the case. Officer T felt there was nothing in the tweet that was untruthful or in his opinion "technically" unprofessional.

Officer T's Twitter page is considered Department sanctioned. Officer T qualified part of his statement with the word "allegedly" for an allegation, but presented another allegation as fact. The overall content and context of the tweet did make a personal opinion comment about the guilt or innocence of a suspect.

The CPOA finds Officer T's conduct to be **SUSTAINED** where the investigation determined that the alleged misconduct did occur.

B) The CPOA reviewed Standard Operating General Order 1-2-2C4 regarding Officer T's conduct, which states:

*Pages for specific officers, divisions, or programs within the Department must be approved in writing by the Chief of Police or his designee. Care must be taken to maintain the integrity of the Department's brand online.*

The Communications Director on behalf of the Chief gave officer T. verbal permission to create his Twitter page as Officer T wanted to represent the department, but use his personal name and tweets. He estimated he started his Twitter account around February or March of 2018. He did not obtain written permission until July. The only restrictions placed upon him were to be professional and not to bring disrepute upon the department. It was a community policing strategy to show officers as members of the community.

According to the home page of Officer T's Twitter page, it was established in January of 2018. IA provided an email with Officer T asking for proof of written permission as required. The email's purpose was to follow-up on an earlier conversation in approximately May of 2018. Officer T's email response was that he had verbal permission, but did not have authorization in writing. Officer T obtained written permission from the Communications Director July 27, 2018 with the very brief statement, "The Chief said it is fine with him."

The CPOA finds Officer T's conduct to be SUSTAINED VIOLATION NOT BASED ON ORIGINAL COMPLAINT where the investigation determined that misconduct did occur that was not alleged in the original complaint, but that was discovered during the misconduct investigation.

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

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

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

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

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

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

Sincerely,  
The Civilian Police Oversight Agency by



Ed Harness  
Executive Director

cc: Albuquerque Police Department Chief of Police

FINDINGS

PSA [REDACTED] B [REDACTED]

1. Did PSA [REDACTED] B [REDACTED] comply with Albuquerque Police Department General Order section 1-1-4(B)(2) Personnel Code of Conduct, which mandates:

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

The alleged misconduct concerned whether PSA B [REDACTED] committed any violation of law, specifically extortion or the distribution of sensitive images. The FIT investigation found the incident did not meet the elements needed to establish PSA B [REDACTED] violated any NM State Statute or City of Albuquerque Ordinance related to the allegations. Additionally, Chief Deputy District Attorney Chuck Barth reviewed the evidence and indicated the District Attorney's Office would not seek to prosecute the case. Therefore, this investigation found, based on a preponderance of evidence, PSA B [REDACTED] did not violate this policy.

For the above reasons, the allegation against PSA [REDACTED] B [REDACTED] is "UNFOUNDED", which means the investigator determines, by clear and convincing evidence, that alleged misconduct did not occur or did not involve the subject officer.

2. Did PSA [REDACTED] B [REDACTED] comply with Albuquerque Police Department General Order section 1-1-4(D)(19) Personnel Code of Conduct, which mandates:

*19. Personnel will not alter, misrepresent, or make any false statement in any verbal or written report or in any other written document that has been completed in the course of their employment.*

*a. Written documents include, but are not limited to, reports, citations, public records or documents, public vouchers, overtime slips, leave requests, personnel records, affidavits, or any other written instrument completed by Department personnel.*

The alleged misconduct concerned whether PSA B [REDACTED] misrepresented her school schedule or altered it in any way in order to avoid placement on a duty shift she did not want to work. This investigation found, based on a preponderance of evidence, PSA B [REDACTED] did not violate this policy. This allegation was presented by Mr. Crespin in his citizen complaint however, even though given the opportunity, he did not provide evidence this occurred. PSA B [REDACTED] was assigned a shift in the RTCC during the semester in question. PSA B [REDACTED]'s direct supervisor at that time stated she never requested to change her schedule to accommodate her classes and PSA B [REDACTED] strongly denied she misrepresented her school schedule in any way.

For the above reasons, the allegation against PSA B [REDACTED] is "UNFOUNDED", which means the investigator determines, by clear and convincing evidence, that alleged misconduct did not occur or did not involve the subject officer.

**3. Did PSA B [REDACTED] comply with Albuquerque Police Department General Order section 1-1-4(D)(20) Personnel Code of Conduct, which mandates:**

*20. Personnel will truthfully answer all questions specifically directed to them that are related to their employment and to all operations of the Department.*

The alleged misconduct concerned whether PSA B [REDACTED] was untruthful when asked direct questions about matters involved in this case by APD Internal Affairs. This investigation found, based on a preponderance of evidence, PSA B [REDACTED] was untruthful when questioned about the identity of her family member by Officer L [REDACTED] on November 14, 2017. This was not found to be a violation of this policy. However, the preponderance of evidence also shows PSA B [REDACTED] was untruthful during her Internal Affairs interview when asked to explain why she provided the untruthful information to Officer L [REDACTED]. PSA B [REDACTED] stated she did not know the identity of her female family member who was involved in the incident at [REDACTED] at that time even though her own statements during her original Internal Affairs interview and the evidence presented showed otherwise.

For the above reasons, the allegation against PSA B [REDACTED] is "SUSTAINED", which means the investigator determines, by a preponderance of the evidence, the alleged misconduct did occur by the subject officer/employee.

4. Did PSA [REDACTED] Baca comply with Albuquerque Police Department General Order section 1-1-4(E)(3) Personnel Code of Conduct, which mandates:

*3. Personnel will always treat the official business of the Department as confidential. Information regarding official business will be disseminated only to those for whom it is intended, in accordance with established Department procedures. Proprietary or nonpublic information of the department is considered confidential when labeled or declared as such. All employees must maintain the confidential and private nature of this information. Confidential information, whether verbal, written, video/audio, or machine readable which is accessible to employees through their course of employment with the department is for use only in the course of their official duties. Confidential information is not intended nor suitable for release to the general public.*

The alleged misconduct concerned whether PSA B [REDACTED] violated Department policy by collecting and providing information about a police call for service she became aware of while working in the RTCC. This investigation found, based on a preponderance of evidence, PSA B [REDACTED] did violate this policy when she provided [REDACTED] with information related to a suicide about their mutual friend, [REDACTED]. PSA admitted to providing this information to [REDACTED] during her Internal Affairs interview.

For the above reasons, the allegation against PSA [REDACTED] B [REDACTED] is "SUSTAINED", which means the investigator determines, by a preponderance of the evidence, the alleged misconduct did occur by the subject officer/employee.



**Detective David G. Kisser**  
**Internal Affairs Section**