

CIVILIAN POLICE OVERSIGHT AGENCY BOARD

Dr. William J. Kass, Chair *Eric Olivas, Vice Chair*
Tara Armijo-Prewitt *Chantal M. Galloway* *Doug Mitchell*
Eric Nixon *Cathryn Starr* *Leonard Waites*
Edward Harness, Executive Director

BOARD AGENDA

Thursday, July 9, 2020 – 5:00 PM

Attendance: In response to the Governor's declaration of a Public Health Emergency and ban on large public gatherings, the Civilian Police Oversight (CPOA) Board meeting on Thursday, July 9, 2020 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/copy6_of_cpoa-board-meeting. (Please note that the link for YouTube has not yet been generated, however, the link could easily be found on the link provided above prior to the start of the meeting). The GOVTV live stream can be accessed at these addresses from most smartphones, tablets, or computers.

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

Public Comment: The agenda for the meeting will be posted on the CPOA website by 5:00 pm, Monday, July 6, 2020 at www.cabq.gov/cpoa.

The CPOA Board will take general public comment and comment on the meeting's specific agenda items in written form via email through 4:00 pm on Thursday, July 9, 2020. Submit your public comments to: POB@cabq.gov. These comments will be distributed to all CPOA Board members for review.

- I. Welcome and call to order**
- II. Mission Statement – *Dr. William Kass, Chair***

*“Advancing Constitutional policing and
accountability for APD and the Albuquerque
Community.”*
- III. Approval of the Agenda**
- IV. Public Comments**
- V. Review and Approval of Minutes from June 11, 2020**

VI. Reports from City Staff

- a. **APD**
 - 1. **Crash Review Board Quarterly Update**
- b. **City Council**
- c. **Mayor's Office**
- d. **City Attorney**
- e. **CPC**
- f. **APOA**
- g. **Public Safety Committee**
- h. **Human Rights Board**
- i. **CPOA – Edward Harness, Executive Director**

VII. Reports from Subcommittees

- a. **Community Outreach Subcommittee – Chantal Galloway**
 - 1. **Met June 23, 2020 (video conference)**
 - 2. **Next meeting July 28, 2020 at 3:00 pm**
- b. **Policy and Procedure Review Subcommittee – Dr. William Kass**
 - 1. **Met July 2, 2020 (video conference)**
 - 2. **Next meeting August 6, 2020 at 4:30 pm**
- c. **Case Review Subcommittee – Chantal Galloway**
 - 1. **Next meeting July 28, 2020 at 4:30 pm**
- d. **Personnel Subcommittee – Doug Mitchell**
 - 1. **Met June 29, 2020 (video conference)**
 - 2. **Next meeting July 27, 2020 at 8:00 am**

VIII. Discussion and Possible Action

- a. **Board Conduct and Ethics Policy**
- b. **Executive Director Evaluation Outline Proposal**
- c. **Subcommittee Changes**
- d. **Policy Recommendations: Revise SOP Review Strategy and Focus**
- e. **Strategic Planning with Facilitator**
- f. **NACOLE Webinar Series**

IX. Review of Cases:

- a. **Administratively Closed Cases**
079-20

- b. **Unfounded**
028-20 071-20

- X. Appeal Hearing:**
 - 046-20**
 - i. Closed discussion for deliberations by the CPOA Board in connection with an administrative adjudicatory proceeding pursuant to NMSA 1978, Section 10-15-1(H)(3)**

- XI. Serious Use of Force Cases/Officer Involved Shooting**
 - a. 18-0058242**

- XII. Other Business**

- XIII. Adjournment- *Next Regularly scheduled CPOA Board meeting will be on August 13, 2020 at 5:00 p.m. in the Vincent E. Griego Chambers.***

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Civilian Police Oversight Agency Board

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Eric Nixon *Cathryn Starr*

Doug Mitchell

Leonard Waites

Edward Harness, Executive Director

July 10, 2020

Via Certified Mail

7018 1130 0002 3429 0814

Re: CPC #079-20

Dear Mrs. M

Our office assigned your complaint on March 5, 2020, against Albuquerque Police Department (APD) officers for an incident, which occurred on September 5, 2019. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint. Below is a summary of the complaint, and the CPOA's investigation and findings.

I. THE COMPLAINT

Mrs. M submitted an online complaint regarding the response of Officer S to a call to her home. Mrs. M alleged Officer S was aggressive with her and her husband despite their attempt to de-escalate the situation. Mrs. M wrote Officer S intended to conduct a warrantless search of their home. Mrs. M wrote Officer S terrified her children; he made false allegations about the condition of her home and about the schooling situation. Officer S decided he was going to take the children. Sgt. K stepped in and determined Officer S made false accusations.

II. THE INVESTIGATION

The CPOA Investigator reviewed your complaint, the police report, and the lapel videos from the seven officers present. CYFD called to have officers assist in their welfare check and investigation. A conclusion of the investigation was able to be reached due to the significant evidence provided by the lapel videos therefore an interview of Mrs. M and the officers was not necessary to determine a finding for the investigation.

The CYFD Caseworker was investigating allegations of child neglect such as no food and the four young children being left unsupervised for extended periods as well as educational neglect. The CYFD Caseworker informed police that her life had been threatened by Mrs. M and denied access to the children to conduct her welfare check.

The lapel video showed Officer S arrived and tried to talk to the CYFD Caseworker about the allegations. Mrs. M was there and immediately accused the caseworker of violating her Constitutional rights. After hearing the allegations from the CYFD Caseworker he informed Mrs. M that he would need to conduct a welfare check on the children. Mrs. M insisted that was not going to happen. Her husband arrived and both said the officer was denied permission to see their children or check on their home without a warrant because the children were their property. Officer S informed the M the children were not property and that he did not need a warrant to check on the safety of the children. The M started shouting obscenities, threats of having him impeached, and suing him. Mrs. M told Officer S that he was free to go and as a civil servant worked for them. The lapel videos did not show Officer S getting in their faces and the M did not attempt to de-escalate the situation. The M repeatedly said they were going to sue and Officer S informed them he had been sued before, but did not say it in the manner Mrs. M described in her complaint.

The lapel videos showed other officers arrived and all confirmed they did not need to have a warrant to conduct a welfare check despite the M insistence that they did. The M provided the key to avoid the door being forced open, but still did not agree to the officers checking on their children. The lapel videos showed the officers did not enter the apartment yelling and did not frighten the children upon entry. The lapel videos showed the children barely reacted to the officers' presence and became upset and crying when Mrs. M told her children the government was there to kidnap them. Mrs. M refused to identify herself or answer questions about the children. Sgt. K tried to explain the situation to her and that they were there for the safety of the children. Other officers obtained some information about the family situation from neighbors and management. The M complained about Officer S' discussion of taking the children for a 48-hour hold. Officers mentioned they were not giving them a lot of options since there were some concerns about the conditions and the M were not cooperating in providing any information or explanations. The lapel videos showed over the course of the call the Millers became more cooperative and better rapport was developed with other officers. Officer S, at request of the sergeant, primarily let other officers handle the interactions with the M but the sergeant never said Officer S made false accusations. A CYFD Supervisor also came to the scene and developed a better rapport than the initial caseworker. Sgt. K and the CYFD Supervisor eventually managed to get enough cooperation from the M and provided enough explanations that it was determined the 48-hour hold was not necessary. The M were appreciative and cooperative with the other officers by the end of the call.

III. CONCLUSION

Mrs. M complaint focused on Officer S. Officer S retired from APD before Mrs. M filed the complaint. Therefore, the complaint is Administratively Closed since the officer complained about is no longer employed by APD. However, the case was reviewed for possible SOP issues since it concerned child welfare. Based on the available evidence there were no violations of SOP. Mrs. M request for compensation over civil rights issues would have to be addressed with the City of Albuquerque Risk Management Office at 505-768-3080 as the CPOA has no jurisdiction in that area.

Letter to Mrs. M
July 10, 2020
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You have the right to appeal this decision.

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

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

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

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

Sincerely,
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



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Eric Nixon *Cathryn Starr*

Edward Harness, Executive Director

Doug Mitchell
Leonard Waites

July 10, 2020
Via Certified Mail
7018 1130 0002 3429 0807

Re: CPC #028-20

Dear Mr. T

Our office received the complaint you filed on September 10, 2019 against Albuquerque Police Department (APD) Sergeant (Sgt.) P. and Officer R. for an incident that took place on August 21, 2019. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint. Below is a summary of the complaint, and the CPOA's investigation and findings.

I. THE COMPLAINT

Mr. T said his wife, who was under the influence of alcohol and other substances, was experiencing manipulation abuse and he had no idea the police were called. He was leaving his house to go to the store for cigarettes when he left his car running and went back in his house for his wallet. He saw his neighbor who was walking to the store and told him to be careful because it was dark outside and someone is walking behind him. He looked down the street and noticed people walking on the other side but couldn't get a description of them because there was a big tree in his front yard. He heard someone say "hey" and no one identified themselves as being a police officer so he paid no attention to them. While he was inside getting his wallet, someone knocked on his front door and identified themselves as APD. He answered the door, and Officer R. asked him to come outside, which he did. He asked him to sit on the stairway in front of his house and as he was sitting Sgt. P. walked into his house and came back out and said "16". He asked Officer R. what 16 meant when Officer R. put handcuffs on him. He asked why he was being arrested and wasn't told why. He was placed in the police car and transported to the hospital for a medical review because he is physically disabled and he doesn't trust the police when it comes to a black man. After the hospital, he was transported to the police station where Officer R. filled out a report and refused to tell Mr. T why he was under arrest. Officer R. eventually told Mr. Thompson he was arrested for false imprisonment, interference with communications and

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battery. He told Officer R. that was a lie and asked why he wasn't questioned at the scene. He complained his wife was drunk and no one asked him what was going on. He told Officer R. he was wrong and complained the only reason Officer R. arrested him was because he is black. He said his only complaint was his back problems and the handcuffs that broke skin and caused bruising. Lastly, he complained his rights were violated and he was falsely arrested.

II. THE INVESTIGATION

The CPOA Investigator reviewed your complaint, Officer R.'s written report, 3 supplemental reports, the CADs report, the Criminal Complaint filed against you, APD SOPs, and 17 lapel video recordings related to this incident. The evidence showed the incident took place on July 20, 2019 and not August 21, 2019, as written in your complaint. The evidence showed Officer R. was the initial responding officer to a "suspicious" call at your residence, and that, in addition to Officer R., Officer C.C., Officer S.C., Officer C.F., Officer M.P, Jr., Acting Sgt. E.P., Sgt. A. and Field Evidence Technician (FET) T.R. also responded to this call. The evidence showed that Officer R. and all responding officers received information regarding three previous Domestic Violence (DV) calls to your home, involving you and your wife, one of which dated back to 2017.

Lapel video showed Officer R. and Officer C.C. were approaching your home when they saw you walk from your vehicle towards your home. They shined their flashlights towards you and Officer R. called out to you two times and said, "Police department!"; however, you didn't acknowledge them and went inside your home and closed the door. Officer R. and Officer C.C. repeatedly knocked on your front door and front window, calling your name and asking you to come out while also announcing themselves as the police department. Lapel video showed you standing behind the front door in your home with your wife, while the officers continued knocking and announcing their presence for approximately 2 minutes, before a young girl opened the door. The child was distraught and talking to the Officer as the door opened further and your wife appeared with a dog and told the officers you had to go. You stepped outside and spoke with Officer R. and he asked why you wouldn't answer the door and what was going on between you and your wife. You told Officer R. you had back surgery and your version of events, while Officer C.C. was inside obtaining a statement from your wife. Your wife told Officer C.C. about the incident that night, which resulted in her face being scratched by you, and about another DV incident just two days prior. You told Officer R. you were arguing with your wife about "typical marriage problems" and he asked if you and your wife were scuffling behind the door when they arrived, and you told him no. You complained you were not questioned at the scene; however, lapel video contradicts this allegation as it recorded the aforementioned conversation you had with Officer R. outside your home.

As you were speaking with Officer R., an officer came out the front door and said, "16". You and Officer R. said "16" and Officer R. told you to stand up and put your hands behind your back. You complied as he handcuffed you and checked your pockets. He removed items from your pockets and another officer asked if you wanted your property to stay at your house or if you wanted to take it with you. You told him you wanted it to go with you. It appears from

lapel video that you knew you were going to jail as you didn't ask that officer or Officer R. where you were going. Additionally, you didn't ask any officers what 16 meant, why you were being handcuffed, or why you were under arrest, as you have alleged in your complaint. You admitted to Officer R. that you and your wife had been drinking alcohol and that you also had used marijuana that day, which contradicts your complaint that Officer R. knew you had no alcohol or drugs in your system.

Lapel video showed two officers escorted you to a patrol car, and Officer R. went inside to speak to your wife about her version of events. He asked her about the scratches on her face and she explained it happened during the DV incident with you that day. She told him about the scuffle he observed behind the door and said you wouldn't allow her to open the door for them. Based on the information obtained during this investigation, Officer R. had probable cause to arrest you. Therefore, you were not falsely arrested, nor were your rights violated, as you have alleged in your complaint.

Lapel video showed that prior to leaving the scene you told Officer R. you wanted to go to the hospital to have your back checked so he drove you to Lovelace Hospital downtown. As he walked you inside he asked you the last time you were arrested, to which you replied a while ago. You were checked out and medically cleared to go to the PTC. He told you that you could ask the doctor at the jail for pain medication for your back. At no time during your interaction with Officer R. and the other officers, did you ask why you had been arrested and where you were going, which refutes your allegations that Officer R. continually refused to tell you why you were being arrested.

You complained the handcuffs broke skin and caused bruising; however, lapel video recorded while Officer R. and Officer C.C. were with you at the PTC showed there were no cuts or abrasions to your wrists, nor did you complain about the handcuffs being too tight, or hurting you in anyway.

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

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable SOP, the Complaint, the CADs, written reports and the lapel videos.

A) The CPOA reviewed APD SOP 2-80-2(A)(6)(b)

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

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

A) The CPOA reviewed APD SOP 2-80-2(A)(6)(b)

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

B) The CPOA reviewed APD SOP 1-4-3(A)(1)

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

A) The CPOA reviewed APD SOP 2-60-4(A)(5)

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

The complaint and these findings are made part of Acting Sgt. P's. and Officer R.'s Internal Affairs records and personnel records.

You have the right to appeal this decision.

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

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

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

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

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

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

Sincerely,
The Civilian Police Oversight Agency by

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

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

cc: Albuquerque Police Department Chief of Police

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Edward Harness, Executive Director

Doug Mitchell

Leonard Waites

July 10, 2020

Via Certified Mail

7018 1130 0002 3429 0821

Re: CPC #071-20

Dear Ms. N

Our office received the complaint you filed on December 4, 2019 against Albuquerque Police Department (APD) Officer P. for an incident that took place on June 24, 2019. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint. Below is a summary of the complaint, and the CPOA's investigation and findings.

I. THE COMPLAINT

Ms. N said Officer P. told her she was under arrest and handcuffed her after she failed field sobriety tests. She complained he never read her her rights. She was questioned at the station and still he did not read her her rights. She complained he patted her down even though she knows a female officer is supposed to be called since she is a female. She said the arrest didn't go on her record because she wasn't drunk, as she told Officer P. at the time, so the officers had to let her go. She complained Officer P. forgot to take the cuffs off of her once she was free to go. She wants the officer to apologize or at least admit that he acted wrongfully.

II. THE INVESTIGATION

The CPOA Investigator reviewed your complaint, Officer P.'s written report, Officer B.'s accident report, APD SOPs, and 5 lapel video recordings related to this incident. The evidence showed Officers P. and B. responded to a single vehicle accident, in which you were the driver and upon their arrival, the officers contacted you and your father. Officer P. asked you who had been driving the car and you admitted to being the driver. He asked what happened and you said you fell asleep at the wheel and crashed your vehicle into a tree in front of a house two doors down from your home. Officer P. asked if you were okay and if you needed

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any medical attention to which you replied no. He asked for your insurance and identification, which you provided. He asked if you had anything to drink, to which you replied you had. The evidence showed, Officer P. smelled an odor of alcohol emanating from your facial area and had you conduct Field Sobriety Tests, which you ultimately failed. Based on the information he had at the time, Officer P. placed you in handcuffs for Driving While Intoxicated (DWI). After Officer P. placed you in handcuffs, he conducted a pat down to determine if you had any weapons or items on your person prior to placing you in the back of his patrol car. He did this in front of your father and Officer B. after explaining the steps he would take to conduct the search. Patting you down for weapons and other contraband did not violate any APD SOPs, which state, in part, that females will be searched by a female officer if one is available. Officer P. transported you the Prisoner Transport Center (PTC) while Officer B. stayed on scene and wrote the accident report.

You complained Officer P. did not read you your rights prior to being placed in handcuffs and prior to questioning you at the PTC. Lapel video showed Officer P. read you the implied consent advisory prior to you submitting to a breath test to confirm whether, or not, you were DWI. The evidence showed your breath test results were 0.0 BAC, so Officer P. asked Officer M, who was at the PTC at the time, to assist in determining what could cause the poor results on the roadside tests and the results of the subsequent breath test. Officer M. asked you questions about your medical history and any medications you might be taking and determined there was not enough evidence to conduct a DRE test. Per APD SOPs Officer P. was not required to give you a Miranda Warning because they are not usually required during roadside DWI investigations or prior to a chemical test. Additionally, the officers weren't required to give you a Miranda Warning to ask you questions about your medical history.

Lastly, you complained that Officer P. forgot to take the cuffs off of you once you were free to go. Lapel video showed Officer P. transported you home from the PTC and let you out of the patrol vehicle. He asked you to turn around and he removed the handcuff set from you, which contradicts the aforementioned allegations. During this time the two of you spoke and chuckled about the discomfort of handcuffs and Officer P. recounted the events of your interaction to include the reasons he arrested you, what took place at the PTC and the fact there wasn't enough evidence to arrest you for DWI. You told him you were fine and that it was okay and that he was a good guy. This was the end of your interaction with Officer P.

Lapel video showed that Officer P. and the other officers with whom you had brief contact that evening were professional and did not violate any APD SOPs, as you have alleged in your complaint.

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

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable SOP, the Complaint, the CADs, written reports and the lapel videos.

A) The CPOA reviewed APD SOP 2-80-2(O)(2)(f)

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

B) The CPOA reviewed APD SOP 2-42-3 (A)(3)

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

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

You have the right to appeal this decision.

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

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

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

Letter to S N
July 10, 2020
Page 4

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

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

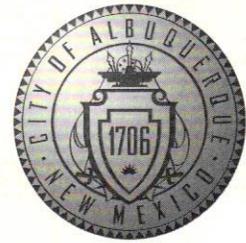
Sincerely,
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department Chief of Police

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Douglas Mitchell

Leonard Waites

Edward Harness, Executive Director

July 9, 2020

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

RE: APD Case # 18-00582142, IAFD Case # C2018-0051

Dear Chief Geier:

My review of this case includes:

- Responding to the incident and being briefed on June 16, 2018
- Computer Aided Dispatch Reports
- APD Field Services Reports
- Criminalistics Reports
 - Crime scene photos
- Internal Affairs Reports
 - Officer Interviews
- Internal Affairs Force Division Reports
 - Command Review
- Multi Agency Task Force Reports
 - Office of Medical Investigators Report
 - Witness statements
- On Body Recording Device (OBRD) Videos
- APD Policy 2-52 Use of Force
- APD Policy 2-8 On Body Recording Device (OBRD)
- APD Policy 2-12 Pursuit Intervention Technique (PIT)
- APD Policy 2-11 Tire Deflation Device
- APD Policy 2-3 Firearms and Ammunition Authorization
- APD Policy 2-45 Pursuit by Motor Vehicle
- Attending the Force Review Board Briefing January 30, 2020

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My review of the evidence shows on June 16, 2018 the victim (Mr. R) of this shooting committed an Armed Robbery at a cell phone store. Because he stole recently activated cell phones, officers were able to electronically trace the stolen phones to a van he operated.

APD officers attempted a traffic stop and the van fled. Officers deployed a spike belt, deflating the left front tire. The van continued its flight from officers. A vehicle pursuit was authorized. Mr. R continued to flee from officers in the van and began shooting at officers with a handgun from the driver side window.

A PIT maneuver was executed by Sergeant 1. The PIT failed to stop the vehicle. After the failed PIT maneuver, the van continued moving in the direction of Sergeant 1. Officer 1 exited his police squad and fired his department issued rifle at Mr. R. Those shots failed to stop Mr. R as he continued to operate his van in flight of police.

A second PIT maneuver was executed by Sergeant 1; that PIT also failed to stop the vehicle. Mr. R continued his flight from officers.

A third PIT maneuver was executed by Officer 1; that PIT disabled the vehicle. Mr. R exited the van and fled on foot. Officer 1 gave pursuit also on foot. Mr. R entered a grocery store parking lot. Officer 1 gave him lawful commands to "stop or you're going to get shot". Mr. R continued to flee stating "I've got a gun" and reaching towards his waist. Mr. R continued to flee. Officer 1 discharged his department issued handgun. APD officers attempted life saving measures, but Mr. R died at the scene.

Finding: The CPOA finds Officer 1's conduct "**Exonerated**," regarding the allegation of a violation of this SOP, which means the investigation determined, by preponderance of the evidence that the alleged conduct did occur but did not violate APD policies, procedures, or training.

Finding: The CPOA finds Sergeant 1's conduct "**Exonerated**," regarding the allegation of a violation of this SOP, which means the investigation determined, by preponderance of the evidence that the alleged conduct did occur but did not violate APD policies, procedures, or training.

Sincerely,

/s/Edward W. Harness
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