

## **Civilian Police Oversight Agency Board**

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

### **BOARD AGENDA**

**Thursday, November 12, 2020 – 5:00 p.m.**

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, November 12, 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/copy\\_of\\_cpoa-board-meeting-1](https://www.cabq.gov/cpoa/events/copy_of_cpoa-board-meeting-1). (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](mailto:CPOA@cabq.gov) for assistance.

Public Comment: The agenda for the meeting will be posted on the CPOA website by 5:00 pm, Monday, November 9, 2020 at [www.cabq.gov/cpoa](http://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, November 12, 2020. Submit your public comments to: [POB@cabq.gov](mailto: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 October 26, 2020**

- VI. Reports from City Departments**
  - a. APD
    - 1. Interim Chief Harold Medina
  - b. City Council
  - c. Mayor's Office
  - d. City Attorney
  - e. CPC
  - f. APOA
  - g. Public Safety Committee
  - h. CPOA – *Edward Harness, Executive Director*
  
- VII. Hearing on Requests for Reconsiderations**
  
- VIII. Review of Cases:**
  - a. Administratively Closed Cases
    - 097-20
  
  - b. Unfounded
    - 139-20
  
- IX. Serious Use of Force Cases/Officer Involved Shooting**
  
- X. Reports from Subcommittees**
  - a. Community Outreach Subcommittee – *Chantal Galloway*
    - 1. Met October 27, 2020 at 3:00 p.m. (video conference)
    - 2. Next meeting December 15, 2020 at 3:00 p.m.
  - b. Policy and Procedure Review Subcommittee – *Dr. William Kass*
    - 1. Met November 5, 2020 at 4:30 pm (video conference)
    - 2. Next meeting December 3, 2020 at 4:30 p.m.
  - c. Case Review Subcommittee – *Chantal Galloway*
    - 1. Met October 27, 2020 at 4:30 p.m. (video conference)
    - 2. Next meeting January 26, 2021 at 4:30 p.m.
  - d. Personnel Subcommittee – *Eric Olivas*
    - 1. Next meeting November 30, 2020 at 3:00 p.m.
  
- XI. Discussion and Possible Action**
  - a. Memorial - Ad Hoc Work Group
  - b. Chief Qualifications Recommendation
  - c. CRC Audit Report
  - d. IMR-12
  - e. CPOA Board Changes to CASA
  - f. Letter to City Council President Davis
  - g. Amici Letter due November 17, 2020
  - h. December 4, 2020 Court Hearing
  - i. Facilitated Meeting

**XII. Meeting with Counsel re: Pending Litigation or Personnel Issues:**

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

- a. **Limited personnel matters pursuant to NMSA 1978, Section  
10-15-1(H)(2)**
  1. **Executive Director**

**XIII. Other Business**

- XIV. Adjournment- *Next Regularly scheduled CPOA Board meeting will be on  
December 10, 2020 at 5:00 p.m.***

# CITY OF ALBUQUERQUE



## CIVILIAN POLICE OVERSIGHT AGENCY

### Civilian Police Oversight Agency Board

*Dr. William J. Kass, Chair*     *Eric Olivas, Vice Chair*

*Chantal M. Galloway*     *Doug Mitchell*

Edward Harness, Executive Director

*Tara Armijo-Prewitt*

*Eric Nixon*

November 13, 2020

To file

**Re: CPC #097-20**

Dear Mr. S

Our office received the complaint you filed on January 21, 2020, against an unidentified Albuquerque Police Department (APD) Officer for parking on the sidewalk of the Wal-Mart located at 4700 Cutler Avenue NE, which occurred on January 18, 2020. 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.

PO Box 1293

### **I. THE COMPLAINT**

Albuquerque

Mr. S said he was at the Wal-Mart located at 4700 Cutler Avenue NE on January 18, 2020 at 1345 hours when he noticed an APD Officer in Unit , license plate who was not on a call for service but working Chief's overtime at Wal-Mart, park his vehicle on the side walk and blocking the handicap ramp. Mr. S requested we contact APD Command Staff, OPS Review and let them know this practice is unacceptable, unsafe and a terrible image for APD. He complained there is no reason for officers to park on the sidewalk and block the handicap ramp.

NM 87103

www.cabq.gov

### **II. THE INVESTIGATION**

The CPOA Investigator reviewed your complaint and attempted to contact you for more information; however, you did not provide an email address or a mailing address, and the telephone number you provided is not a valid phone number. As a result, the Investigator forwarded the complaint on to APD to address with the information provided, as our office doesn't typically handle parking complaints. In response, the Investigator received information regarding Chief's overtime and APD officers parking their vehicles in front of the businesses where they are working. APD essentially stated that it is common practice for officers to park their marked police

cars at the entrance of the store for visibility and as a deterrent for any potential criminal activity. It is also done at the request of Management, who is paying for the

Chief's overtime assignment. Additionally, Management also requires that officers periodically exit their units and walk the store for more visibility inside.

### III. CONCLUSION

Based on the aforementioned information, and on the CPOA Board's decision to further this investigation, the Investigator drove to the Wal-Mart in question on October 11, 2020 and recorded a different APD vehicle parked on the sidewalk east of the front entrance of the store. The video shows that the handicap ramp is located at the front of this store, directly in front of the entrance doors. There are large, square concrete beams that frame the front of the store, in addition to metal posts cemented in the ground and positioned in this area that prohibit parking on this part of the sidewalk, and subsequently blocking this ramp, as was alleged in the complaint.

On October 22, 2020, the Investigator contacted Wal-Mart Asset Protection employee S.P. and requested surveillance video from the date in question (January 18, 2020); however, there was no footage available as the store's surveillance footage recordings only went back to May 5, 2020. Asset Protection employee S.P. told the Investigator that an agreement exists between APD and Wal-Mart allowing officers to park on the sidewalk at the front of the store for visibility and as a deterrent for any potential criminal activity. S.P. told the Investigator it is a very helpful practice as it keeps unwelcome people away from and out of the store. S.P. said APD officers do not park in front of the handicap ramp and park to the east of the entrance on the other side of the pumpkin display currently outside the store.

In addition to the aforementioned information, no APD SOPs were violated during this incident and the CPOA has made the decision to **ADMINISTRATIVELY CLOSE** your complaint.

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.

This matter has been referred to the CPOA Board's Policy and Procedure Subcommittee.

**Letter to Mr. S**  
**November 13, 2020**  
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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

A handwritten signature in black ink, appearing to be 'EH' with a stylized flourish.

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

cc: Albuquerque Police Department Chief of Police

# CITY OF ALBUQUERQUE



## CIVILIAN POLICE OVERSIGHT AGENCY

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Edward Harness, Executive Director

November 13, 2020

Via Certified Mail

7018 1130 0002 3429 1347

**Re: CPC #139-20**

Dear Mr. F

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint against Officers of the Albuquerque Police Department (APD) on April 28, 2020, regarding an incident that occurred on February 7, 2020. The CPOA PO Box 1293 thoroughly and impartially investigated the complaint.

Albuquerque Upon completion of the investigation, the CPOA determined, based on a preponderance of the evidence, whether or not the APD Officer(s) involved violated Standard Operating Procedures (SOPs). A preponderance of the evidence means that one side has demonstrated a greater weight of evidence (more than 50%) that is more credible and convincing than the other side. If the credible evidence is 50-50, the proper finding is Not Sustained. NM 87103

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

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

Mr. F wrote he was stopped by police at the bus stop. He wrote the officer accused him of stealing a shopping cart while at the Smith's store. He denied he stole the cart and claimed the officer racially profiled him. He alleged the officer refused to provide his name.

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 police

report, and the lapel video of Officer W. Interviews were not conducted of the citizen or the officer since the evidence available provided clear findings.

## **II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING OFFICER W'S CONDUCT**

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

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

Mr. F alleged he was racially profiled because he is African American. He alleged he was harassed by the officer over a motorized shopping cart. Mr. F wrote the officer looked as if he was going to tase him and looked like trouble.

The video showed Mr. F is was at a bus stop with a motorized riding grocery cart full of groceries. Officer W contacted Mr. F and asked him if he had permission to take the cart from the grocery store. Mr. F is explained they were borrowing it and going to take it back. Both Mr. F and the woman with him said they had disabilities. When Officer W asked for his ID, Mr. F said he did not know he could not take the cart. Mr. F again claimed he was going to take it back, but could not answer how he was going to do that when he and the woman were going to get on the bus. Mr. F then said the stores let him take the carts all the time. He then claimed he was given permission to take it. When Officer W asked him for a specific name of who gave him permission he then admitted no one gave him permission. Mr. F repeatedly accused the officer of racially profiling him and that he assumed the officer was going to beat on a "black brother." As to Mr. F allegation about looking as if he was going to tase him, the video showed the officer made no gesture towards his Taser, never made any mention of tasing him, or made any other statement or gesture to give any indication of force being used. Mr. F assertion on this point is being addressed under this SOP rather than use of force because the allegation is stemming from Mr. F ' belief the situation was racially motivated; there was no indication a use of force or show of force incident was about to occur. The video showed Officer W was professional with Mr. F. The Smith's store is 1.6 miles from the bus stop. Mr. F said on the video at one point his son was going to take the motorized cart back, but only two young children were present. In his complaint he wrote about being harassed in front of his children. His story shifted between having permission to borrow it, not having permission to borrow it and would take it back, to then admitting to taking it, but only because he did not know the rules and did not think it was a problem.

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



A) The CPOA reviewed Standard Operating General Order 3-13-C1 regarding Officer W's conduct, which states:

*Officers shall politely furnish their name and employee number to any person requesting such information while they are on duty or while they are acting in an official capacity, with the following exceptions (exceptions did not apply)*

Mr. F wrote he asked the officer's name, but he refused.

The video showed Mr. F never asked Officer W his name. Officer W was on an assignment with State Police. If Mr. F asked the state officer, State police have different standard operating procedures and the CPOA has no jurisdiction over State Police.

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

**Additional Notes:**

Mr. F believed the summons should be dismissed against him. Officer W wound up not issuing a summons to Mr. F because the store management was unresponsive to the officer's inquiring about the desire to press charges.

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 Civilian Police Oversight 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.

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

**Letter to Mr. F**  
**November 13, 2020**  
**Page 4**

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

Sincerely,  
The Civilian Police Oversight Agency by

A handwritten signature in black ink, appearing to be 'EH' with a stylized flourish.

Ed Harness  
Executive Director

cc: Albuquerque Police Department Chief of Police