

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

Edward Harness, Executive Director

BOARD AGENDA

Tuesday, October 06, 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 Tuesday, October 6, 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/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 for assistance.

Public Comment: The agenda for the meeting will be posted on the CPOA website by 5:00 pm, Friday, October 2, 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 Tuesday, October 6, 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 September 10, 2020

VI. Reports from City Departments

- a. **APD**
 - 1. **Interim Chief Harold Medina**
 - 2. **Crash Review Board Quarterly Update**
- 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	108-20	160-20	175-20
180-20	185-20	200-20	
- b. **Unfounded**

076-20	195-20
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IX. Serious Use of Force Cases/Officer Involved Shooting

- a. **19-0051283**
- b. **19-0059410**
- c. **18-0122233**

X. Reports from Subcommittees

- a. **Community Outreach Subcommittee – Chantal Galloway**
 - 1. **Met September 29, 2020 at 3:00 p.m. (video conference)**
 - 2. **Next meeting October 27, 2020 at 3:00 p.m.**
- b. **Policy and Procedure Review Subcommittee – Dr. William Kass**
 - 1. **Met October 1, 2020 at 4:30 pm (video conference)**
 - 2. **Next meeting November 5, 2020 at 4:30 p.m.**
- c. **Case Review Subcommittee – Chantal Galloway**
 - 1. **Next meeting October 27, 2020 at 4:30 p.m.**
- d. **Personnel Subcommittee – Eric Olivas**
 - 1. **Met September 28, 2020 at 3:00 p.m. (video conference)**
 - 2. **Next meeting October 26, 2020 at 3:00 p.m.**

XI. Discussion and Possible Action

- a. **Executive Director's Evaluation**
- b. **Memorial - Ad Hoc Work Group**
- c. **CPOA Board Membership Update – Member Starr**
- d. **Chief Qualifications Recommendation**
- e. **Approval of Policies and Procedures Modifications – Draft from Counsel**
- f. **CPOA Policies and Procedures Modifications**
 - 1. **Regarding Executive Directors Evaluation – Vice Chair Olivas**
- g. **Proposed Changes to Order of Business – Under Policies and Procedures**

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)**

XIII. Other Business

- XIV. Adjournment- *Next Regularly scheduled CPOA Board meeting will be on November 12, 2020 at 5:00 p.m.***

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Civilian Police Oversight Agency Board

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Eric Nixon *Cathryn Starr*

Edward Harness, Executive Director

Doug Mitchell

October 7, 2020
Via Certified Mail
7018 1130 0002 3429 1293

Re: CPC #108-20

Dear Ms. S :

Our office received the complaint you filed on January 30, 2020, against Albuquerque Police Department (APD) Detective (Det.) T. regarding an incident between you and your ex-boyfriend that took place on January 24, 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.

I. THE COMPLAINT

Ms. S said she reported a severe domestic violence incident between her and her ex-boyfriend to Det. T. and she complained that Det. T. asked her many questions as he took notes regarding the incident. She said APD went to her house the next day to evict her ex-boyfriend from her house but they weren't able to because the felony warrant wasn't filed. She complained this has placed her life in danger because the perpetrator knows that she called the police and is now seeking retaliation. Ms. S said she doesn't want Det. T. to get in trouble but would like to have the perpetrator locked up. She wants Det. T. to take domestic violence training and wants him to understand how horrible it is to live in her situation. She is concerned for other women and children if Det. T. doesn't file their reports. She said she's still alive but others may not survive if Det. T. choose to continue to work this way.

II. THE INVESTIGATION

The CPOA Investigator reviewed your complaint and reached out to Det. T.'s supervisor, Sergeant (Sgt.) V. to ensure that he and Det. T. are aware of your concerns and to provide Det. T. with additional training, if needed. Sgt. V. sent me an email on March 25, 2020

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informing me that he spoke with you over the phone several weeks prior and told you he reviewed the report, case # 200007271 and spoke with Det. T. who indicated that the case was forwarded to the DA's Office for review and possible prosecution. Additionally, Sgt. V. sent you the following email on March 25, 2020: "Good Morning J , I hope all is well, this is Sergeant V. We spoke on the phone several weeks ago in reference to a DV incident you reported at the FAC with Det. T.. I was contacted by E to see the status of this case.

I reviewed the report which Det. T. took on your behalf, and it has several charges listed (Domestic Violence, Aggravated Battery Household Member, and Domestic Violence/Order of Protection Violation, the first two listed are felony offenses and the last is a misdemeanor). Due to the incident having felony level offenses, this must be reviewed by and ultimately prosecuted by the DA's Office. The misdemeanor level offense can be filed by officers/detectives, however all felony cases have to be approved by the DA's Office.

I looked at NM Courts and did not locate this incident on there as of yet. This however does not mean they are not pursuing charges. The DA's Office has been slowed down due to recent closures, and I would suggest that you call them directly to ascertain the status of this case. In the mean time I will have Det. T. forward the report again to ensure that it was not lost in a stack or while in transit.

I hope this answered some of your questions and concerns. I will attempt to give you another phone call tomorrow. Thank you, Sgt. V."

III. CONCLUSION

Based on the aforementioned information, the CPOA is **ADMINISTRATIVELY CLOSING** your complaint because Sgt. V. addressed the concerns you had regarding Det. T.'s handling of your case and there were no APD SOPs violated by Det. T. and the D.A.'s office is handling your case moving forward.

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,

Letter to Ms. S
October 7, 2020
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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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Edward Harness, Executive Director

Doug Mitchell

October 7, 2020
Via Certified Mail
7018 1130 0002 3429 1309

Re: CPC #160-20

Dear Mr. B :

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint against Officers of the Albuquerque Police Department (APD) on August 13, 2020, regarding incidents in unknown dates in 2016.

PO Box 1293

I. THE COMPLAINT

B B III submitted a written complaint from the Guadalupe County Correctional Facility. Mr. B wrote he filed a complaint with the 9th Judicial District DA against Officer H in 2016. Mr. B alleged Officer H kept suspects' money and much more. He also wrote the officer was compromising women. Mr. B provided no specifics, but said he wanted to talk to someone about his situation.

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II. INVESTIGATION

The CPOA Investigator researched NM Courts which showed any cases against a Bernardo E in 2016 were in the Clovis District. This would be consistent with Mr. B mentioning the 9th Judicial District DA covering that same area. The CPOA Investigator researched and found news stories related to an officer with the same name Mr. E listed who was a Clovis police officer. Those stories were from the beginning of 2020 and talked about the Clovis officer being investigated for theft and embezzlement.

www.cabq.gov

The website for the Guadalupe Correction Facility stated inmates may not receive calls or emails and only written communication was allowed. A certified letter was sent to the facility and signed for on August 24, 2020. The CPOA received no attempts of contact from Mr. B either by mail or phone. Mr. B did not provide any information in order to conduct an investigation. There is strong evidence to

Letter to Mr. B
October 7, 2020
Page 2

suggest that the officer Mr. B is complaining about is a Clovis police officer and not an Albuquerque Police Department Officer.

III. CONCLUSION

The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** the complaint, as there was not enough information to investigate the complaint and it initially appears the complaint has been filed out of jurisdiction.

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

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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Eric Nixon *Cathryn Starr*

Edward Harness, Executive Director

Doug Mitchell

October 7, 2020

To file

Re: CPC #175-20

Dear Ms. J .:

Our office received the complaint you filed on April 25, 2020, against an unknown Sheriff's Deputy for an incident which took place on January 23, 2020 at the Plaza del Sol building. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint and learned that the Deputy about whom you complained is not an APD Officer, so we have no jurisdiction in this matter, and are administratively closing your complaint. The CPOA Investigator also attempted to call you to speak with you about your complaint and to obtain an address to send you this letter; however, the number you listed on your complaint is not a working number; therefore, this complaint will be placed in the files at the CPOA.

PO Box 1293

Albuquerque

NM 87103

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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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Edward Harness, Executive Director

October 7, 2020

Via Email

Re: CPC #180-20

Dear Ms. B :

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint against Officers of the Albuquerque Police Department (APD) on August 7, 2020, regarding an incident that occurred on or about May 13, 2020.

I. THE COMPLAINT

B B submitted an online complaint regarding her allegations about officers stopping her and her friends, handcuffing them, pointing weapons at them, and searching their car. The officers were all undercover officers. Eventually the officers told them that they were investigating mail theft and possible robbery of a mail carrier.

II. INVESTIGATION

The CPOA Investigator had APD records try and find the incident Ms. B complained about, but there was no record of an incident at that time and location.

The CPOA Investigator contacted Ms. B to try and get more information. Ms. B talked about what happened to her both at the stop at the gas station and then subsequent contacts she had with officers at her home. Ms. B understood the officers to be federal agents and not APD. The CPOA Investigator confirmed with her that there was no identifying information that indicated any APD officer was present during these interactions and she agreed there were none. An attorney advised her to file the complaint. The CPOA Investigator informed her the CPOA's jurisdiction. She understood that the complaint would be closed since the situation did not involve APD. The CPOA Investigator tried to assist her in what agencies she might contact regarding her concerns. She was appreciative of the CPOA's efforts.

III. CONCLUSION

The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** the complaint, as there the complaint was out of the CPOA's jurisdiction.

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Letter to Ms. B
October 7, 2020
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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.

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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Edward Harness, Executive Director

Doug Mitchell

October 7, 2020

To file

Re: CPC #185-20

Dear R :

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint against Officers of the Albuquerque Police Department (APD) on August 7, 2020, regarding an incident that occurred on or about July 9, 2020.

I. THE COMPLAINT

R an employee at UNMH Cimarron Clinic, filed a written complaint regarding how a certificate of evaluation was handled. R wrote she faxed over the certificate to the substation as she has in the past. The certificate of evaluation was eventually sent a couple of times since it either could not be found or it could not be verified officers were sent. An officer was eventually sent out, but R wrote the officer initially questioned the order, but fulfilled the duty of transporting her to emergency services.

II. INVESTIGATION

The CPOA Investigator reviewed the SOP on certificate of evaluations. According to SOP 2-19 the officer is to attempt verification of the certificate by talking to the source who issued the certificate. The policy also states that the certificate of evaluation gives the officer the authority to transport the individual. The policy does not go into the details of how a certificate of evaluation should be submitted or the responses required by the department.

The CPOA Investigator contacted the lieutenant over the CIT unit since he is the department's subject matter expert for mental health policies. The specifics of the situation were discussed. The CIT lieutenant explained the general process for how providers should submit the certificates of evaluation to the Department. The provider is to call the Communication Center and find out the appropriate area command the patient lives in to send the physical certificate, fax the copy of the certificate to the area command, the substation would then acknowledge with the provider they received the certificate, and then the officer would pick up the physical copy at the

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substation and attempt to serve it. However, the flow of how the certificate should executed was not written in policy anywhere. There was also a lack of policy that

addressed if the officer failed to locate the patient since the certificate was good for 72 hours, but nothing in policy talked about follow through. The lieutenant stated the policy lacked sufficient guidance or content regarding this issue. The lieutenant expressed the various challenges he has had to re-write the policy and/or pull this issue out as a separate SOP.

The lieutenant stated that the officers are trained not to insert themselves in-between a patient and the mental health provider. The lieutenant understood it was a broader problem with officers, not just this specific incident. This was not expressly written in policy and was just part of their training. The lieutenant stated he had talked to the complainant back in July when the incident occurred. The lieutenant informed R some suggestions on how to have a better outcome in the future until the broken policy and process was rectified. The resolution was at least through the Communication Center there was more follow up possible to make sure the certificates were not lost through the cracks.

The lieutenant stated he has been working with MRAC on the problem and has some modified language for SOP 2-19 that is currently with the CASA Monitor. A full investigation would come to the same conclusion that the process is broken, the policy is broken, and therefore specific employee accountability is realistically not possible until those things are rectified. The lieutenant said the issue of certificate of evaluations would be a renewed focus as a higher priority and create it as a separate policy.

The CPOA Investigator attempted to reach R to discuss the resolution of the complaint. According to John at UNMH Cimarron, R is no longer employed with them. No other contact information was provided.

III. CONCLUSION

The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** the complaint, as the complaint has been informally resolved by a supervisor and the most impact would be for the CPOA Board to be involved with the policy modifications occurring.

Letter to R
October 7, 2020
Page 3

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', with a stylized flourish at the end.

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

October 7, 2020

Via Certified Mail

7018 1130 0002 3429 1316

Re: CPC #200-20

Dear Ms. B :

Our office received the complaint you filed on August 5, 2020, against Albuquerque Police Department (APD) Officer N. for an incident which occurred on August 5, 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.

I. THE COMPLAINT

Ms. B said there is a court order in place that states she is to have visitation with her two children. Specifically, the court order states she is to have visitation with her children every Wednesday at 4:00 PM. She complained that she went to pick up her children on August 5, 2020, and for the third week in a row, she was unable to see her kids. She complained that Officer N. is supposed to be an officer of the law; however, he cannot even abide by a simple court order. She complained that he is currently and has, for several months, been in violation of the court order. She wants him to be reprimanded and wonders why he's entrusted with any form of power or authority.

II. THE INVESTIGATION

The CPOA Investigator reviewed your complaint, reviewed public information at www.nmcourts.gov, and contacted Officer N.'s supervisor, Commander E. regarding these allegations. The evidence showed that you and Officer N. have been involved in an apparent custody case since 2018. Commander E. said he is aware of the situation involving you and Officer N. and said you have called APD several times regarding complaints of a similar nature against Officer N., and each has seemed to coincide with court appearances. Commander E. also said Officer N. has not violated any APD SOPs in regard to this issue.

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www.cabq.gov

III. CONCLUSION

Based on the aforementioned information, and the fact that custody issues are civil matters over which the CPOA has no jurisdiction, 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.

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 'Edward Harness', with a stylized flourish at the end.

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*

Doug Mitchell

Edward Harness, Executive Director

October 7, 2020
Via Certified Mail
7018 1130 0002 3429 1323

Re: CPC #076-20

Dear Mr. C ::

Our office received the complaint you filed on December 27, 2019 against Albuquerque Police Department (APD) Officer R. for an incident that took place on December 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.

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Albuquerque

I. THE COMPLAINT

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Mr. C : said he went to the store to buy something and went outside and Officer R. stopped him and asked him for his identification (ID), so he gave it to him. He said Officer R. tried to have him sign a citation but he refused because he was trespassing. He said Officer R. gave him a citation for stopping on his bike and texting because it was windy across the street from the In and Out three weeks prior to this incident. Mr. C : complained Officer R. kept his ID as it wasn't in his property, and he wants his ID back. He complained Officer R. is targeting him and his family and the homeless as he arrested his brother the day before this incident. Mr. C : wants his ID back and wants Officer R. to be relocated to a different patrol area.

II. THE INVESTIGATION

The CPOA Investigator reviewed your complaint, Officer R.'s written report, to include the Pre-Booking Worksheet, and 1 lapel video recording related to this incident. The evidence showed Officer R. contacted you and several others outside the In and Out store and requested you leave the area. Lapel video shows that the others either went inside the store or left the area; however, you didn't do either. Lapel video showed you and Officer R. arguing about whether, or not, you were trespassing as Officer R. asked for your ID, which you handed to

him. A second officer arrived on scene during this time and stayed with you while Officer R. took your ID to his vehicle and returned a short time later with a citation for trespassing. You refused to sign the citation and Officer R. told you that unless you did so, you would be arrested for trespassing. You told him you didn't care if he arrested you. You were then arrested for trespassing and placed you inside his patrol vehicle. He walked into the store and contacted the owner to obtain his information for his report. Officer R. then transported you to the Prisoner Transport Center (PTC).

Prior to taking you inside the PTC, Officer R. read you a portion of his report that explained why he cited you for trespassing. It essentially stated that the owner of the store has asked for an increase in APD patrols due to repeated issues with groups loitering on the property, disturbing the peace and committing crimes, so that is why Officer R. was in the area when he contacted you. This information negates the allegation that Officer R. is targeting you, in particular. Officer R. then took you inside the PTC before the lapel video ended.

Officer R.'s report states that after he released you into PTC custody, he realized he still had your ID so he tagged it into property as "return to owner". The CPOA Investigator contacted APD Evidence regarding your ID and learned that your ID card reached their facility at 1036 hours on December 27, 2019. They said the address you listed is a homeless shelter so a "Return to Owner" letter was not sent as it is not standard practice to send letters to homeless shelters. They said that according to APD Standard Operating Procedure (SOP) guidelines, any property that remains in their custody for 90 days or more, will be destroyed, and since you did not pick up your property within that timeframe, your ID was destroyed on April 1, 2020.

Lapel video showed that Officer R. and the other officer with whom you had brief contact were professional and did not violate any APD SOPs.

III. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING ACTING OFFICER. R.'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 video.

A) The CPOA reviewed APD SOP 2-73-2(L)(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 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 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



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

cc: Albuquerque Police Department Chief of Police

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Eric Nixon *Cathryn Starr*

Edward Harness, Executive Director

Doug Mitchell

October 7, 2020

Via email

Re: CPC #195-20

Dear Ms. R :

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint against Officers of the Albuquerque Police Department (APD) on August 7, 2020, regarding an incident that occurred on May 31, 2020. 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

Ms. R filed a written complaint regarding a stolen truck from her place of work. The truck was recovered a few days later because it had been parked illegally and towed. Ms. R named Officer H in her complaint as the one that did not write a police report. She expected a report and the vehicle had trash that could have provided possible clues so it should have been processed.

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable SOPs, the complaint, the Computer Aided Dispatch (CAD)s, the police report, and the lapel videos from Officer S. A message was left for Ms. R regarding the complaint, but she did

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not respond. Interviews were not necessary from Ms. R or the officer as the evidence showed a report was written.

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

A) The CPOA reviewed Standard Operating Procedural Order 2-86-3A5 regarding Officer H's conduct, which states:

a. When recovering a stolen vehicle that was reported by the Department, officers will do the following: i. Confirm through NCIC the status of the vehicle.

ii. Submit a supplemental report.

• *All header information from the original auto theft report will be used in the supplemental report.*

• *The supplemental report will list the vehicle recovery information only.*

iii. Call Report Review and have the vehicle removed from NCIC using the proper NIC number before the vehicle is turned over to the owner or being towed from the scene (unless further investigation by an auto theft detective is necessary).

Ms. R alleged Officer H did not make any report and did not conduct any investigation into the recovered stolen vehicle.

The evidence showed there were two CADs related to the recovery of vehicles. On the one CAD Officer H was dispatched. A second CAD was also created at the same time for Officer S. There were two different stolen vehicles recovered at the same time from the same address, but with different owners. Officer S completed the report and had a CSI process the vehicle under his CAD. The original report could not be used in this instance because the vehicle was originally reported stolen out of Santa Fe.

The CPOA finds Officer H's conduct to be **UNFOUNDED** where the investigation determined that the alleged misconduct did not occur, a report was written and the vehicle processed by a CSI, and it did not involve the named subject officer.

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,

Letter to Ms. R
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- 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.

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

Sincerely,
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY BOARD

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

Tara Armijo-Prewitt

Chantal M. Galloway

Douglas Mitchell

Eric Nixon

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Edward Harness, Executive Director

October 6, 2020

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

RE: APD Case # 19-0051283, IAFD Case # C2019-000046

Dear Interim Chief Medina:

My review of this case included:

- Computer Aided Dispatch Reports
- APD Field Services Reports
- Internal Affairs Reports
 - Officer Interviews
- Internal Affairs Force Division Reports
 - Command Review
- On Body Recording Device Videos
- APD Policy 2-23 Use of Canine, APD Procedural Order 6-9 K9 Unit
- Attending the Force Review Board Briefing March 12, 2020

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My review of the evidence shows on June 4, 2019 the victim (Mr. D) was observed by members of the Southeast Area Command Proactive Response Team at [redacted]. Officers approached Mr. D and advised him he was under arrest for an active felony warrant. Mr. D. fled on foot into the residence at [redacted], then out the backdoor and over a fence into a neighbor's yard. Additional officers were dispatched to establish a perimeter. A K9 Unit responded to conduct an area search. The K9 Unit arrived on the scene and began issuing pre-deployment warnings.

Mr. D was located in a city owned lot on San Pablo and Zuni. He was placed under arrest having been contacted and found by the K9. Mr. D was holding a soccer ball when contacted by the K9. Mr. D was using the soccer ball to engage the K9 with one and with the other attempting to control the K9 by it's collar. Officers were able to place Mr. D in custody and

the K9 disengaged. Mr. D was transported to the hospital for treatment although he did not suffer a K9 bite.

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.

Sincerely,

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

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY BOARD

Dr. William J. Kass, Chair *Eric Olivas, Vice Chair*
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Eric Nixon *Cathryn Starr*
Edward Harness, Executive Director

October 6, 2020

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

RE: APD Case # 19-0059410, IAFD Case # C2019-000053

Dear Interim Chief Medina:

My review of this case included:

- 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
- On Body Recording Device Videos
- APD Policy 2-52 Use of Force
- Attending the Force Review Board Briefing March 26, 2020

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My review of the evidence shows on June 29, 2019 APD officers were dispatched to a possible down and out call, for a vehicle parked at : . The victim (Mr. V) was observed, by APD officers, asleep in the driver's seat of the aforementioned vehicle. Adjacent to Mr. V. in plain view was drug paraphernalia.

Mr. V. was removed from the vehicle, placed under arrest and handcuffed. During the custodial search Mr. V failed to cooperate with Officer 1 during this search. Mr. V physically interfered with Officer 1's ability to search his pockets. Officer 1 used a leg sweep to take Mr. V. to the ground to gain control and complete the search.

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.

Sincerely,

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

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Edward Harness, Executive Director

October 6, 2020

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

RE: APD Case # 18-0122233, IAFD Case # C2018-000100

Dear Interim Chief Medina:

My review of this case included:

- Responding to the incident and being briefed on December 23, 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 Videos
- APD Policy 2-52 Use of Force
- Attending the Force Review Board Briefing March 26, 2020

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My review of the evidence shows on December 23, 2018 the victim (Mr. P) was operating a White Hyundai. The license plate of the vehicle was listed as a stolen vehicle. Officer #1 initiated a felony traffic stop.

During the felony traffic stop Mr. P did not cooperate with the commands of the officers on scene. Mr. P discharged a weapon from inside the vehicle. In response Officer #5 fired two (2) 40mm in an attempt to break out windows of the vehicle.

Mr. P discharged his weapon a second time causing the rear window to shatter. Officers 1, 2, 3, 4, and 5 discharged their service weapons at Mr. P. Mr. P exited the vehicle and collapsed. Officers attempted life saving measures, but Mr. P 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 Officer 2'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 Officer 3'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 Officer 4'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 Officer 5'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 Harness
Edward Harness, Esq.
Executive Director
Civilian Police Oversight Agency
(505) 924-3770