CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board *Leonard Waites, Chair* *Chantal M. Galloway, Vice Chair*
Eric H. Cruz *Joanne Fine* *Dr. William J. Kass*
Valerie St. John *Chelsea Van Deventer*
Edward Harness, Executive Director

POLICE OVERSIGHT BOARD AGENDA

Thursday, July 12, 2018 – 5:00 PM
Vincent E. Griego Chambers

I. **Welcome and call to order.**

II. **Pledge of Allegiance** – ***Joanne Fine***

III. **Mission Statement** – ***Leonard Waites, Chair***

"Advancing Constitutional policing and accountability for APD and the Albuquerque Community."

IV. **Approval of the Agenda**

V. **Public Comments**

VI. **Review and Approval of Minutes**

VII. **Reports from City Staff**

a. **APD**
b. **City Council**
c. **Mayor's Office**
d. **City Attorney**
e. **CPC**
f. **CPOA** – ***Edward Harness, Executive Director***

VIII. **Reports from Subcommittees**

a. **Community Outreach Subcommittee** – ***Chantal Galloway***
   1. ***POB Spokesperson***
b. **Policy and Procedure Review Subcommittee** – ***Dr. William Kass***
c. **Case Review Subcommittee** – ***Valerie St. John***
d. **Personnel Subcommittee** – ***Eric Cruz***

IX. **Discussion**

a.Oversight Ordinance Amendments

b.APD Detective Selection / Training

X. **Consent Agenda Cases:**

a. **Administratively Closed Cases**

014-18	083-18	095-18	111-18	116-18
117-18	124-18	131-18	133-18	136-18
137-18	138-18			

b. **Not Sustained**
041-18

c. **Unfounded**
077-18

XI. **Non-Consent Agenda:**

XII. **Non-Concurrence Cases:**

XIII. **Review of Appeals**

XIV. **Serious Use of Force/Officer Involved Shooting Cases:**

XV. **POB's Review of Garrity Materials:**

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

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

a. **Matters subject to the attorney-client privilege pertaining to threatened or pending litigation in which the public body is or may become a participant pursuant to NMSA 1978, Section 10-15-1(H)(7); and**
b. **Limited personnel matters pursuant to NMSA 1978, Section 10-15-1(H)(2)**

XVII. **Other Business**

XVIII. **Adjournment-** ***Next Regularly scheduled POB meeting will be on August 9, 2018 at 5 p.m. in the Vincent E. Griego Chambers.***

June 13, 2018
Via Certified Mail

Re: CPC #014-18

Dear :

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint against Officers of the Albuquerque Police Department (APD) on February 12, 2018, regarding an incident that occurred on January 10, 2018.

I. THE COMPLAINT

D R submitted an online complaint regarding her allegation that Officer H did not talk to her first when she was the one that called police. Ms. R , was upset and felt threatened because a man blocked her driveway and then yelled at her. Officer H's response was to ask her what she wanted from him and he did not display any empathy to her situation.

II. INVESTIGATION

The CPOA Investigator reviewed the CAD, Officer H's lapel video, and the recorded phone conversation between Ms. R and Sgt. V. The video showed Officer H arrived and spoke to the man first because the man was in the street and approached the officer first. Ms. R called out to Officer H, but Officer H told her he would speak with her momentarily. The man provided his side of the story. Officer H then talked to Ms. R . Ms. R complained that Officer H did not talk to her first and demanded his supervisor's information so she could report him. Officer H provided his supervisor's information and asked her several times how he might assist her. Ms. R provided some of her side of the story, but frequently stated several assumptions both about the man and about Officer H's assessment of the situation. Ms. R was distraught through the encounter. The video showed Officer H spoke to a witness that stated the man did not approach Ms. R aggressively.

Sgt. V recorded his conversation he had after this incident with Ms. R . Ms. R provided her version of events and told Sgt. V how Officer H made her feel. Sgt. V apologized to Ms. R about her experience and told Ms. R he would speak with Officer H about the incident. He offered to assist her in filing a complaint, but she said she knew. Ms. R said she wanted Sgt. V to hear the emotion of her complaint. Ms. R told Sgt. V it was his

discretion as to how he wanted to handle the situation and that she never wanted to see or hear about Officer H again.

III. CONCLUSION

The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** the complaint, as the complaint has been resolved by the supervisor and Ms. Rabanal wished to have no further discussions about Officer H.

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

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

Sincerely,
The Civilian Police Oversight Agency by

Edward Harness, Esq.
Executive Director

cc: Albuquerque Police Department Chief of Police

July 13, 2018
Via Certified Mail

Re: CPC #083-18

Dear :

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint against Officers of the Albuquerque Police Department (APD) on April 4, 2018, regarding an incident that occurred on or about March 23, 2018.

I. THE COMPLAINT

L I submitted an online complaint regarding her allegation that employees in the Records Department gave her incorrect information about how to file a stolen vehicle report. She was disappointed in the attitude she received from the employees.

II. INVESTIGATION

The CPOA Investigator contacted the Deputy Chief over the Records Division. The Deputy Chief discussed the complaint with the Records Manager. The Records Manager was unable to identify the specific employees as several fit the description and no one recalled the incident. However, The Records Manager was concerned about the allegations and conducted briefings with all the employees stressing the expectations for them, as many of them were new at the time of this incident. The direct supervisor of the unit is monitoring the employees for adherence to proper procedures.

III. CONCLUSION

The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** the complaint, as there was not enough information to identify the employee. However, the employees of the division were reminded of their duties to be professional, courteous, and provide proper information.

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.

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

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

Sincerely,
The Civilian Police Oversight Agency by

Edward Harness, Esq.
Executive Director

cc: Albuquerque Police Department Chief of Police

July 13, 2018
Via Email

Re: CPC #095-18

Dear :

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint against Officers of the Albuquerque Police Department (APD) on April 18, 2018, regarding an incident that occurred on or about March 7, 2018.

I. THE COMPLAINT

S N submitted an online complaint regarding his allegation that Officer M drove unsafely while students were conducting an evacuation drill. Mr. N described how students had to move out of the way and Officer M drove with "obvious attitude." Mr. N did not respond to requests for more information, but the principal confirmed the identity of the officer.

II. INVESTIGATION

The CPOA Investigator contacted the officer's Commander regarding Officer M's driving. The Commander spoke to Officer M and discussed the impact his actions had on the staff and students. Officer M accepted responsibility for his actions and stated he would be more conscientious of his driving behavior in the future.

III. CONCLUSION

The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** the complaint, as the complaint was resolved with the officer's supervisor.

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

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

Sincerely,
The Civilian Police Oversight Agency by

Edward Harness, Esq.
Executive Director

cc: Albuquerque Police Department Chief of Police

July 13, 2018

(No Address/No email given)

Re: CPC # 111-18

Dear

April 30, 2018 we received your complaint.

I. THE COMPLAINT

You submitted a complaint in which you wrote "police brutality and when blood was drawn Officer G. had an empty blood vile with powdery white substance on the bottom". You wrote that you feared you were being set up and that the police report is full of lies.

II. THE INVESTIGATION

In an effort to assist you, a CPOA Investigator was assigned to your complaint. The Investigator reviewed the lapel videos of Officer G. and other officer's on the scene during your arrest. While down at the prisoner transport center, you refused to take a breathalyzer exam. Officer G. obtained a warrant for a blood draw to be taken. A phlebotomist took your blood and explained on several occasions that the substance inside the vial used to collect your blood is an anticoagulant which prevents your blood from clotting. Video evidence clearly showed there was no tampering of the vial.

The Investigator also reviewed the police report and all lapel video's related to your arrest on April 15, 2018. Officer G. followed all Albuquerque Police Department Standard Operating Procedures and performed a proper investigation which he detailed correctly in his report. There was no evidence of excessive force as alleged in your complaint.

III. CONCLUSION

Your complaint is being **Administratively Closed** due to no violations of Albuquerque Police Department Standard Operating Procedures. In your complaint, you sought an outcome of viewing the camera to show Officer G. "setting you up with the vial". You may file an Inspection of Public Records request to obtain a copy of the video, if you choose to do so.

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

Sincerely,

Ed Harness
Executive Director
(505) 924-3774

CC: Albuquerque Police Department, Chief of Police

July 13, 2018

Re: CPC # 116-18

Dear

April 18, 2018 we received your complaint.

I. THE COMPLAINT

You submitted a complaint in which you wrote your son received a call from a restricted number and a man's voice on the other end threatened to injure your son and stated he was your son's killer. You wrote the caller made explicit sexual comments about you and another juvenile's parent. You wrote you believed the caller to be Sergeant L.

In your complaint you stated you filed a police report and that Sergeant L. filed a supplemental police report about the incident. You stated the call came in around 5:00pm and that the caller stayed on the phone 17-19 minutes. You state you want the caller to be reprimanded.

II. THE INVESTIGATION

In an effort to assist you, a CPOA Investigator was assigned to your complaint. The Investigator spoke to you over the phone to gather more information. The Investigator obtained and reviewed Facebook messages, texts between you and Sergeant L, texts between your son and Sergeant L.'s son, the police report filed with the Rio Rancho Police Department and copies of phone records. A review of those phone records showed no calls made to your son by Sergeant L. Sergeant L. filed a supplemental police report as directed by the Rio Rancho PD Detective, after your son allegedly pushed Sergeant L.'s son at school. Sergeant L. reported the information to school administration and the school resource officer.

The investigation revealed no officious activity by Sergeant L. as an Albuquerque Police officer, only a parent in a civil matter between both of the kids in which a report was documented by Rio Rancho Police.

III. CONCLUSION

Your complaint is being **Administratively Closed** due to no violations of Albuquerque Police Department Standard Operating Procedures. Administratively closed complaints may be re-opened if additional information becomes available.

Sincerely,

Ed Harness
Executive Director
(505) 924-3774

CC: Albuquerque Police Department, Chief of Police

CITY OF ALBUQUERQUE

July 13, 2018
Via Certified Mail

Re: CPC #117-18

Dear

Our office received the complaint you filed on May 3, 2018. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint.

PO Box 1293

Albuquerque

NM 87103

www.cabq.gov

Upon completion of the investigation the CPOA determined, based on a preponderance of the evidence, whether or not the Albuquerque Police Department (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, and the CPOA's investigation and findings.

I. THE COMPLAINT

Ms. P complained that her neighbor failed to call APD to report a disturbance between another neighbor and that neighbor's husband, who live in apartment #14. Ms. Padilla claimed that by failing to call APD the two residents of #14 were not arrested, and were left to later damage her car. Ms. Padilla complained that the residents of #14 are still driving around causing chaos and stress, and are walking around like nothing ever happened. She believes it's because they are Native American. Ms. Padilla complained that the residents in #14 didn't have insurance and was upset when they told Officer M. she couldn't provide proof of insurance because she locked her keys in the vehicle. Ms. Padilla complained about another incident involving a different neighbor and this couple but didn't provide specific information about this complaint. She complained that responding Officer M.'s report contained a lot of

mistakes and that it was so poorly written it looked like it had been written by an 8 year old. Specifically, she complained that Officer M. wrote that her sister, N P owned the car, which she stated is not true, and he wrote the zip code as 87109 instead of 87107. She said Officer M. needs to have his eyesight checked and/or he needs to retire. (See original complaint for more details.)

II. THE INVESTIGATION

A CPOA Investigator reviewed your complaint, watched Officer M.'s lapel videos, read Officer M.'s report, and reviewed the insurance and registration documents you provided with your complaint. The evidence showed that Officer M. wrote an accident report showing your sister, N P as the owner of the vehicle and your neighbor as the owner of the other vehicle. The report listed the areas on both vehicles that sustained damage and wrote his observations in the narrative of his report. The lapel video substantiated much of the information written in the report and the registration document you provided shows N P J and F P as registered owners of the vehicle involved in the accident.

III. CONCLUSION

Based on the aforementioned information, the CPOA has made the decision to **ADMINISTRATIVELY CLOSE** your complaint because while Officer M. wrote down the incorrect zip code, the rest of the address information he obtained from the registration card was correct, and there are no violations of APD SOPs.

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.

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

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

Sincerely,
The Civilian Police Oversight Agency by

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

cc: Albuquerque Police Department Chief of Police

July 13, 2018

Re: CPC # 124-18

Dear .

June 5, 2018 we received your complaint.

I. THE COMPLAINT

You submitted a complaint in which you wrote you witnessed a naked man exposing himself. You stated you flagged down an officer in patrol car 49 and that the officer did nothing. You stated the officer would not speak to you and totally ignored the situation.

II. THE INVESTIGATION

In an effort to assist you, a CPOA Investigator was assigned to your complaint. The Investigator spoke to you over the phone to gather more information. The Investigator obtained the identity of the police officer and reviewed the lapel video from the incident. At the time of you informing the officer of what you observed, the officer was at the same location on a call for an individual unresponsive in the rocks in front of the same location. The officer was dealing with that person and other emergency personnel. Once you made the officer aware of the other situation, the officer approached that man, who was clothed, but was exposing himself, and he attempted to talk to the man. That individual quickly walked away from the scene the officer where the officer was located. The officer did call in the individual over his radio informing dispatch of the situation. Due to the officer being in the middle of another call prior to your incident, he could not just leave the scene.

You stated the officer would not talk to you. The video showed you approaching the officer and telling him you are going to the mayor's office to complain. You then tell the officer he should arrest the guy and the officer says to you that he is on another call. Before the officer finishes, you state to him that you are going to the Chief of Police to complain and walk off.

In conclusion, the officer was in the middle of another call which happened to be at the same location of the incident you reported. The officer could not leave the current call and

immediately resolve a low priority call. The officer did radio dispatch and other officers to assist in your call.

III. CONCLUSION

Your complaint is being Administratively closed due to no violations of Albuquerque Police Department Standard Operating Procedures. Administratively closed complaints may be re-opened if additional information becomes available.

Sincerely,

Ed Harness
Executive Director
(505) 924-3774

CC: Albuquerque Police Department, Chief of Police

July 13, 2018

Re: CPC # 131-18

Dear

On May 22, 2018 we received your complaint concerning against members of the Albuquerque Police Department (APD). The incidents you complained of occurred in November of 2017.

I. THE COMPLAINT

You wrote in your 14 page complaint that when you were living at your old address that you had numerous problems with your ex-boyfriend. You believed that your ex-boyfriend broke into your apartment on numerous occasions and that he would steal small items from you. You indicated that he tampered with your phone and your face was burned and blistered as a result. You also stated in your complaint that your ex-boyfriend had broken into your home and masturbated in your closet and you found what you believed to be semen on your couch. APD followed up by collecting samples of the alleged semen and they obtained a warrant for your ex-boyfriend's DNA. The case is pending the results of the samples. You complained your case wasn't moving fast enough, and the District Attorney is full of cases. You wrote that you wanted our help in getting the case moving and you wanted to speak to an independent investigator separate from APD about your criminal case. You also complained that sometime in November of 2017, two Hispanic female officers responded to your apartment. You alleged the female officers disrespected you. You alleged they called you a drug addict, called you crazy, and accused you of suffering from hallucinations.

II. THE INVESTIGATION

In an effort to assist you, a CPOA Investigator was assigned to review your complaint. The CPOA Investigator assigned to your complaint reviewed all of the police reports on file with the APD and also all of the calls for service to your old address from November 1, 2017 to January 1, 2018. During that time frame the police responded to your house 33 times. Often,

you reported people being in your home who were not there. You reported hearing voices. You reported that your ex-boyfriend has powerful lasers that he shoots through the wall at you. You alleged many other things that could not be confirmed by the police. There is a pending criminal case against your ex-boyfriend based on the allegations you made against him. The APD is awaiting the results of the DNA from the samples they collected. It can take months for the results.

There was only one call for service to your apartment wherein two Hispanic females responded. That incident took place on November 5, 2017 at 6:30 AM. The officers knocked on your door and could hear you inside but you did not answer the door. There were no other incidents where two Hispanic female officers went to your house in November of 2017. On December 1, 2018, you were taken into custody by an Hispanic APD Crisis Intervention Officer for a Psychiatric Evaluation, but you did not complain about that incident.

III. CONCLUSION

Our office has no way to speed up the criminal justice process. While we are independent investigators, separate from APD, we are not criminal investigators and we can't help you with your criminal case. It appears from the review of the reports and pending investigation that APD has done all it can at this point to pursue a criminal case against your ex-boyfriend. They are awaiting the DNA test results.

As far as your allegation against the two Hispanic female officers, were are unable at this time to minimally substantiate your allegations against them. Because of that we are administratively closing your complaint and no further investigation will occur. Administratively Closed complaints may be re-opened if new information becomes available.

Sincerely,

Ed Harness
Executive Director
(505) 924-3774

CC: Albuquerque Police Department, Chief of Police

CITY OF ALBUQUERQUE

July 13, 2018
Via Certified Mail

Re: CPC #133-18

Dear

Our office received the complaint you filed on June 4, 2018 against Albuquerque Police Department (APD) Officer F. and Crime Scene Specialist (CSS) M., regarding the death investigation of your son in October 2015. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint.

PO Box 1293

Albuquerque

NM 87103

www.cabq.gov

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

Mrs. W wants the death investigation of her son, APD #15-92614, which was conducted in 2015 to be re-opened, as she believes her son's death to be a homicide and not a suicide as was originally determined. She complained that although she gave the same complaint to APD Chief of Police G., Chief of Staff R. and Deputy Chief G. on May 16, 2018, she continues to be kept in the dark about the status of the investigation.

II. THE INVESTIGATION

The CPOA Investigator reviewed your complaint and spoke with APD Homicide Unit Sergeant (Sgt.) T., and learned that there is a case review meeting scheduled for June 19, 2018, to review and evaluate the original death investigation with all involved parties. Sgt. T. copied me on the email correspondence the two of you have had since June 11, 2018, regarding this investigation.

III. CONCLUSION

Based on the aforementioned information, the CPOA has made the decision to **ADMINISTRATIVELY CLOSE** your complaint because your concerns are being handled by Sgt. T. of the APD Homicide Unit.

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.

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

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

Sincerely,
The Civilian Police Oversight Agency by

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

cc: Albuquerque Police Department Chief of Police

July 13, 2018

No E-mail or Home Address given

Re: CPC # 136-18

Dear

On June 3, 2018 we received your complaint concerning Officer L. of the Albuquerque Police Department. (APD). The incident you complained of occurred on June 2, 2018 at about 10:04 PM.

I. THE COMPLAINT

You stated that you made a U-turn at one of the ART intersections and were pulled over by Officer L.. The officer told you that you had made an illegal U-turn, when in fact you had not. The law allows for cars to make a U-turn at any of the signalized intersections along the ART route. You did not receive a citation from the officer but you complained that the improper stop was very stressful and very inconvenient. You wrote in your complaint that you hoped that APD would do a better job of training their staff to have a thorough understanding of driving laws, especially along the ART route.

II. THE INVESTIGATION

In an effort to assist you, a CPOA Investigator was assigned to review your complaint. The CPOA Investigator was able to identify the officer you complained of. The CPOA Investigator also reviewed the lapel camera video of the stop. The stop was 4 minutes in duration. Your complaint was sent to the officer's commanding officer who in turn sent your complaint to the Officer and her Sergeant's Lieutenant. The Lieutenant held a meeting with Officer L. and her Sergeant, and both were counseled on the matter. Officer L. realized that she had in fact made a mistake as cars are allowed to make U-turns but trucks are not. Officer L. was counseled on the importance of making stops for valid violations.

III. CONCLUSION

The signage along the ART route is very confusing to most people, citizens and officers, alike. It is important that all APD Officers understand the new laws that came along with the new project and they only enforce valid traffic violations along the route.

Because the policy violation was minor, and because the officer has been counseled and re-trained on the issue, we are administratively closing your complaint and no further investigation will occur. Administratively closed investigations may be re-opened if more information becomes available.

Sincerely,

Ed Harness
Executive Director
(505) 924-3774

CC: Albuquerque Police Department, Chief of Police

July 13, 2018

Re: CPC # 137-18

Dear

On May 29, 2018 we received your complaint concerning an unidentified off duty officer. The incident you complained of occurred on that same day.

I. THE COMPLAINT

You stated that you were pulling into the YMCA and had to honk at another car to avoid an accident. That car's driver responded by yelling at you. The driver mocked you and told you that you were in the wrong. The driver of the other car told you that he was an off duty officer. You stated that you asked the other driver for his information and he refused to provide it to you saying he was off duty and he did not have to give you that information. You told the man that you would get his information and he sped off. As he did so you wrote down his license plate. The plate provided to the CPOA was "ITHERZ."

II. THE INVESTIGATION

In an effort to assist you, a CPOA Investigator was assigned to review your complaint. Our office has no legal access to the New Mexico Motor Vehicle Database. There is no way for our office to legally obtain the registration information from the license plate you provided. Furthermore, the man did not identify himself as an Albuquerque Police Department officer. Our office only has jurisdiction to investigate misconduct by APD officers. If the man really was a police officer, there is no way to determine, without more information, where the man is employed. There is not enough information in the complaint to conduct any further investigation.

III. CONCLUSION

Due to the lack of information in the complaint, we are administratively closing your complaint and no further investigation will occur. Administratively closed investigations may be re-opened if more information becomes available.

Sincerely,

Ed Harness
Executive Director
(505) 924-3774

CC: Albuquerque Police Department, Chief of Police

July 13, 2018

Re: CPC # 138-18

Dear

On June 5, 2018 we received your complaint concerning Officer C. of the Albuquerque Police Department. (APD). The incident you complained of occurred on June 3, 2018 at about 1:30 AM.

I. THE COMPLAINT

You stated that you and another staff member of the Effex Night Club were spat upon and threatened by a patron. Officer C. was sitting in his car nearby and you went to the car to ask Officer C. to contact the unruly patron and to issue the patron a Criminal Trespass notice. You stated that the officer was texting on his phone at the time and although he did respond to the scene, he was very slow in doing so. By the time the officer arrived at the club, the unruly patron was walking away. When you pointed the patron out to the officer, the officer told you that he wasn't going to chase the man down. When you told the officer that would be unacceptable he allegedly just brushed you off. An APD Sergeant came by and spoke with you and assured you that she would have a word with the officer. You found the officer's inaction as unacceptable. You requested that someone from the APD meet with the officer to discuss the matter and to better train the officer with regards to handling requests from the public and treating response times with a bigger sense of urgency.

II. THE INVESTIGATION

In an effort to assist you, a CPOA Investigator was assigned to review your complaint. The CPOA Investigator was able to identify the officer. Your complaint was sent to the officer's commanding officer who in turn sent your complaint to the Officer and the Sergeant's Lieutenant. The Lieutenant held a meeting with Officer C. and his Sergeant, and both were counseled on the matter.

III. CONCLUSION

Because you requested that someone from the APD meet with the officer to discuss the matter and to better train the officer with regards to handling requests from the public and treating response times with a bigger sense of urgency, and because that did occur, we are administratively closing your complaint and no further investigation will occur. Administratively closed investigations may be re-opened if more information becomes available.

Sincerely,

Ed Harness
Executive Director
(505) 924-3774

CC: Albuquerque Police Department, Chief of Police

July 13, 2018
Via Certified Mail

Re: CPC #041-18

Dear

Our office received the complaint you filed against Officer G. of the Albuquerque Police Department (APD) regarding an incident that occurred on January 11, 2018. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate the complaint. 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

Ms. B called The CPOA on 02/12/18 to complain that APD Officer G. failed to take any action on a valid Order of Protection that she had in her possession against an ex-roommate. Ms. B stated that she called the police on January 11, 2018 when she witnessed her ex-roommate driving by her home. That was a violation of the order of protection and she called the police so it could be documented and enforced. The officer told her that they could not enforce the order of protection because it was a civil order of protection and not a criminal order of protection. The officer also allegedly told Ms. B that the Order of Protection contained contradictory information. The order contains Domestic Violence language and she complained that she had spoken with court personnel since the

incident occurred and the officer should have enforced the conditions of the order of protection on the offender. The court heard the case on 2/18/18 and the court found that the order of protection had been violated and that the order should have been enforced. Ms. B vanted the violation of the Order of Protection pursued in court criminally.

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

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable Standard Operating Procedures (SOPS), the Complaint, the Computer Assisted Dispatch (CAD) report, the police report, an interview with Ms. B ', and an interview with Officer G, a review of the Order of Protection, and an informal interview of a District Court Clerk. Officer G.'s lapel video recording of the incident was also reviewed.

A) The CPOA reviewed Standard Operating Procedure 4-25-3 G 2 which states:

Officers will enforce the provisions of valid court orders of protection.

The investigation showed that Officer G. and another officer responded to the call from Ms. B . She had reported that she had a restraining order against her ex-roommate and he had been seen within 100 yards of her residence. Ms. B showed the officers the Order of Protection that showed the prohibition. The Order of Protection was on a Civil Court Form. However, the civil court form had a Domestic Violence number written on it (DV-2017-2003), which is not a complete court case number. Furthermore, the document showed, and Ms. B confirmed, that she and her ex-roommate had never been involved in an intimate relationship. That finding is required under the Family Violence Protection Act before such an order can be issued under the Act. Officer G. sought direction from his Supervisor as to whether or not the order should have been enforced and because of the confusion, the decision was made not to enforce the Court Order, but instead to document the incident and let the Court determine if there had been a violation. The Court later determined that there had been a violation and found the ex-roommate in contempt of court. Because the Special Commissioner hearing the case made that determination and adjudicated the ex-roommate to be in contempt of court, there is no way to charge the ex-roommate again. To do so, would constitute double jeopardy.

The CPOA Investigator tried finding the case between Ms. B . and her ex-roommate on NM Courts. There was no record of a Domestic Violence case between them. The case number on the report is a partial number making the actual case difficult to locate. The District Court confirmed the number on the Order was an incomplete Domestic Violence Case Number. The number should have started with D-202- rather than just DV-2017-2003. The Court had no idea why the case was not listed on NM Courts.

A clerk in the Domestic Violence center located in the Court House provided the CPOA Investigator with a copy of the Order of Protection. It is a stipulated order meaning that both parties signed and agreed to it. On the face of the Order it reads, "District Court Civil Form 4-971." This form is an Order of Protection that is used in Civil Cases. Also, on the second page of the order, under paragraph one, the box that shows that the relationship of the parties is that of an "intimate partner" was not checked. Furthermore the order reads that if a person violates the order, they "**may** be charged with a misdemeanor", not, they **will** be charged with a misdemeanor. The violator can also be found in contempt of court which was what happened in this case. The order was signed by a Domestic Violence Commissioner.

The CPOA Investigator asked the clerk for further clarification as to how the Court could have issued a Domestic Violence Order of Protection in a case wherein there was no intimate relationship established between the parties. The Clerk advised the CPOA Investigator that it was common in criminal sexual assault cases to have one issued but it was very rare that one would be issued in a case like this. The Clerk said that the petitioner, Ms. Bo , must have had some convincing evidence of being stalked, in order for the Order of Protection to be issued. That explained the statement made to the CPOA Investigator by Ms. B that it was a difficult and long process to get the Order. The Clerk did confirm that even though the order only had a partial number on it and even though it was on a Civil Case Form, the Order is a valid Domestic Violence Order of Protection and that any violations should be enforced by law enforcement.

Officer G. and his partner as well as his Supervisors were informed of the CPOA Investigator's findings and they were instructed that if they were called to Ms. B home again, that they should take the correct steps to enforce the provisions of the order of protection.

Because of the verified confusion about the form, and because there were questions as to how the Order could have been issued when there was no finding of an intimate relationship between the parties, and because the Special Commissioner ruled there had been a violation and found the ex-roommate in contempt of court, The CPOA Finds Officer G.'s conduct to be **Not-Sustained,** where the investigation was unable to determine by a preponderance of the evidence whether the alleged misconduct occurred.

Your complaint and these findings are made part of Officer G.'s Internal Affairs file.

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 Policies 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 the 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 submitted within 30 days of this letter. Include your CPC number.

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

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

Sincerely,
The Civilian Police Oversight Agency by

Ed Harness, Esq.
Executive Director

July 13, 2018
Via Certified Mail

Re: CPC #077-18

Dear

On March 15, 2018 Federal Court Judge B ordered an investigation into alleged harassment and retaliation of you and your family members by unknown members of the Albuquerque Police Department. You complained on March 15, 2018 in Federal District Court to Judge B that on the evening of March 14, 2018 members of the APD passed by his home at least a dozen times. You went on to report that on the evening of March 8, 2018, that members of APD were shining spotlights into your home. You claimed the behavior was similar to what occurred when you and your family were suing the APD from 2007 to 2010. You complained to the Judge that what APD was doing amounted to intimidation and harassment. You believed that those present in the March 8th, 2018 stakeholder's meeting at the US Attorney's Office were aware of the conduct. Judge B demanded a response to your allegations. APD Deputy Chief G asked APD Internal Affairs to conduct an investigation into the allegations but under City Ordinance and the CASA, jurisdiction to investigate the complaint falls on the CPOA.

The following allegations were made by you:

I. THE COMPLAINT

1) October 26, 2016 at about 9:00 PM. Mr. A and his wife stopped at a park to relax and enjoy the evening. Within 5 minutes, an APD police car parked behind them and sat there for 15 minutes. They stayed put and the cruiser left.
2) In mid-November of 2016, Mr. A went to a business that uses his friend's communications and camera equipment to speak with the business people there. After he walked out of the business a "police cruiser drives up and parks very close" to his car. He went to his car and went to a nearby restaurant to eat. The cruiser drove off shortly after that.
3) About a week later, Mr. A went to a business to discuss security systems and communications services, and several undercover police officers showed up to the

business. As Mr. A exited the business, Mr. A noticed two more undercover officers were outside the business.

4) On an unknown date a police officer followed Mr. A wife so close that when she stepped on the brakes the cruiser almost hit her from behind.
5) In November of 2016, Mr. A sent a letter to the Deputy Chief W R complaining of the alleged APD misconduct.
6) On December 12, 2017, Mr. A son was arrested at his home by APD officers on "bogus charges" of possessing a stolen APD firearm and endangering his neighbors because he shot his firearm through a wall and a door.
7) At about 10:00 PM on March 8, 2018 following a contentious meeting at the US Attorney's office, an unknown APD officer shone a spotlight on Mr. A house. Allegedly, the spotlight shining occurred on other unknown dates as well.
8) At about 10:00 PM on March 14, 2018 and continuing to 11:30 PM, at least a dozen police cars passed by Mr. A home. Mr. A told Judge B that he believed that the APD Personnel present at the March 8, 2018 meeting were very much aware of the spotlighting and passing police cars.
9) On April 12, 2018 Mr. A sent a screen shot of his phone showing a wi-fi network named APDSurveillance04. The network had been popping up on his phone while he was at home.
10) Over the last year, every night, 3-4 police cruisers park in a Church Parking lot seven houses South of Mr. A house. The cruisers park so they are facing Mr. A house.

Upon completion of the investigation the CPOA determined, based on a preponderance of the evidence, whether or not the APD or 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 CPOA's investigation and findings.

II. INVESTIGATION, FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING APD'S CONDUCT

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable Standard Operating Procedures (SOPS), the Complaint, The Computer Assisted Dispatch (CAD) reports, police reports, a Calls For Service (CFS) report, a review of the March 8, 2018 meeting minutes, numerous interviews with citizens who work or reside on Texas Street NE, interviews with APD Deputy Chief G APD Lieutenant C L APD Detective S W , Officer A

R , and Officer T V , and interview with Mr. R A a review of e-mailed correspondence, a review of 14 lapel videos and associated police reports.

A) The CPOA reviewed Standard Operating Procedure 1-1-4 E 10 and 11 regarding APD's conduct, which state:

Retaliation by any member of this Department is expressly prohibited. Retaliation includes intentional adverse conduct towards any individual or group, not otherwise authorized by law or policy, in response to the individual or group taking these actions:
Exercising their legal rights
Making or supporting a complaint
Making or supporting a claim
Making a charge, testifying, assisting or participating in any manner with an investigation, proceeding or hearing,
Exercising their lawful duties

Retaliation includes, but is not limited to, threats, intimidation, coercion, or other adverse action against any person in the workplace or community.

Mr. A told the CPOA Investigator when asked about any incidents of harassment or retaliation between 2010 and 2016 that there was "not much really", other than occasionally being followed around.

With regard to the October 26, 2016 incident at the park where the police car parked behind he and his wife, Mr. A had no evidence to prove that the incident occurred other than he wrote it down after the incident took place. He said that the officer driving the police cruiser that parked behind him never contacted him. He said the officer never got out of the police car. He couldn't say if the officer was male or female. The officer didn't do anything except sit there for 15 minutes and then the officer drove away. The officer didn't spotlight his car. He did not get a car number or a license plate off the car even though the car drove past him as it left the park. He did not report that incident to anyone until November of 2016.

With regard to the Mid-November 2016 incident where the police car parked close to his car while he was at a business, Mr. also could not provide any information on the car or the officer driving it. He said that he went to eat at Furr's on north San Mateo and when he went to get his wallet out of the car, a police car passed by. The police car did not park next to or near his car as he had originally reported but parked near the Texas Roadhouse. After Mr. A got his food, he sat down and saw the police car drive off. The officer never contacted Mr. A

With regard to the allegation that a week later undercover officers went to a business where Mr. A had been, he advised the following:

Mr. A said that he went to the Quarter's restaurant around 4-5 PM, to meet with some friends. He said that he walked out and saw four or five police cars. He said that some were

marked police cars and some were unmarked cars. He said that some officers were standing outside and some were in their cruisers. He decided not to leave because the police were in the parking lot. He went back in to the restaurant and re-joined his friends and sat with them for another 15-20 minutes. He went back out and all of the officers had left so he went on his way.

His version of the event during his interview was different than what he wrote in his 2016 letter. Granted, he was being questioned about something that he reported a year and a half ago, so he may not have remembered it like he did back when he wrote his letter. His letter only mentioned undercover officers, whom he recognized, and no marked police cars.

He said the officers never went into the restaurant. He said he recognized some of the officers but did not know them by name. He did not obtain any car descriptions, car numbers, or license plates.

He said that none the officers contacted him or said anything to him but a couple of them looked at him.

Mr. A could not provide a date, time, or location where the unknown officer followed his wife too closely. He did not have a car number off that car and there wasn't any action taken against his wife by that unknown APD officer.

Mr. A nad no cell phone photos, or any photos, videos or documents or anything that he could share with the CPOA Investigator that would help prove the allegation that he is being harassed or retaliated against by APD.

When Deputy Chief R received the correspondence from Mr. A in November of 2017 alleging misconduct by members of the APD he was bound by policy and the CASA to immediately forward that correspondence to the Internal Affairs Division of the APD who in turn should have forwarded it to the CPOA so an investigation could be commenced. There is no evidence to show that Deputy Chief R did that. If Deputy Chief R was still with the APD, there may have been a finding made in this investigation that Deputy Chief R violated policy and the CASA by failing to take action on Mr. A written complaint.

With regard to the March 8, 2018 meeting at the US Attorney's office, the CPOA Investigator obtained the sign in sheet and minutes of the meeting. There was no doubt, after interviewing Mr. A and the APD personnel who were present at that meeting, that towards the end of the meeting it did get contentious. The allegation came out on March 15, 2018 that Mr. A believed that those present in the meeting were very much aware of the spotlighting activity and the police cars passing by his home. He had no evidence to support that allegation other than he believed that "it was more than coincidence" that those events happened near his home after that meeting.

The most recent allegations by Mr. A and what sparked this investigation in the first place was that at about 10:00 PM on March 8, 2018 following a contentious meeting at the US Attorney's office, an unknown APD officer shone a spotlight on Mr. A house. Allegedly, the spotlight shining occurred on other unknown dates as well. At about 10:00 PM on March 14, 2018 and continuing to 11:30 PM, at least a dozen police cars passed by Mr. A home. Mr. told Judge B that he believed that the APD Personnel present at the March 8, 2018 meeting were very much aware of the spotlighting and passing police cars. On April 12, 2018 Mr. A s sent a screen shot of his phone showing a wi-fi network named "APDSurveillance04." The network had been popping up on his phone while he was at home. Over the last year, every night, 3-4 police cruisers park in a Church Parking lot seven houses South of Mr. A. house. The cruisers park so they are facing Mr. A house.

The CPOA Investigator assigned to the case canvassed Texas Street from Menaul to Pennsylvania looking for surveillance cameras and possible video to support Mr. A claims. Numerous neighbors, including Officer T V were questioned. No one had any video surveillance available for the dates in question.

Southwest Child Care is located at Director E B and Assistant Curriculum Director J P said the day care is open 24/7 and because of that they made a formal request to APD to have officers drive by as often as possible.

At an 81 Year old woman who has lived there for 61 years said she is supportive of the police, even though her home has been broken into four times. She said that she knows Officer V and she spoke very highly of him. She said that she sees him quite often when he is working and that Officer V and his partner Officer R often park in the empty parking lot North of her home to write reports. She said she feels safe with the officers parking there at night.

Officer T V when initially questioned offered a lot of information that was helpful to the investigation. He also was formally interviewed later on in the investigation and offered further insight. Officer V lives and is assigned to work in the same area. That is beat 422. His partner A R works beat 423. The two often patrol the area. When Officer R was told of the police activity and the spotlighting he told the CPOA Investigator that the activity complained of was most likely he and his partner patrolling the area. In his and Officer R formal interviews they revealed the following:

Officer R has been with the APD for five years. Up until he received the complaint notice letter he had no idea who Mr. A was. He said that even if he saw Mr. A he does not know who Mr. A is or was.

Officer R said that he knew nothing about the litigation that Mr. A and his family had against APD. In 2007 he was in High School in Farmington, NM. Officer R never met or knew the former APD Officers involved in the incident with Mr. A 's son.

Officer R works the Texas Street area along with Officer V He said the area is a busy area to work. He said that they often patrol the area with their spot lights on. Officer R said that they of course patrol other streets but they patrol Texas Street more closely because Officer V lives there. They often drive by and check on Officer V home while they are patrolling and he often patrols with his alley lights on. Officer R said that he was aware that Officer V had an attempted break in to one of his vehicles that was parked on the street. He also said that he and Officer V often sit in an empty parking lot south of Officer V home to write their reports because it is a fairly safe place to do that.

Officer R said it was quite possible that it was he or Officer V who may have spot lighted Mr. A home. Officer R said though that the spot lighting wasn't directed at Mr. A or his home directly but at the neighborhood and houses in that area. Officer R told me about a house that had been for sale on Texas Street just a few houses North of Officer V home and it had been burglarized. He said that they spotlighted that house particularly heavy on their patrols while it was for sale.

Officer R denied that he had ever been ordered or told by anyone in the APD to follow, harass, or annoy, Mr. A

Officer R said that he never heard anyone in APD talk about Mr. A He reiterated that until he received the complaint letter, he had never heard of Mr. A

Officer V told The CPOA Investigator that before this investigation commenced and he was contacted outside his house by the Investigator, he only knew Mr. A as his neighbor. He had no idea of where Mr. A was employed or what he did for a living.

Officer V said that he was employed at Los Alamos labs as a Procurement Specialist in 2007 and 2008, the same time that Mr. A had litigation pending against the APD. He said that he didn't even become a police officer until late 2012. He graduated the Academy in May of 2013. He said that he did not know any of the APD officers involved in the litigation with Mr. A .

Officer V said that he moved into his house on Texas Street about 12 years ago (about 2006). Mr. A was living on that street at that time.

Officer V said that before this investigation he knew little about Mr. Ar other than he was his neighbor. He said that Mr. A takes frequent walks and Officer V said that he has spoken with Mr. A when Mr. A was out walking with his dog. He said that when he first brought home an APD police car, Mr. Arellanes stopped and congratulated Officer V on getting in with the PD. He described all of his conversations with Mr. Ar 'neighborly". He said that he has never had an issue with Mr. A and that Mr. A would always stop and say hi when he walked by. He said that he has spoken with Mr. A quite a few times when out in his front yard. Officer V said that even after he became a police officer he has had no negative experiences with Mr. A About 2 years ago, Mr. A came to Officer V and asked him for his phone number

and he gave it to Mr. A They exchanged phone numbers as good neighbors do. He described his relationship with Mr. A "very friendly."

Officer V said Mr. A never brought up any of the litigation he had been involved in with APD. He said that Mr. A never brought up anything about his son being tased. He said that Mr. A has never expressed to him any disdain that Mr. A had for any member of the APD.

Officer V said that he physically sees Mr. A almost on a daily basis. He said that Mr. A waves to him when he is driving by his home and he waves to Mr. A He said that he speaks with Mr. A maybe a couple of times per week.

Officer V said that he felt that Mr. A has had ample opportunities to complain to him about the problems Mr. A s allegedly had with APD but has never done so.

Officer V was asked during the month of March 2018 if Mr. A expressed any concerns to him about increased police activity or any concerns about what may be going on in the neighborhood and he said that Mr. A did not.

When asked about the spotlighting activities Officer V said he lives in the same area that he is assigned to work. He works in beat 422 and his partner is assigned to beat 423. He said that he and his partner have worked together since the Academy.

He said that at the corner of Texas and Claremont there is a church parking lot. Officer V said that he and his partner often park there to write their reports. He said that they often eat lunch in their cars in that parking lot. He said they feel safe and secure there. Officer V went on to say that if they get a call they will often leave the parking lot and drive up Texas Street to answer the call and they drive down Texas Street to go to the parking lot. He said that it would not be unusual for him to drive up and down that street 5-6 times per night every night that they work.

Officer V talked about an incident that occurred at the house just to the South of Mr. A home. He said that around the time frame that Mr. A was complaining of, someone attempted to break into a house right next door to where Mr. A lives. He said that he and his partner were in the parking lot of the church at the time the call came out and they responded immediately. He said that no entry was gained but that night, and following nights thereafter, they would drive around the neighborhood with their spot lights or alley lights on looking for suspicious people or vehicles.

Officer V said that not only does he respond to dispatched calls for service but also he has responded to telephone calls from neighbors about dogs barking and even calls from his wife in the middle of the night. He said, "It's not out of habit for us to drive up and down Texas spotlighting yards and houses making sure that there's nobody, you know, any kind of suspicious activity there."

Officer V said the area he works is extremely busy. He said that they have a lot of burglary calls, auto and residential, and attempted burglary calls. He said they spotlight areas that have high burglary calls.

Officer V said that he has never been ordered by anyone from the APD to harass, annoy, or surveil Mr. A When asked if he was aware of anyone in the APD who has given someone other than he orders to do so and he answered, "No."

Officer V told me that besides Mr. A he had met Mr. A wife. When asked if she ever complained to him about APD or the actions of APD he said that she did not.

Officer V was asked about the Wi-Fi screen shot that Mr. A had sent in. He said that he did not know anything about that. He said that wi-fi network has never popped up on any of his wireless devices.

When asked if he was aware of any activities wherein the APD is surveilling or harassing Mr. A he said he is not aware of any such activities.

A calls for service (CFS) report for beat 422 was requested, received and reviewed as part of the investigation. For a one month period from 2/14/18 to 03/14/18 there were 1,129 calls for service in that area resulting in 262 police reports. The statistics include many Auto theft calls, theft calls, suspicious persons calls, Auto Burglary calls, Residential Burglary calls, commercial robberies and alarms.

A Computer Assisted Dispatch (CAD) report for the attempted Burglary call that was one or two houses South of Mr. A home was also reviewed. The report showed that on 02/02/18 at about 3:51 AM, the home owner from called to report an alarm being activated at their home. They were not there at the time. Officer V and Officer R arrived at the location at 3:54 AM. They found that someone had attempted to burglarize the home but left before the police arrived. The call was at . Mr. A lives at

The CPOA Investigator interviewed APD Deputy Chief G APD Lieutenant C L and APD Detective S W of them admitted that the March 8, 2018 meeting at the US Attorney's office was contentious but none had knowledge of any spotlighting activity or passing police cars by Mr. A home. All denied ordering any of that activity. They all denied knowing of anyone in APD who may have done so. All of them stated that Mr. A had never complained personally to them even though he has had ample opportunity to do so. They also had no idea what APDSurveillance04 could be. All stated that Mr. A is entitled to his opinions and that they are not offended because he expresses those opinions.

There is no evidence to support Mr. A claim that those present in the March 8, 2018 meeting were "very much aware" of the activity at his home.

Based upon the evidence offered by Officer R and Officer V the activities complained of, the spotlighting and passing police cars were within APD policy, made with a legitimate purpose of preventing crime in the area. The evidence is clear and convincing and it shows that the conduct was not, and is not, intentional adverse conduct towards Mr. A or his family because they had exercised their legal right to sue the police in 2007, or because Mr. A had made a formal complaint to Deputy Chief R back in November of 2016, or because Mr. A got angry in a meeting at the US Attorney's Office over APD's Taser policy.

On April 20, 2018 the CPOA Investigator tracked down the wi-fi network, APDSurveillanceo4 and its owner. In front of the signal was the strongest and APDSurveillance04 and APDSurveillance05 came up on available networks on the Investigator's phone. A woman who was later identified as H E came out to greet the Investigator. She told the Investigator that she and her husband are "apple geeks" and that years ago when they set up their Wi-Fi networks people would stop in front of their house to access their Wi-Fi. She and her husband thought it would be funny to name their networks APDSurveillance04, APDSurveillance05, and Searching... and thought it would deter people from trying to access their signal. She and her husband are not part of APD and they have no contacts or family members with APD. When asked if she had noticed any extra police presence in her neighborhood, she said that she had not noticed anything like that but would appreciate increased police presence there as that is "always a good thing."

There is no evidence to support that APD is involved in either one of the APDSurveillance Wi-Fi networks. Furthermore, the evidence is clear and convincing that the APD is not responsible for operating or owning that wi-fi network.

Lastly, Mr. A raised concerns over his son's arrest in 2017. He did not make a formal complaint but he did allege misconduct on behalf of the officers. A preliminary investigation into his allegations was conducted.

Mr. A , alleged the following:

He said that on 12/12/17 his 31 year old son, A , called the police about some on-going harassment that had been occurring at his son's home at He said that his son had cell phone video of people outside his home at 3:00 AM. These people were damaging his house. He said that his son called the police about 3-4 AM, and the police officers took maybe an hour or two to get to his son's home. His son had discharged a gun because the offenders were damaging his garage door and kicking it. His son discharged his gun into a wall and to the bottom of a door. It did scare the people off. He said that when the police arrived, they arrested his son. He said that the police accused him of using stolen guns that belonged to former police officers. The police also accused his son of being a threat to neighbors and people on the street, saying he was shooting at cars. Mr. A said that they later provided proof that his son had purchased the guns legally and that the guns had been in the pawn shop and they had gone through databases and they were not stolen. He then said that

only one gun was purchased from a pawn shop and the other was purchased from a guy who had verified that the gun was not stolen. Mr. A said that his son was charged with discharging a firearm and possessing a stolen firearm. He said the police are still in possession of those guns. He said that the police arrested his son when he was the one who had called them for help. Mr. A said that the charges filed against his son were "bogus". He also alleged that when the police responded to the call that they pointed their guns at his son.

The police reports in the matter, a copy of the Computer Assisted Dispatch (CAD) report, and 14 APD Lapel Camera videos from the officers who responded to the house were reviewed.

The evidence showed that Mr. A A A) called the police at 9:48 AM to report that he had just shot one of two people who were burglarizing his home. There is no record of A calling the police at 3 or 4 in the morning. The first police officer on scene arrived at 9:51 AM. It took the police two minutes to arrive and not 1-2 hours as alleged. The officers had A come out of his home. The videos show that no officers pointed their guns at A as Mr. A alleged. One officer on scene was armed with a shotgun that was in a low ready position and not pointed at A . Another female officer on scene had her gun out but it was kept down at her side the entire time. The video evidence showed all of the other officers had their weapons holstered when they contacted A.

The video evidence showed A telling the police officers that he shot one of the intruders in the foot and heard the man whom he had shot, moaning. He told the dispatcher that the offenders were still in his home, that one of them could be heard talking on a phone and the intruders were hiding in the attic.

The video evidence showed the officers searching the home and they found no blood evidence inside and they found no one inside the home. They did find numerous bullet holes in walls and one of the bullet holes was located in the front door. That bullet likely traveled, according to the video evidence, across the street to the neighbor's home, but the police couldn't find the bullet.

The video evidence showed the officers locating the stolen shotgun. They immediately recognized the police style shotgun to be one of their own. APD puts yellow tape on the barrel, stock and butt of the less lethal ban bag shotguns so everyone at a scene will immediately recognize a less lethal shotgun. It was clear from the video evidence that the tape had been removed by the residue left behind. When the officers ran the shotgun through NCIC, it came back as **not** stolen.

A Sergeant on scene contacted APD Property and provided them with the shotgun serial number of **B704164M.** The shotgun had been stolen from another current, not former, APD officer. The shotgun had been taken when that Sergeant's car was broken into on October 23, 2017, at 4:00 AM. The reason why the shotgun did not come back as stolen in NCIC is that the serial number was entered incorrectly to NCIC. Whoever entered the serial number read the handwritten "B" in the serial number as "13". So the serial number that was entered into NCIC was **1370416M** and not **B704164M.** The officers at the scene knew at that time that

A s was in possession of a stolen firearm. A said that he did not know the gun was stolen and he had bought it from someone who was a friend of his neighbor. It is likely that whoever sold the gun to A may have had the serial number of the gun run through NCIC and that gun would not have come back stolen because the correct number was never entered into NCIC.

However, the officers in the field at that time did not know all of those facts. What they did have was probable cause to believe, based on the evidence and A ; own admission that he had discharged his firearm in his house numerous times. The officers found no evidence of two intruders and no evidence that anyone had been shot. If Andres had cell phone video, he never offered to provide it to the officers. Furthermore the officer's video evidence and the CAD report reflects that A had called the police before telling them that someone was in his home and when the police got there, no one was located.

On 12/12/17 probable cause existed for the arrest of A A and the charges were not "Bogus" charges as alleged. No officer ever accused A ; of shooting at cars. A had a stolen police shotgun in his home that he admitted to purchasing and there was no one else located in the home.

The CPOA investigation into that incident showed that Mr. ; A ; called APD on November 26, 2017 at about 2:00 AM. He reported that ½ hour prior to calling APD he heard voices in his house and saw a shadow pass by his bedroom door. He told the police that then he fired his 9mm handgun out of the bedroom. 30 minutes later A ; called the police. He reported that he did not hear the voices anymore; that he put the gun away, and he would wait until the police arrived. An officer arrived at 4:00 AM. The officer searched the house and found no one inside and no signs of forced entry. Mr. A reported that two of his gaming consoles were missing. The officer took the report and left the scene. There was no arrest and no adverse action was taken against A A

This was just what a preliminary investigation into the arrest of A A on 12/12/17, and the incident reported to the police on 11/26/17 showed. Mr. A and his son are encouraged to file a formal complaint with the CPOA office if they feel that any of the officers involved in those incidents violated Standard Operating Procedures of the APD. There is no evidence in the preliminary investigation to support the allegation that the arrest of Mr. A A was intentional adverse conduct towards Mr. A A or his family because they had exercised their legal right to sue the police in 2007 or because Mr. R A. had made a formal complaint to Deputy Chief R back in November of 2016. To the contrary, the evidence showed that on at least one other occasion, 11/26/17, under similar circumstances, A A had what appears to be a positive contact with the APD.

The CPOA finds APD's conduct to be **UNFOUNDED**, where the investigation determined by clear and convincing evidence that the alleged misconduct did not occur.

Your complaint and these findings are made part of the record.

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 Policies 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 the 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 submitted within 30 days of this letter. Include your CPC number.

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

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

Sincerely,
The Civilian Police Oversight Agency by

Ed Harness, Esq.
Executive Director