

CIVILIAN POLICE OVERSIGHT AGENCY

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

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

Chelsea Van Deventer

Edward Harness, Executive Director

POLICE OVERSIGHT BOARD AGENDA

Thursday, August 9, 2018 – 5:00 PM

Vincent E. Griego Chambers

- I. Welcome and call to order.
- II. Pledge of Allegiance – *Dr. William Kass*
- 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
 1. Use of Force 2-54 and 2-55
 - i. Public questions and comments
 - 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*
 - b. Policy and Procedure Review Subcommittee – *Dr. William Kass*
 - c. Case Review Subcommittee – *Valerie St. John*
 - d. Personnel Subcommittee
- IX. Discussion
 - a. Police Oversight Boards Policy and Procedure
 - b. Stipends for Police Oversight Board
 - c. CPC 132-18 Extension letter for time waiver request
 - d. APD Commanders recent resignation and demotion

- X. **Consent Agenda Cases:**
 - a. **Administratively Closed Cases**

101-18	126-18	127-18	138-18	140-18
141-18	146-18	148-18	149-18	150-18
152-18	156-18	158-18	159-18	162-18
167-18				
 - c. **Unfounded**
 - 053-18
- XI. **Non-Consent Agenda:**
- XII. **Non-Concurrence Cases:**
- XIII. **Review of Appeals**
 - 038-18
- XIV. **Serious Use of Force/Officer Involved Shooting Cases:**
 - I-50-17
- 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 September 13, 2018 at 5 p.m. in the Vincent E. Griego Chambers.***

CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board

Joanne Fine

Deventer

Edward Harness, Executive Director

Leonard Waites, Chair

Dr. William J. Kass

Chantal M. Galloway, Vice Chair

Valerie St. John

Chelsea Van

August 10, 2018

Via Email

Re: CPC #101-18

Dear Ms.

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint against Officers of the Albuquerque Police Department (APD) on April 25, 2018, regarding an incident that occurred on March 27, 2018.

I. THE COMPLAINT

A H submitted an online complaint regarding her allegation that Officer R did not call an ambulance even after she requested one for injuries after a car accident. She claimed she informed the officer she was pregnant and had stomach pains as well as neck and head pain. Ms. H: wrote she went to the hospital herself when she noticed she was bleeding and had worse pains. Ms. H : wrote she lost her twins and had a concussion.

II. INVESTIGATION

The CPOA Investigator reviewed the lapel videos, the CAD, and the report. The other driver called in the accident as no injuries. Officers arrived and Officer R was the primary officer. The vehicles were in a parking lot, having been moved from the rode way before officers arrived. Airbags were not deployed and the damages appeared cosmetic. Officer R had several conversations with the driver of the car who said nothing about his passenger, Ms. H being injured. The videos showed Officer R stood by Ms. H and she said nothing about being injured. A different officer on scene obtained Ms. H information for the report and she said nothing about injuries or pain to him either. The vehicle was only towed due to a lack of insurance not due to damages. The videos showed Ms. H never asked for medical treatment as she claimed in her complaint. The videos showed Ms. H never said anything about pain or injuries despite the opportunity.

III. CONCLUSION

The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** the complaint, as the evidence available could not minimally substantiate the complaint.

Letter to Ms. H
August 10, 2018
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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.

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

A handwritten signature in blue ink, appearing to read "Edward Harness", with a stylized flourish at the end.

Edward Harness, Esq.
Executive Director

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board

Leonard Waites, Chair

Valerie St. John

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Chelsea Van Deventer

Chantal M. Galloway, Vice Chair

Dr. William J. Kass

Edward Harness, Executive Director

August 10, 2018
Via Certified Mail

Re: CPC #126-18

Dear Mr. L

Our office received the complaint you filed on May 19, 2018, against Albuquerque Police Department (APD) Officer L., regarding an incident which occurred on May 19, 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

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.

Albuquerque

NM 87103

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.

www.cabq.gov

I. THE COMPLAINT

Mr. L said that on May 19, 2018, his home was unlawfully entered and his cat stolen. He reported the incident to APD and complained that Officer L. said nothing could be done because of a lack of evidence and because it's an Animal Control Issue; however, Animal Control told him it is a police issue.

II. THE INVESTIGATION

The CPOA Investigator reviewed your complaint, the CADS reports from May 19, 2018 and May 20, 2018, Officer C.'s written report from his response to your home on May 20, 2018, and Officer L.'s and Officer C.'s lapel camera video recordings. The evidence showed

Letter to Mr. L

August 10, 2018

Page 2

Officer L. contacted you on May 19, 2018 in regards to your allegations that your brother stole your cat on May 18, 2018. You told Officer L. that your brother owned the cat although you had cared for the cat for 1-2 years, while your brother was overseas. You admitted you contacted your brother numerous times asking him to come and get the cat but he refused because he owed you money; however, when you returned home on May 18, 2018, the cat was gone. You suspected your brother and his female friend came to your home and entered it unlawfully to remove your cat. You told Officer L. your brother used to live with you and knew where the spare house key was kept, and said you had already contacted Animal Control about the incident. The evidence showed there were no signs of forced entry, there is an accessible cat door, and there was no evidence that the cat was stolen. Officer L. discussed these facts with you and told you she couldn't write a theft report listing your brother as a suspect without proof and that it was a civil matter. Officer L. offered to contact a Supervisor for you so you could discuss your concerns with a Supervisor, but you refused her offer.

The evidence showed you contacted APD a second time, on May 20, 2018, regarding possible surveillance video of the incident, and Officer C. responded. Officer C. spoke with your neighbors about possible video but there was no video of the incident. Officer C. also informed you that this issue was a civil matter and not a criminal one. The evidence showed Officer L. and Officer C. were professional and polite throughout your contact with them, and did not violate any APD SOPs.

III. CONCLUSION

Based on the aforementioned information, 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.

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

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board

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Chelsea Van Deventer

Leonard Waites, Chair

Valerie St. John

Chantal M. Galloway, Vice Chair

Dr. William J. Kass

Edward Harness, Executive Director

August 10, 2018

Via email

Re: CPC #127-18

Dear Mr. B

Our office received the complaints you filed on May 23, May 24 at 12:51 PM, May 24 at 2:01 PM and May 30, 2018 against Albuquerque Police Department (APD) Officer A. and other unidentified officers regarding incidents which allegedly took place on May 23 during the day and, again, that night. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint.

PO Box 1293

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.

Albuquerque

NM 87103

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.

www.cabq.gov

I. THE COMPLAINT

In the complaint filed on May 23, Mr. B complained that a Sergeant refused to take an assault report, and other officers refused to arrest the suspect in the assault. He complained, "Your pigs said they have no pigs available for 2.5 hrs, then had 3 pigs show up all at the same time, bussed me with a helicopter and had a seargent (sic) show up within 6 minutes. None of the pigs would arrest the lady that assaulted me after seeing her assault me on video." In the complaint filed on May 24 at 12:51 PM, he complained that, "A cop drove past my house many times last night to harass me flashing his lights and sirens...punish all involved, immediately domestic terrorist s." In the complaint filed on May 24 at 2:01 PM, he complained the officers told him to stay off property when he was the victim and harassed him with a helicopter buzzing while he made the report. He complained the officers mocked

him and said no one would get there for 2.5 hrs but then 3 officers showed up at the same time, with a Sergeant arriving 6 minutes later. In the complaint filed on May 30, he lodged similar complaints as the previous complaints but added, "On the situation w organized stalking tactics from az police and fbi."

II. THE INVESTIGATION

The CPOA Investigator reviewed your complaint, the CADS reports, the written report documenting the incident which took place at the MVD on May 23, 2018, and lapel videos from responding officers. The CADS showed that in addition to Officer A. responding to the incident, Officer S., Officer R. and Sergeant S. also responded. The evidence showed that the Officers and Sergeant watched the video you took of your interaction with the MVD employees and were not able to see the alleged assault about which you complained; however, Officer A. and Sergeant S. asked you to forward this video to Officer A. who would then forward it on to the District Attorney's Office for their review and direction. The evidence showed the Officers and Sergeant told you they could not arrest someone on a misdemeanor charge outside of their presence, and showed they told you that you were not able to place someone under citizen's arrest, either. The evidence showed the Officers and Sergeant were professional towards you and MVD employees during their interaction with you, despite your derogatory name-calling and disparaging remarks towards them.

III. CONCLUSION

Based on the aforementioned information, the CPOA has made the decision to **ADMINISTRATIVELY CLOSE** your complaint because none of the Officers or Sergeant violated any 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

CIVILIAN POLICE OVERSIGHT AGENCY

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Dr. William J. Kass

Chantal M. Galloway, Vice Chair

Valerie St. John

August 10, 2018

Re: CPC # 138-18

Dear S C

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

CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board

Joanne Fine

Chelsea Van Deventer

Edward Harness, Executive Director

Leonard Waites, Chair

Dr. William J. Kass

Chantal M. Galloway, Vice Chair

Valerie St. John

August 10, 2018

Via Certified Mail

Re: CPC #140-18

Dear Mr. F

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint against Officers of the Albuquerque Police Department (APD) on June 21, 2018, regarding an incident that occurred on February 4, 2014.

I. THE COMPLAINT

A. F submitted a written complaint regarding his allegation that an abused his authority by issuing him numerous tickets when he was trying to get repairs done on his truck (commercial vehicle).

II. INVESTIGATION

The CPOA Investigator first checked the employee roster to see if the officer was still employed given the length of time from the incident to complaint filing. The CPOA Investigator determined there was no officer employed with APD by the name Mr. F provided. The CPOA Investigator reviewed the NM court case detail to confirm Mr. F listed the correct name. The CPOA Investigator located the case and found the charging officer was in fact the officer Mr. F identified so it did not appear that the officer was APD. Given that it was CDL type issues, The CPOA Investigator contacted NM State Police. NMSP confirmed the likely officer Mr. F named was their employee.

III. CONCLUSION

The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** the complaint, as the available evidence showed the officer named was not an employee of APD and therefore the CPOA had no jurisdiction.

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.

Letter to Mr. F
August 10, 2018
Page 2

Sincerely,
The Civilian Police Oversight Agency by

A handwritten signature in blue ink, appearing to read 'Edward Harness', with a large, stylized flourish extending to the left.

Edward Harness, Esq.
Executive Director

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

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Valerie St. John

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Joanne Fine

Chantal M. Gallant, Vice Chair

Dr. William J. Kass

Edward Harness, Executive Director

August 10, 2018
Via Certified Mail

Re: CPC #141-18

Dear Mr. D

Our office received the complaint you filed on June 1, 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

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.

Albuquerque

NM 87103

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.

www.cabq.gov

I. THE COMPLAINT

Mr. D said that on May 18, 2018, his friend Mr. W. was the victim of an attempted robbery, during which Mr. W. was shot. Mr. D complained that in the 14 days following the shooting, Mr. W. was only contacted once by APD Detective (Det.) L., and that in that 14 day period, Mr. W. called Det. L. and left at least two voicemails inquiring about the status of the perpetrator but had yet to hear back from Det. L. with information related to his case. Mr. D complained that Mr. W. was not given any information regarding the Family Advocacy Center, or other available victim resources, and he would like to ensure Det. L. contacts Mr. W. ASAP with any news regarding his case, and wants the case referred to the Family Advocacy Center ASAP so Mr. W. and his family get the assistance they need. (See original complaint for more details.)

II. THE INVESTIGATION

A CPOA Investigator reviewed your complaint, the CADS reports and police reports related to the shooting involving Mr. W. The Investigator also spoke with Det. L. of the APD Robbery Unit, and learned he had recently spoken with Mr. W. about his case and had provided Mr. W. with the necessary victim resources available to Mr. W. and his family.

On June 27, 2018, the Investigator called Mr. W. to speak with him regarding his case; however, Mr. W. did not answer so a voicemail message was left requesting a call back in this regard. On July 3, 2018, the Investigator received a voicemail from Mr. W. stating he had all the information he needed regarding his case and that there was no need to return his call at this time. (See case file for audio recordings for the aforementioned calls made to and from Mr. W..)

III. CONCLUSION

Based on the aforementioned information, the CPOA has made the decision to **ADMINISTRATIVELY CLOSE** your complaint because Det. L. provided Mr. W. the information needed in his case, and there were no violations of any 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

CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board

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Chelsea Van Deventer

Leonard Waites, Chair

Dr. William J. Kass

Chantal M. Galloway, Vice Chair

Valerie St. John

Edward Harness, Executive Director

August 10, 2018

Re: CPC # 146-18

Dear Ms. B

June 11, 2018 we received your complaint.

I. THE COMPLAINT

You submitted a complaint in which you wrote Officer C. arrested your fiancé on May 4, 2018. You stated Officer C. returned to your home around 3:30am and brought you your fiancé's wallet. You stated Officer C. asked you questions about your neighbors and made you feel uncomfortable. You stated you felt intimidated and unsure of Officer C.'s intentions knowing he had just arrested your fiancé and that you were home alone. You question why Officer C. brought you your fiancé's wallet at 3:30 in the morning when he should have just put the wallet in property of the jail.

II. THE INVESTIGATION

In an effort to assist you, a CPOA Investigator was assigned to your complaint. The Investigator attempted to contact you via telephone and left a message. The Investigator also sent you an email to the address you provided and as of the writing of this letter, there has been no response.

The Investigator utilized the information you provided in your written complaint and obtained a police report for the name you provided and the date. The Investigator determined through records that your fiancé was arrested by Deputy C. with the Bernalillo County Sheriff's Department, not Officer C. with the Albuquerque Police Department.

III. CONCLUSION

Your complaint is being Administratively closed due to our agencies ability to only conduct investigations pertaining to employees of the Albuquerque Police Department. Below is the address and phone number of Bernalillo County Sheriff's Department Internal Affairs Division. You may contact them to investigate your complaint.

*Bernalillo County Sheriff's Department
Attn: Internal Affairs Unit
P. O. Box 25927
Albuquerque, New Mexico 87125-5927
(505)-468-7100*

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

Sincerely,



Ed Harness
Executive Director
(505) 924-3774

CC: Albuquerque Police Department, Chief of Police

CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board

Joanne Fine

Chelsea Van Deventer

Leonard Waites, Chair

Dr. William J. Kass

Chantal M. Galloway, Vice Chair

Valerie St. John

Edward Harness, Executive Director

August 10, 2018

Re: CPC # 148-18

Dear Mr. F

On June 13, 2018 we received your complaint concerning Albuquerque Police Department (APD) Officer D..

I. THE COMPLAINT

You wrote in your complaint that you were riding your bicycle at night when an officer turned in front of you. You were unable to stop your bicycle and collided with the police car. You stated that you tried to request traffic camera footage of the accident but because you did not properly request the video it was deleted. You requested that our office get a copy of the police report and dash cam and body cam footage before it is deleted also. You went on to request that you want the officer brought up on charges.

II. THE INVESTIGATION

In an effort to assist you, a CPOA Investigator was assigned to your complaint. The CPOA Investigator reviewed a copy of the police report. It is numbered 18-0054840. The report is in the system and it cannot be deleted. You may obtain a copy of the report from the Albuquerque Police Department. The CPOA Investigator also reviewed the associated body cam footage. The body cam footage has been tagged with a case number and it will not be deleted from the system. You may obtain copies of the body camera footage by submitting an Inspection of Public Records (IPRA) request to the APD IPRA Unit. The APD does not have dash cameras in their police cars. Our office cannot charge anyone criminally as we are a civilian agency and have no law enforcement authority.

III. CONCLUSION

The items that you requested be preserved have been preserved by APD. The APD has an Accident Review Board which is responsible for conducting Administrative Investigations into all police vehicle accidents. The Accident Review Board makes a determination after its

investigation as to whether or not the accident was preventable or non-preventable and as to whether or not the officer violated department policy with regard to the operation of his/her assigned police car. If the accident is found to have been preventable, the officer will be appropriately disciplined. APD Personnel assigned to that Board can provide you with the date that your case is going before it.

Because the evidence has been preserved as you requested and because APD is already conducting an investigation into the accident, we are administratively closing your complaint and no further investigation by our office will occur.

Sincerely,



Ed Harness
Executive Director
(505) 924-3774

CC: Albuquerque Police Department, Chief of Police

CIVILIAN POLICE OVERSIGHT AGENCY

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Chelsea Van Deventer

Leonard Waites, Chair

Dr. William J. Kass

Chantal M. Galloway, Vice Chair

Valerie St. John

Edward Harness, Executive Director

August 10, 2018

RE: CPC 149-18

Dear Mr. E. :

On June 14, 2018 we received your complaint concerning Albuquerque Police Department Officer L..

I. THE COMPLAINT

You wrote in your complaint that shortly before midnight on June 8, 2018, an APD officer rang your doorbell about ½ a dozen times in only a couple of seconds. You alleged the officer was angry and agitated and that the officer demanded to conduct a “health and welfare check.” You did not let the officer in and he got louder with each demand to conduct the check. You went and got your elderly mother who went and spoke with the officer. While she was speaking with the officer, you called 242-COPS to ask for a supervisor and none were available. You complained that supervisors should have been available, and that the officer shouldn’t have been sent to your home at midnight, and that the officer woke everyone up with his yelling. You questioned why APD officers do welfare checks at all and you complained the officer did not leave his name or contact information. You filed a follow up complaint on June 29, 2018 in which you elaborated on your original story. In that complaint you alleged the officer kept trying to open the door while he was posed like a gunfighter keeping his hand just a couple of inches above his gun. You stated you were afraid the officer was going to kick the door in or pull his gun and shoot you. The officer’s yelling made you angry and the officer’s repeated attempts to enter your home without your permission was terrifying. You wanted an explanation as to why the officer was sent to your home at midnight.

II. THE INVESTIGATION

In an effort to assist you, a CPOA Investigator was assigned to your complaint. A preliminary investigation was conducted that included a review of the Computer Assisted Dispatch (CAD) Report and the Officer’s lapel camera video of the contact. The original call to APD came from a family member who was concerned about the welfare of your mother.

Her grandson told the dispatcher that he had attempted to make contact with your mother and that he had not heard from your mother in some time. He asked that APD Officers go to your home to check on your mother to make sure that she was okay. A welfare check on an elderly person is a task that the APD handles routinely. The call came in to APD from your relative at 9:18 PM. An officer was dispatched at 9:44 PM but was called off to handle a higher priority call. The call was re-dispatched at 11:23 PM and Officer L. arrived at your home at 11:43 PM. The lapel video showed that the Officer did ring your doorbell but not repeatedly. Contrary to your assertion that the officer was angry, the lapel video showed that it was you who were angry and it was you who started yelling at the officer. You were awake when the officer went to your home and so was your mother. You told the officer he couldn't come in and you went and got your mother. She came to the door and you went and got on the phone with dispatch and you were screaming loudly as the officer talked to your mother. The officer did not make repeated attempts to enter your home as you alleged. A supervisor was not immediately available to respond to your location. The officer was not asked to provide his name or contact information by you or your mother. There is no standard operating procedure that requires officers to do so in the absence of being asked. The lapel video showed you were very angry.

III. CONCLUSION

The officer was not angry as you portrayed. The officer did raise his voice with you but only because you were screaming at him. Supervisors are on duty on all shifts but one wasn't immediately available when you demanded one. Officers are duty bound to conduct welfare checks as they can get to them. There is no set time limit or particular hours in which the checks are conducted. While your frustration with your extended family calling the police to check on your mother was evidenced in the video, the officer had your mother's best interest in mind. The situation became more difficult when you became angry and started screaming. Your alleged policy violations are minor in nature and contradicted by the lapel camera video. The preliminary investigation showed no misconduct by Officer L.. Therefore, we are administratively closing your complaint and no further investigation by our office will occur. Administratively closed complaints may be re-opened if additional information becomes available.

Sincerely,



Ed Harness
Executive Director
(505) 924-3774

CC: Albuquerque Police Department, Chief of Police

CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board

Joanne Fine

Chelsea Van Deventer

Leonard Waites, Chair

Dr. William J. Kass

Chantal M. Galloway, Vice Chair

Valerie St. John

Edward Harness, Executive Director

August 10, 2018

RE: CPC 150-18

Dear Mr. B

On June 18, 2018 we received your complaint concerning the Albuquerque Police Department.

I. THE COMPLAINT

You wrote in your complaint that your vehicle was burglarized and you interrupted the burglary. You checked your surveillance cameras after the burglars ran off but your cameras did not record the incident. You called 242-COPS to report the incident but no one answered the phone. You complained that APD has not been patrolling your neighborhood as it should. You claimed the area is plagued with crime and Officers are too busy dealing with crime outside your neighborhood that your neighborhood is being neglected. You wrote in your complaint that sometimes the police take 8 hours to respond to a reported crime or they don't come at all. You wrote that something needs to change in Albuquerque. Crime is at a free for all status. You asked that APD patrol your neighborhood more closely to "get rid of these pathetic losers."

II. THE INVESTIGATION

In an effort to assist you, a CPOA Investigator was assigned to your complaint. Your complaint was really about your dissatisfaction with the APD in general. Your complaint was forwarded to the Southeast Area Commander who assigned your complaint to a Sergeant for follow up. You did not provide your address or phone number so that APD could contact you. You did leave an e-mail address.

APD Sergeant H. tried contacting you by e-mail to discuss your complaint further. You did not respond to his e-mails. Despite that, police presence has been ordered to be increased in your neighborhood and random police patrols have been increased. Furthermore, Field Briefings are going to be held in your neighborhood during the day and throughout the night.

III. CONCLUSION

Your complaint expressed general dissatisfaction with APD and the crime problem in general in Albuquerque. Our office essentially investigates complaints against specific operating procedure violations by specific APD personnel. Your complaint was not directed at any one individual in particular. While we share your frustration, there is no alleged violation of operating procedure for us to investigate. Because the Southeast Area Command has attempted to address your complaint, we are administratively closing your complaint and no further investigation by our office will occur.

Sincerely,



Ed Harness
Executive Director
(505) 924-3774

CC: Albuquerque Police Department, Chief of Police

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board

Joanne Fine

Chelsea Van Deventer

Leonard Waites, Chair

Valerie St. John

Chantal M. Galloway, Vice Chair

Dr. William J. Kass

Edward Harness, Executive Director

August 10, 2018
Via Certified Mail

Re: CPC #152-18

Dear Mr. H.

Our office received the complaint you filed on June 2, 2018 against Albuquerque Police Department (APD) Officers U. and T. regarding an incident which took place on July 30, 2017. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your 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

Mr. H. said he was arrested on July 30, 2017 by APD Officers U. and T. and complained these officers failed to use their lapel cameras during their contact with him. Mr. H. alleged the officers used their lapel cameras before and after contacting him but not during their contact, and as a result he is facing federal prosecution based solely on the statements of the officers. He alleged the missing footage would show his innocence, and their inaction caused undue punishment. He alleged they have obstructed justice in their failure to follow APD policy regarding lapel camera video usage. Mr. H. would like a retraction of the officer's statements and compensation for undue punishment. He would also like Officer U. and Officer T. to be prosecuted for obstruction of justice.

II. THE INVESTIGATION

The CPOA Investigator reviewed your complaint, the CADS reports, the written reports, the criminal complaint filed on July 31, 2017 against you, and lapel videos from Officer U., Officer T., and Officer D. and Sergeant Y. Lapels videos from Officer U., Officer T. and Officer D. and Sergeant Y. recorded the officers before they made contact with you and another male inside a vehicle, and showed the officers making contact with you and the other male. The lapel videos recorded the officers' interactions with you and the other male passenger; therefore your allegations that the officers failed to use their lapel cameras throughout the entire contact with you, and that there is missing footage that would exonerate you, are not truthful, or accurate. The lapel videos showed the Officers and Sergeant were professional towards you and the other male during their interaction with both of you.

III. CONCLUSION

Based on the aforementioned information, the CPOA has made the decision to **ADMINISTRATIVELY CLOSE** your complaint because none of the Officers or Sergeant violated any 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

CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board *Leonard Waites, Chair*
Joanne Fine *Dr. William J. Kass*
Chelsea Van Deventer

Chantal M. Galloway, Vice Chair
Valerie St. John

Edward Harness, Executive Director

August 10, 2018

Re: CPC # 156-18

Dear Mr. J.

I. THE COMPLAINT

You submitted 4 complaints, plus 2 additional complaints that were duplicative. Your complaints refer to gang stalking, harassment, unnecessary use of power and becoming homeless due to groups of people that the police have working for them. All of your complaints refer to dates in May and November of 2015-2016. Also in your complaints you continually reference an Officer J. and an Officer A. In one complaint you speak of an Officer J. sneaking into your home in the middle of the night and when you woke up the next morning you had injuries to your nose. You believe the perpetrator to have been Officer J.

II. THE INVESTIGATION

In an effort to assist you, a CPOA Investigator was assigned to your complaint. The Investigator attempted to contact you via telephone and email and as of the writing of this letter, there has been no response.

The Investigator utilized the information you provided in your written complaint. The Investigator researched your history through New Mexico Court Records, received APD police records of every report filed from 2014 through present day and reviewed several available lapel videos of contact with the Albuquerque Police Department.

Through these techniques the Investigator determined the Albuquerque Police Department does not have an Officer J. or an Officer A. The officers on your arrest records also do not reflect any Officer J. or Officer A. The lapel video's the Investigator were able to watch show no policy violations during your arrests. In one video you actually inform the officers you "did what you did" so that the police would come and arrest you.

III. CONCLUSION

Your complaint is being Administratively closed due to Officers you complain of, not being Albuquerque Police Officers, duplicative complaints and your outcome desired listed as "lawsuits." Our agency does not conduct lawsuits for citizen complainants.

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

Sincerely,



Ed Harness
Executive Director
(505) 924-3774

CC: Albuquerque Police Department, Chief of Police

CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board

Joanne Fine

Chelsea Van Deventer

Leonard Waites, Chair

Dr. William J. Kass

Chantal M. Galloway, Vice Chair

Valerie St. John

Edward Harness, Executive Director

August 10, 2018

Re: CPC # 158-18

Dear Mrs. O

I. THE COMPLAINT

You submitted a complaint to our office in which you state you learned in 2016 you are part of an ongoing undercover investigation. Your complaint goes on to inform our office of situations that happened between you, your mother-in-law, children and your husband. You state you would like an investigation into the investigation and that “they” are continually following you and conducting surveillance, from September of 2016 through present day.

II. THE INVESTIGATION

In an effort to assist you, a CPOA Investigator was assigned to your complaint. The Investigator contacted you and you spoke via telephone. The Investigator asked who “they” are, that you believe are conducting an investigation. You stated you did not know who “they” are, you just know the “Feds” are involved and that your husband is an informant for “them”. The Investigator informed you of the processes and procedures our office conducts in regards to citizen complaints and that our office would be unable to assist you in this matter.

III. CONCLUSION

Your complaint is being Administratively closed due to lack of information and requesting procedures that our office is not capable of conducting. Administratively closed complaints may be re-opened if additional information becomes available.

Sincerely,



Ed Harness
Executive Director
(505) 924-3774

CC: Albuquerque Police Department, Chief of Police

CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board

Joanne Fine

Chelsea Van Deventer

Edward Harness, Executive Director

Leonard Waites, Chair

Dr. William J. Kass

Chantal M. Galloway, Vice Chair

Valerie St. John

August 10, 2018
Via Certified Mail

Re: CPC #159-18

Dear Ms. C

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint against Officers of the Albuquerque Police Department (APD) on July 9, 2018, regarding an incident that occurred on or about July 3, 2018.

I. THE COMPLAINT

Ms. C submitted an online complaint regarding her desire for APD to make a referral to the FCC to check radio frequency waves around her house. The waves are causing physical issues and her doctor has spoken to officers saying that the waves are causing her wounds. APD refuses to assist her in making the referral. She has worked with CIT, but they do not help her, they just want her to get a mental health assessment.

II. INVESTIGATION

The CPOA Investigator researched what agency might be able to provide the services she desired. The CPOA Investigator then spoke to Ms. C over the phone regarding the complaint. The CPOA Investigator explained to Ms. C that APD would not be able to make a referral for her and that was outside of their purview. The CPOA Investigator informed her of possible resources that might provide the type of environmental analysis she sought. Ms. C also spoke about other life challenges and a lack of resources so the CPOA Investigator informed her of 211 as a possible avenue to find resources for the issues she was having. Ms. C understood her complaint would be administratively closed.

III. CONCLUSION

The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** the complaint, as the expectations and desired outcome were not within APD's jurisdiction to provide.

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

Letter to Ms. C
August 10, 2018
Page 2

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

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

Sincerely,
The Civilian Police Oversight Agency by

A handwritten signature in blue ink, appearing to read "Edward Harness", with a stylized flourish at the end.

Edward Harness, Esq.
Executive Director

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board

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Chelsea Van Deventer

Leonard Waites, Chair

Valerie St. John

Chantal M. Galoway, Vice Chair

Dr. William J. Kass

Edward Harness, Executive Director

August 10, 2018

Via email

Re: CPC #162-18

Dear Ms. D

Our office received the complaint you filed on July 8, 2018. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint and after a preliminary investigation learned that your complaint is against an unknown law enforcement officer and not an Albuquerque Police Department (APD) officer or employee.

The CPOA does not have jurisdiction to investigate complaints against any other agency or its employees other than APD officers or employees; therefore we have made the decision to **ADMINISTRATIVELY CLOSE** your complaint.

Please refer to your traffic citation to determine which agency issued it, so you can file a complaint with that agency.

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

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



CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board

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Leonard Waites, Chair

Dr. William J. Kass

Chantal M. Gallegos, Chair

Valerie St. John

Edward Harness, Executive Director

August 10, 2018

Re: CPC # 167-18

Dear Ms. M

On July 11, 2018 we received your complaint concerning a Probation and Parole Officer.

I. THE COMPLAINT

You complained that a Probation and Parole Officer is interfering in your ability to visit with a loved one who is incarcerated at MDC.

PO Box 1293

II. THE INVESTIGATION

Albuquerque

None.

III. CONCLUSION

NM 87103

Our office has no jurisdiction to investigate your complaint. We only have jurisdiction to investigate complaints against Albuquerque Police Department Personnel. You need to find out who the Probation Officer's Supervisor is and file a complaint with the Supervisor or the State of New Mexico Corrections Department, Probation and Parole Division.

www.cabq.gov

Because we have no jurisdiction to investigate your complaint, we are administratively closing your complaint and no further investigation will occur.

Sincerely,

Ed Harness
Executive Director
(505) 924-3774

CC: Albuquerque Police Department, Chief of Police

CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board

Leonard Waites, Chair

Chantal M. Galloway, Vice Chair

Joanne Fine

Dr. William J. Kass

Valerie St. John

Chelsea Van Deventer

Edward Harness, Executive Director

August 10, 2018

Via Certified Mail

Re: CPC #053-18

Dear Mr. P

A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint against Officers of the Albuquerque Police Department (APD) on March 5, 2018, regarding an incident that occurred on November 19, 2017. 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

Police officers responded to a third party call made by, M, a relative of J P and M P. M called regarding her concerns over her grandmother's care, Mrs. P Mr. F submitted the complaint over several concerns about the officers' decisions, actions, and conduct.

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable SOPs, the complaint, several citizen submitted addendums¹ to the complaint, the Computer Aided Dispatch (CAD), the 911 call, the police report, interviews of Mr. P: Officer V, Officer B, and the lapel videos of Officer V and Officer B. Attempts were made to interview Ambercare staff, but Ambercare refused to provide information or facilitate interviews.

¹ Mr. P created what he defined as transcripts for many of his addendums. These are not transcripts as Mr. P is not a certified transcriptionist and the documents he provided contained inflections, emphasis, and some inaccuracies that were not on the lapel videos or part of the interview.

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

A) The CPOA reviewed Standard Operating General Order 1-1-4D14 regarding Officer V's conduct, which states:

Personnel must not act officiously, abuse their lawful authority, or permit their personal feelings, animosities, or friendships to influence their official decisions.

Mr. P described Officer V's conduct as "high-handed" and clearly expressing officers were in charge. Officer V treated him as if he was a criminal, guilty, and a "cold blooded axe murderer" without justification or explanation. He deserved an explanation of his niece's allegations so that he could defend himself. Mr. P accused both officers of overruling the Ambercare staff and Ambercare directives. Officer V did not question any of the Ambercare staff for information. Officer V called for an ambulance despite recommendation that she not be sent to the hospital. Officer V ignored a written directive in his mother's room that Ambercare be consulted before calling 911. Officer V coached his mother into going to the hospital. Officer V made false statements to the paramedics about him. Officer V stood over him as if he were an armed gangster. When his mother was being transported, he asked his mother for a kiss goodbye. Officer V took it upon himself to say no, when his mother said yes. Mr. P stated if officers had contacted the Ambercare supervisor, his mother's transport to the hospital would have been avoided.

Officer V stated that as he spoke to Mrs. P she was not making a lot of sense so he had everyone leave the room so she could concentrate on communicating with him. Mrs. F did have difficulty expressing what she wanted, but she was clear in saying she wanted out of the house and away from "those two" before they killed her. Officer V denied he coached Mrs. P into going to the hospital, Mr. P sister already expressed going to the hospital was her mother's desire. Mr. F sister stated that her mother did not trust her or Mr. P and she only trusted M Mrs. F granddaughter. Mrs. P agreed with her granddaughter who helped articulate what her grandmother wanted. His understanding was that no one was authorized to speak for Mrs. P so it did not matter what others said, to include the medical staff present, Mrs. P wanted out of the house. He called for an ambulance to assess Mrs. P. He agreed the Ambercare nurse might have said she did not think Mrs. P needed the hospital, but it was not up to the nurse, it was up to Mrs. P. Officer V did not consider talking to the Ambercare supervisor, L, because according to everyone Mrs. P made her own medical decisions. Mrs. P sister said her mother wanted out of the house, away from Mr. P, and did not feel safe. Officer V had not seen the Ambercare written directive Mr. P mentioned in his complaint, but it would not have changed his actions. The situation boiled down to who had guardianship. The rescue personnel decided to transport Mrs. P. Officer V did not go into detail about the allegations Mr. P niece made because he could not properly interview her over the phone, therefore, he was not going to interview Mr. P about those allegations. Mrs. P herself did not make specific allegations of threats or harm. He did not treat the call as a criminal situation or act upon Mr. P allegations. If he had treated it as a criminal call, he would have put Mr. P as a suspect on the report and interviewed him. He did not see evidence of abuse or neglect in the home, but felt a referral to APS was appropriate for possible resource assistance. Mrs. P had expressed she did not want to be in the home, but it was likely that was where she would be returning. Officer V agreed he misspoke when he said to the paramedics that Mr. P was not the

caregiver, when he meant Mr. P. was not the guardian over his mother. He received the information, just not from Mr. P. When Mr. P asked for a goodbye kiss and Mrs. P said twice "goodbye" very firmly, Officer V took her response to be a "no" and that she wanted to be left alone by both of them, which is why he told Mr. P "that was a no." When Mrs. P then said yes, he did not stop Mr. P.

The lapel videos showed both Mr. P. and his sister stated their mother made her own medical decisions, there was no legal guardianship or power of attorney over their mother, and she could go where she wanted. The lapel videos showed Mr. P. sister and Mr. P. both expressed early on in the call that Mrs. P. wanted to go to the hospital/ER. Mr. P. agreed in the interview as well that no one had legal authority over his mother and that the nurse from Ambercare that was there the previous day said for his mother to decide her own destiny. The lapel video showed Officer V had conversations with the nurse from Ambercare. The Ambercare nurse did say that she did not think Mrs. P. needed the hospital, but had not assessed Mrs. P. vitals yet. The lapel video showed Mrs. P. was in agreement with her granddaughter as to what she wanted, which was transport out of the home to a hospital. The video showed Officer V informed the paramedics Mr. P. was not the caregiver. This was a mistake as Officer V explained his intended word was guardian. The video showed Officer V told the paramedics information he learned during the call. Mr. P. clearly disagrees with the veracity of the statements from his niece, but the statements were passed onto the paramedics to aid in their understanding of why they were there. The videos showed that Mr. P. sister asked their mother if she would give her and Mr. P. a goodbye kiss. Mrs. P. responded, "Goodbye" and Mr. P. sister left her side without kissing her. Mr. P. asked if he could have a kiss goodbye twice and Mrs. P. again responded, "Goodbye." That was when Officer V said that was a no. Mrs. P. then delayed in saying yes and Mr. P. was not prevented from approaching his mother and giving her a kiss. The videos showed Mr. P. was apologetic to the officers and appreciative of the officers at various stages of the call. Mr. P. did not take the opportunity to ask questions when Officer V asked.

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

B) The CPOA reviewed Standard Operating General Order 1-13-3B3b regarding Officer V's conduct, which states:

Officers shall abide by the following principles: b. Make only those arrests, searches, and seizures which they know or should know are lawful and do so in accordance with related departmental procedures.

Mr. P. claimed Officer V "immediately" and "forcefully" ordered him to step out of his home. He portrayed the encounter as being "roughed up" and "pushed outside" although agreed he was not physically touched. He was with Officer B until Officer V returned outside and he asked Officer V to go inside due to it being cold. Officer V reluctantly allowed him inside, but ordered him to sit on the couch. Officer V never explained why he was detained in the cold. Mr. P. said Officer V stood over him and in his face. Mr. P. complained it was clear to him if he moved from the sofa he would be in

handcuffs and arrested. Mr. P: complained he was unable to speak to the Ambercare nurse present because he was detained.

Officer V was dispatched to a family dispute call. The caller reported the dispute was between Mr. P and his mother, Mrs. P: Family disputes are typically labeled as domestic violence calls so his first action was to separate the parties for safety reasons and scene control. When he told Mr. P to come outside, his tone was conversational and matter-of-fact, not forceful or aggressive. No one physically detained Mr. P. Mr. P: was free to go where he wanted as long as it was not back in the house while Officer V was trying to get at the root of the issue. When Mr. P: asked to go inside, Officer V stated he was reluctant because he was still trying to work out what the situation was at that time. He was trying to keep everyone separated because he still understood Mrs. P did not allegedly feel safe around Mr. P. He and Mr. P: agreed for him to sit on the sofa, but when Mr. P went inside, Mr. P wanted to do other things. Officer V intended to maintain scene control and wanted to avoid confrontations. He told Mr. P, as much, which Mr. P did not like, but he still needed to do his job. No one threatened Mr. P with arrest or hovered over him.

The video showed Officer V asked in a normal tone, "Why don't you come out here with me and talk to me real quick." The video showed when Officer V went to talk to Officer B outside; Mr. P: wanted to go inside because he was cold. Mr. P. said he wanted to sit on the couch and Officer V agreed. Mr. P then wanted to get the number and Officer V said in a normal tone to have a seat. Officer V did repeat himself after he perceived Mr. P: was going to continue getting things. Officer V's tone was not shouting or aggressive, but directive. Mr. P told him not to be so bossy. Officer V told him he would handle things as he had to and if Mr. P did not like it that was tough. His tone was firm, but not shouting or aggressive. After Officer V informed Mr. P: he would handle the call as needed, he did not hover over nor get in Mr. P face. In fact, Officer V was often not in the living room at all. The videos showed no one told Mr. P: he would be arrested if he moved or implied he would be handcuffed. The video showed Officer V never prevented the Ambercare nurse from talking with Mr. P: or Mr. P expressing he wished to talk to the nurse. The video showed Mr. P: was sitting on the sofa with the Ambercare social worker part of the time. Maintaining scene control and security are different from detention.

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

C) The CPOA reviewed Standard Operating General Order 1-1-4D19 regarding Officer V's conduct, which states:

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

Mr. P stated Officer V made several contradictions, omissions, and inaccuracies on the report. He was treated as an offender in the report. Mr. P: stated the statement about his mother being bedridden was false. Mr. P stated his niece's statements were all hearsay and unsubstantiated. Mr. P: pointed out the report attributed a statement to him that he never said. Mr. P stated

Officer V contradicted himself in the report several times about his mother's mental competency and ability to make decisions. Mr. P stated his niece had no authority to make medical decisions for his mother. Officer B's name was not on the report as an assisting officer. Mr. P saw the written statement that the report would be forwarded to Adult Protective Services, but when he checked with that agency, there was no record of the report. Mr. P also listed off smaller details as being inaccurate such as his physical descriptors, who contacted his niece, and who made first contact with police.

Officer V stated normally a situation such as this would not require a report, but because it was coded as a domestic call, he wrote one. Officer V agreed Mrs. P struggled with being coherent, but she expressed she was not feeling safe and complained of medical issues. No one else had the authority to make decisions for her so his option was to call the ambulance to assess her. Officer V questioned her competency and wrote that in the report, but also wrote in the report she was the one to make her own decisions. He was not going to leave her in a situation that made her feel unsafe. The statement about Mrs. P being bedridden he based on his observation because she did not get out of bed on her own. Officer V admitted he made a mistake when he attributed a quote to Mr. P. He received the information, but not from Mr. P. Officer V stated he did not put Officer B as an assisting officer because he did not think it was important as she remained in the backup role and did not perform investigation or decision making in the call. Even though he determined there were no criminal charges to pursue in this call he forwarded the report to Adult Protective Services (APS) because once Mrs. P was released from the hospital she would be returning to the location of supposed problems. He believed APS could assist with resources for care. Officer V believed he forwarded the report through interoffice mail, which does not have a tracking mechanism. He did not know why APS had no record of the report.

The report did not have Mr. P listed as a suspect, which would he would have been labeled if he were treated and interviewed as a potential offender. The lapel videos showed Mr. P said his mother was barely able to get around with a walker before the strokes. Mr. P sister stated her brother determined their mother would not be able to use the walking aids delivered by the hospice and said her mother has been unable to stand. Simple observation of Mrs. P condition and her inability to move to the ambulance gurney would indicate this statement is accurate. Whether the niece's statements were substantiated or not, they were still said and would be documented on the report. The report could have been more clearly written, but the bottom line was that Mrs. P, despite being in a questionable mental state at that time, had no legal guardian to make decisions for her. Mrs. P agreed with her granddaughter and wished to go to the hospital, which was expressed by Mrs. P sister and Mr. P early in the call. The smaller detail items Mr. P complained about did not affect the outcome of the call. It is officer discretion to refer cases to APS. It is officer discretion to put assisting officers down based on the level of involvement. The de minimis errors on the report such as the misattribution of a quote did not affect the outcome of the situation and did not constitute a violation of policy.

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

D) The CPOA reviewed Standard Operating Procedural Order 2-16-2E1 regarding Officer V's conduct, which states:

All initial reports must be submitted at or before the end of the shift, except at the direction of a supervisor.

Officer V stated as far as he recalled he turned the report in at the end of shift as required.

Records stated the tracking information showed the report was created on November 19, 2017. The report moved from Officer V's computer to the city server on November 22, 2017. Records could not tell if the delay was due to the officer's actions or a system issue.

The CPOA finds Officer V's conduct to be **NOT SUSTAINED** where the investigation was unable to determine whether the alleged misconduct occurred.

III. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING OFFICER B'S CONDUCT

A) The CPOA reviewed Standard Operating General Order 1-1-4D14 regarding Officer B's conduct, which states:

Personnel must not act officiously, abuse their lawful authority, or permit their personal feelings, animosities, or friendships to influence their official decisions.

Mr. P described Officer B's conduct as "high-handed" and clearly expressing officers were in charge. Mr. P complained about Officer B accusing him of having an attitude. Mr. F accused both officers of overruling the Ambercare staff and Ambercare directives. Officer B did not treat him professionally. He told Officer B that L the Ambercare supervisor could provide information and that the supervisor wanted officers to call her when they arrived, but Officer B was uninterested in calling. Mr. P had his sister retrieve the number and Officer B intercepted it; she did not give him the number. When he finally called himself, he tried to hand the phone to Officer B, who refused, and said she could not take the call, as she was not the primary. Mr. P stated if officers had contacted the Ambercare supervisor, his mother's transport to the hospital would have been avoided.

Officer B asked questions, not to investigate the situation, but to have an understanding of why officers were called. Some of her questions were more small talk than investigation. Mr. P was very confrontational with her so she asked Mr. P why he had an attitude. She felt her tone was normal and conversational. Officer B did not think she treated Mr. P as a criminal or poorly. Officer B did not see the need to talk to L from Ambercare because she learned Mrs. P was her own guardian. If Officer V had felt information from Laurie was important than they would have contacted her, but neither of them felt the information was necessary or relevant to their situation. All parties present said Mrs. P made her own decisions so it did not really matter what others said. Officer B did not go into detail about the niece's allegations because she did not speak to the niece or Mrs. P.

The lapel video showed that early on Mr. P was indirect and antagonistic in answering some of Officer B's questions while she tried to determine the situation. The lapel videos showed both Mr. P and his sister stated their mother made her own medical decisions, there was no legal guardianship or power of attorney over their mother, and she could go where she wanted. The lapel videos showed Mr. P sister and Mr. P both expressed early on in the call that Mrs. P wanted to go to the hospital/ER. The lapel videos showed Mr. P listed off that his mother refused to intake water, food, her medicines, was dehydrated, diabetic, and he feared she would go into a diabetic coma. All of these issues would support calling rescue for Mrs. P and for rescue personnel to assess Mrs. P condition. The lapel video showed Officer B asked if Mr. P and his mother were arguing about her going to the hospital and he responded, "If you want to call it that." The lapel video showed Officer B informed Mr. P that if his mother wanted to go to the hospital that they would have to comply with her desire and so would he. Mr. P agreed. The lapel video showed Mr. P told Officer B about the Ambercare supervisor. Officer B asked why officers should call this person when Ambercare employees were already on scene. Mr. P did not provide an adequate answer other than this supervisor could give them history and he received that direction from L Officer B asked Mr. P why he gave her so much attitude, and Mr. P said it was because he had been fighting all morning with everybody. Mr. P admitted to having attitude because it was a hectic day. The lapel videos showed when Mr. P complained he was being treated as a criminal Officer B told him he was not a criminal. The video showed since Mr. P indicated he was cold; Officer B offered and turned the ceiling fan off for his comfort. The lapel video showed when Mr. P asked his sister for the Ambercare supervisor's number his sister handed the number to Officer B, Officer B did not intercept it. Officer B jotted down the information in her notebook and then told Mr. P she was placing the number on the TV. Mr. P got up, retrieved the number, and called L. Mr. P told L that he had the police there and asked if she wanted to talk to them. She said, "Yeah" and in the same sentence asked if F was there. Both Mr. P and F, the Ambercare social worker, said they had been there for a long time. Mr. P held up the phone towards Officer B. Officer B said that she was not the primary and that she would need to speak to the primary officer. The lapel video showed Officer B had earlier briefly consulted with Officer V to see if he had a desire to talk to the Ambercare supervisor and he indicated it was not necessary. In the video, Laurie was heard to have said that they [the staff] would tell them [the officers] the same thing that she was going to tell them and did not feel it was necessary for them to talk to her too unless they [the officers] wanted to talk to her. Mr. F claim L said "yes" was taken out of the greater context of the conversation that indicated Laurie did not have anything compelling to add that her staff would not already have said. In contrast to Mr. P claims that no one talked to the staff present, Officer V's video showed Officer V had some conversations, particularly with the Ambercare nurse. Ambercare would not permit an interview with Laurie to determine her actual intentions or instructions to Mr. P. The videos showed Mr. P was apologetic to the officers and appreciative of the officers at various stages of the call. Mr. P did not take the opportunity to ask questions when Officer V asked.

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

B) The CPOA reviewed Standard Operating General Order 1-13-3B3b regarding Officer B's conduct, which states:

Officers shall abide by the following principles: b. Make only those arrests, searches, and seizures, which they know or should know, are lawful and do so in accordance with related departmental procedures.

After Officer V ordered him out of the house, Mr. P claimed in his original complaint that Officer B ordered him to sit on a wooden chair on his porch. After he reviewed the lapel video, he stated she indicated to him to sit. Officer B detained him outside. Mr. P stated no one told him why he was detained. Mr. P complained he was unable to speak to the Ambercare nurse present because he was detained.

Officer B stated in domestic type calls their intention is to separate the parties. She asked him to have a seat in a conversational manner. He was not detained and could have gone where he wanted, except back inside until Officer V completed his investigation. Their only reluctance to let Mr. P back in was that they did not want Mr. P to confront Mrs. P until they had finished their call, which is scene control. When he did go inside, he was not detained on the sofa. No one told Mr. P he would be arrested if he moved.

The lapel video showed Officer B asked him to have a seat wherever he felt comfortable. The lapel video showed Mr. P did not tell Officer B he was cold or ask for anything until Officer V came outside. The lapel video showed Officer B informed Mr. P police were called for a domestic dispute and they were there to figure out what was going on so he was informed of their purpose there. Once Mr. P was on the sofa, he asked his sister for a blanket. The lapel video showed Officer B informed him he could retrieve a blanket for himself if he wished. No one threatened Mr. P with arrest or handcuffs if he moved. The video showed Officer B never prevented the Ambercare nurse from talking with Mr. P or him expressing he wished to talk to her. The video showed Mr. P sitting on the sofa with the Ambercare social worker part of the time. Maintaining scene control and security is different from detention.

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

Additional issues:

A. In one of many addendums to Mr. P's original complaint he listed out perceived violations of SOP 3-14, which is an administrative order covering supervisory leadership. This policy did not apply to the situation, as there was no supervisor present or consulted during the call.

B. Mr. P mentioned in his addendums about several portions of SOP 2-16, which are the procedural orders involving Records. Mr. P complained the report was not handled efficiently because it took sixteen days for the sergeant to approve the report. Mr. P made an assumption the report was rejected and therefore wanted to know several pieces of information regarding that rejection. The report was not rejected. Mr. P wanted to know information about the daily report log (PD 3084). The log only applies for when reports are submitted via paper. That was not applicable in this situation as the police report was completed electronically through the reporting system. As to the

timeliness of the sergeant's sign off, Mr. P. incorrectly assumed that the submission of a report by an officer was the same thing as a supervisor approving the report. An officer is to submit their report at the end of shift, which is addressed as a SOP in this case. Mr. P. was told in his interview, at the time of this incident, the sergeant did not have a specific timetable for approving the report. Report approval can be delayed for a multitude of reasons having nothing to do with the quality of the report. Reports rarely if ever were approved by sergeants the same day. Submission and approval is not the same thing and the policy addresses submission, therefore the sergeant was not targeted in this investigation.

C. In one of Mr. P addendums, he provided a document titled "Appointment of Representative." This document is from Medicare/Medicaid and appears to designate Mr. P to be Mrs. P. representative in matters involving Medicare appeals. This document was stamped as filed November 29, 2017. No one attempted to present this document as proof of guardianship or that Mr. P. had decision-making authority over his mother. As shown in the investigation, numerous individuals said numerous times that Mrs. P made her own decisions.

D. Mr. P also mentioned in one of his many addendums that officers did not inform him he was being recorded on their videos. SOP 2-8-5B2, states: It is recommended that officers inform individuals they are being recorded during their initial contact; however, they are not mandated to do so. This was not treated as an SOP issue as it has no sanction attached and is a recommendation, not a requirement.

E. Mr. P also brought up in his addendums policies involving referrals to Adult Protective Services. He identified two policies, which did not apply to the situation. The one policy involved clandestine labs, which Mr. P himself acknowledged was not applicable. The other policy specifically referred to the PACT team, which was not involved in this call.

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

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

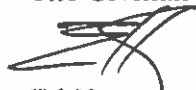
- A) The APD policy or APD policies that were considered by the POB were the wrong policies or they were used in the wrong way; or,
- B) The APD policy or APD policies considered by the POB were chosen randomly or they do not address the issues in your complaint; or,
- C) The findings of the POB had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

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

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

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

Sincerely,
The Civilian Police Oversight Agency by



Ed Harness
Executive Director

cc: Albuquerque Police Department Chief of Police