

Civilian Police Oversight Agency Board

Patricia J. French, Chair

Jesse Crawford, Vice-Chair

Greg Jackson

Angela Luce

Eric Nixon

Rashad Raynor

Michael Wartell

BOARD AMENDED AGENDA

Thursday, January 12, 2023 - 5:00 p.m.

Attendance: In response to the Public Health Emergency, the Civilian Police Oversight Agency (CPOA) Board meeting on Thursday, January 12, 2023, at 5:00 p.m. will be held via Zoom video conference.

Viewing: Members of the public will have the ability to view the meeting through GOVTV on Comcast Channel 16, or to stream live on the GOVTV website at: <https://www.cabq.gov/culturalservices/govtv>, or on YouTube at: <https://www.cabq.gov/cpoa/events/cpoa-board-meeting-01-12-2023>. (Please note that the link for YouTube has not yet been generated, however, the link could easily be found on the link provided above prior to the start of the meeting). The GOVTV live stream can be accessed at these addresses from most smartphones, tablets, or computers.

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

Public Comment: The agenda for the meeting will be posted on the CPOA website by 5:00 p.m., Monday, January 9, 2023, at www.cabq.gov/cpoa.

The CPOA Board will take general public comment and comment on the meeting's specific agenda items in written form via email through 4:00 p.m. on Thursday, January 12, 2023. Submit your public comments to: POB@cabq.gov. These comments will be distributed to all CPOA Board members for review.

- I. Welcome and call to order - Patricia J. French, Chair**
- II. Roll Call**
- III. Approval of Consent Agenda**
- IV. Approval of the Agenda**
- V. Public Comment**
- VI. Appeal Hearing, Deliberations, and Action:**
CPC 065-22

- a. **Closed discussion for deliberations by the CPOA Board in connection with an administrative adjudicatory proceeding pursuant to NMSA 1978, Section 10-15-1(H)(3) related to case CPC 065-22**

**VII. Appeal Hearing, Deliberations, and Action:
CPC 123-22**

- a. **Closed discussion for deliberations by the CPOA Board in connection with an administrative adjudicatory proceeding pursuant to NMSA 1978, Section 10-15-1(H)(3) related to case CPC 123-22**

VIII. Discussion, Updates, and Possible Action:

- a. **Consideration of PPRB Policies with No Recommendation: -
*Jesse Crawford***
- b. **CPOAB Job Description – *Eric Nixon***
- c. **CPA Waiver Request Update – *Tina Gooch, CPOA/CPOAB Legal Counsel***
- d. **CPOA Semi-Annual Audit - *Patricia J. French***
- e. **Annual Training Status Update – *Tina Gooch, CPOA/CPOAB Legal Counsel, and Mike Wartell***
- f. **Executive Director Applications – *Patricia J. French***
- g. **CPOA Board Ordinance Amendments – *Patricia J. French***

IX. Review of Cases (approval of recommended discipline)

- a. **Sustained Violation Not Based on Original Complaint and Exonerated
168-22**
- b. **Sustained
118-22**

X. Non-Concurrence Cases

103-22 165-22 169-22

XI. Reports from Subcommittees

- a. **Policy and Procedure Review – *Jesse Crawford***
 - 1. **January 5, 2023 (Cancelled)**
 - 2. **Next meeting is February 2, 2023, at 5:30 p.m.**

XII. Reports from City Departments

- a. **APD**
 - 1. **IA Professional Standards Division (SOP 7-1, SOP 3-41, SOP 3-46) – *Acting Commander Mark Landavazo***
 - 2. **IA Force Division (SOP 2-52 through SOP 2-57) – *Commander Scott Norris***

**3. Quarterly Crash Review Board Presentation (SOP 2-50) –
*Sergeant Benito Martinez***

- b. City Council – *Chris Sylvan***
- c. Public Safety Committee - *Chris Sylvan***
- d. Mayor’s Office – *Pastor David Walker***
- e. City Attorney – *Carlos Pacheco***
- f. CPC – *Kelly Mensah***
- g. APOA – *Detective Shaun Willoughby, APOA President***

XIII. Old Business

XIV. New Business

- XV. Adjournment – *The next regularly scheduled CPOA Board meeting will be on February 9, 2023, at 5:00 p.m.***

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Civilian Police Oversight Agency Board

Patricia J. French, Chair *Jesse Crawford, Vice-Chair* *Greg Jackson*
Angela Luce *Eric Nixon* *Rashad Raynor*

Michael Wartell

Deirdre Ewing, Executive Director

January 13, 2023

Via Email

Ms. E

Re: CPC # 168-22

Dear Ms. E

PO Box 1293

Albuquerque

NM 87103

www.cabq.gov

COMPLAINT:

On 06/21/2022 Ms. B's juvenile son was stopped for speeding by Officer P. Ms. B reported Officer P had her son sign he was guilty for speeding, and did not confer with adult/parent. She also reported that her son was given 2 more citations, no proof of vehicle insurance and vehicle registration. Ms. E reported that her son was nervous because he had never been stopped by a police officer before.

EVIDENCE REVIEWED:

Video(s): Yes APD Report(s): Yes CAD Report(s): Yes

Complainant Interviewed: Yes Witness(es) Interviewed: N/A

APD Employee Interviewed: Yes

APD Employee Involved: Officer P.

Other Materials: N/A

Date Investigation Completed: December 7, 2022

FINDINGS

1. **Unfounded.** Investigation classification when the investigator(s) determines, by clear and convincing evidence, that alleged misconduct did not occur or did not involve the subject officer.

2. **Sustained.** Investigation classification when the investigator(s) determines, by a preponderance of the evidence, the alleged misconduct did occur by the subject officer.

3. **Not Sustained.** Investigation classification when the investigator(s) is unable to determine one way or the other, by a preponderance of the evidence, whether the alleged misconduct either occurred or did not occur.

Policies Reviewed: **2.41.4.A.2.a and 2.40.3.C.1**

4. **Exonerated.** Investigation classification where the investigator(s) determines, by a preponderance of the evidence, that alleged conduct in the underlying complaint did occur but did not violate APD policies, procedures, or training.

Policies Reviewed: **2.8.5.A**

5. **Sustained Violation Not Based on Original Complaint.** Investigation classification where the investigator(s) determines, by a preponderance of the evidence, misconduct did occur that was not alleged in the original complaint (whether CPC or internal complaint) but that other misconduct was discovered during the investigation, and by a preponderance of the evidence, that misconduct did occur.

6. **Administratively Closed.** Investigation classification where the investigator determines: The policy violations of a minor nature and do not constitute a pattern of misconduct (i.e. a violation subject to a class 7 sanction, -the allegations are duplicative; -the allegations, even if true, do not constitute misconduct; or -the investigation cannot be conducted because of the lack of information in the complaint, and further investigation would be futile.

Additional Comments:

2.41.4.A.2.a The lapel video showed Officer P issued the citations and explained the citations. Ms. B [redacted] son admitted to speeding, and her son signed the document. Ms. Burgos' son did not ask questions, make comments, or contest the citations as presented.

2.40.3.C.1 The lapel video showed Officer P had provided Ms. B [redacted] ' son with 3 traffic citations (no insurance, no registration, and speeding); he explained each citation to him and informed him of signing each citation. A minor in possession of a driver's license is subject to the normal requirements of the Motor Vehicle Code unless the offense is listed as one of the exceptions in state statute 32A-2-3(A)(1), of which speeding is not one of the exceptions. It is within policy to issue a penalty assessment to a minor. Ms. B [redacted] son did not request a consultation with his parents. The lapel video did not show a lack of understanding, confusion, or extreme nervousness on the part of Ms. B [redacted] ' son.

2.8.5.A videos of the phone calls, required by policy, were not located on a search of videos. The Civilian Police Oversight Board recommends a written reprimand.

You have the right to appeal this decision. If you are not satisfied with the findings of the CPOA Executive Director within 30 calendar days (inclusive of holiday and weekends) of receipt of this letter, communicate your desire to have an appeal hearing before the CPOA Board in a signed writing addressed to the CPOA Director. Please send your request to P.O. Box 1293, Albuquerque, NM 87103 or by email CPOA@cabq.gov. Include your CPC number. Upon receipt of the communication, a hearing will be scheduled at the Board's next regularly scheduled meeting provided there is at least ten days between the receipt of the request and the next meeting.

During the hearing you will have the opportunity to address the Board and provide information regarding your case. The Board will have already reviewed the investigation. When presenting your information please focus on providing information that shows:

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

This information is what is needed for the Board to change the findings and/or recommendations or make further recommendations to the Chief of Police.

Administratively closed complaints may be re-opened if additional information becomes available. Please provide your additional information in writing to the CPOA Director as listed above.

If you are not satisfied with the final disciplinary decision of the Chief of Police or any matter relating to the Chief's handling of the complaint you may request a review of the complaint by the City's Chief Administrative Officer. Your request must be in writing and within 30 calendar days (inclusive of holidays and weekends) 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


Deirdre Ewing
Executive Director
(505) 924-3770

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

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Michael Wartell

Deirdre Ewing, Executive Director

January 13, 2023

Via Certified Mail

7009 3410 0000 2321 1999

Glenda Swinney
453 Copper DR NE
Rio Rancho, NM
87124

Re: CPC # 118-22

Dear Glenda Swinney:

COMPLAINT:

Ms. G S submitted a complaint in which she reported that she was involved in an auto accident in May of 2020, and the driver of the other vehicle admitted to being at fault by running a red light. Ms. S reported that the driver was not cited for running the red light and should have been sighted for running the red light, reckless driving, and unsafe speed. Ms. S reported that she would like a formal complaint to be filed in the officer's personnel file, Ms. S reported that she would also like additional charges filed against the other driver.

PO Box 1293

Albuquerque

NM 87103

www.cabq.gov

EVIDENCE REVIEWED:

Video(s): Yes APD Report(s): Yes CAD Report(s): Yes

Complainant Interviewed: Yes Witness(es) Interviewed: No

APD Employee Interviewed: Yes

APD Employee Involved: Officer C

Other Materials: nm statute 66-8-114

Date Investigation Completed: November 29, 2022

FINDINGS

1. **Unfounded.** Investigation classification when the investigator(s) determines, by clear and convincing evidence, that alleged misconduct did not occur or did not involve the subject officer.

Policies Reviewed: 2.46.4.A.2.j

2. **Sustained.** Investigation classification when the investigator(s) determines, by a preponderance of the evidence, the alleged misconduct did occur by the subject officer.

3. **Not Sustained.** Investigation classification when the investigator(s) is unable to determine one way or the other, by a preponderance of the evidence, whether the alleged misconduct either occurred or did not occur.

4. **Exonerated.** Investigation classification where the investigator(s) determines, by a preponderance of the evidence, that alleged conduct in the underlying complaint did occur but did not violate APD policies, procedures, or training.

5. **Sustained Violation Not Based on Original Complaint.** Investigation classification where the investigator(s) determines, by a preponderance of the evidence, misconduct did occur that was not alleged in the original complaint (whether CPC or internal complaint) but that other misconduct was discovered during the investigation, and by a preponderance of the evidence, that misconduct did occur.

6. **Administratively Closed.** Investigation classification where the investigator determines: The policy violations of a minor nature and do not constitute a pattern of misconduct (i.e. a violation subject to a class 7 sanction, -the allegations are duplicative; -the allegations, even if true, do not constitute misconduct; or -the investigation cannot be conducted because of the lack of information in the complaint, and further investigation would be futile.

Additional Comments:

Officer C advised that he could only cite Mr. S z for violations that he could verify. Driving recklessly, including running a red light, he could not verify those violations occurred, and that was why no citations were given for speeding, reckless driving, and running a red light. Officer C may have forgotten the red light issue at the time. Officer C advised that the report did state the other driver was at fault so the insurance could assist Ms. S but additional charges could not be added because it was past a year. A review of the OBRD showed that Officer C obtained statements from both drivers and then issued 3 citations to Mr. S. However, the video showed the conditions for careless driving existed since Mr. S admitted to not giving his full time and entire attention to the operation of the vehicle by arguing with his girlfriend and causing an accident. The Cilivian Police Oversight Board recommends a written reprimand.

You have the right to appeal this decision. If you are not satisfied with the findings of the CPOA Executive Director within 30 calendar days (inclusive of holiday and weekends) of receipt of this letter, communicate your desire to have an appeal hearing before the CPOA Board in a signed writing addressed to the CPOA Director. Please send your request to P.O. Box 1293, Albuquerque, NM 87103 or by email CPOA@cabq.gov. Include your CPC number. Upon receipt of the communication, a hearing will be scheduled at the Board's next regularly scheduled meeting provided there is at least ten days between the receipt of the request and the next meeting.

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

This information is what is needed for the Board to change the findings and/or recommendations or make further recommendations to the Chief of Police.

Administratively closed complaints may be re-opened if additional information becomes available. Please provide your additional information in writing to the CPOA Director as listed above.

If you are not satisfied with the final disciplinary decision of the Chief of Police or any matter relating to the Chief's handling of the complaint you may request a review of the complaint by the City's Chief Administrative Officer. Your request must be in writing and within 30 calendar days (inclusive of holidays and weekends) 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

Deirdre Ewing
Executive Director
(505) 924-3770

cc: Albuquerque Police Department Chief of Police

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Rashad Raynor

Michael Wartell

January 16, 2023

Via Email

Re: Hearing for Appeal to CPOA Board CPC #065-22

Dear Ms. G

Your appeal in this matter was heard by the CPOA Board on January 12, 2023. The Board deliberated on the matter in closed session during that meeting. When the Board came out of closed session, it voted not to uphold the Agency's findings in this matter.

Within twenty (20) days of receipt of the Board's decision, the Chief shall notify the Board and you of his final disciplinary decision in this matter in writing, by certified mail.

PO Box 1293

In the event that you are not satisfied with the Chief's final disciplinary decision or any matter relating to the Chief's handling of your complaint, you may request that the Chief Administrative Officer review the complaint, the disciplinary findings of the Board and the action of the Chief. You must make such a request in writing within thirty (30) calendar days (inclusive of weekends and holidays) of receipt of the Chief's letter notifying you of his final disciplinary decision related to the complaint. Upon completion of his review, the Chief Administrative Officer shall within 90 days take any action necessary, including overriding the decision of the Chief regarding disciplinary action, to complete the disposition of the complaint. The Chief Administrative Officer shall notify in writing, by certified mail, the complainant, the individual against whom the complaint was filed, the Chief, and the Executive Director, the results of his review and any action taken.

Albuquerque

NM 87103

www.cabq.gov

Sincerely,

The Civilian Police Oversight Agency Board by

Patricia J. French, Chair

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Civilian Police Oversight Agency Board

Patricia J. French, Chair *Jesse Crawford, Vice-Chair* *Greg Jackson*
Angela Luce *Eric Nixon* *Rashad Raynor*
Michael Wartell

January 16, 2023

Via Email

Re: Hearing for Appeal to CPOA Board CPC #123-22

Dear Mr. F:

Your appeal in this matter was heard by the CPOA Board on January 12, 2023. The Board deliberated on the matter in closed session during that meeting. When the Board came out of closed session, it voted to uphold the Agency's findings in this matter.

Within twenty (20) days of receipt of the Board's decision, the Chief shall notify the Board and you of his final disciplinary decision in this matter in writing, by certified mail.

In the event that you are not satisfied with the Chief's final disciplinary decision or any matter relating to the Chief's handling of your complaint, you may request that the Chief Administrative Officer review the complaint, the disciplinary findings of the Board and the action of the Chief. You must make such a request in writing within thirty (30) calendar days (inclusive of weekends and holidays) of receipt of the Chief's letter notifying you of his final disciplinary decision related to the complaint. Upon completion of his review, the Chief Administrative Officer shall within 90 days take any action necessary, including overriding the decision of the Chief regarding disciplinary action, to complete the disposition of the complaint. The Chief Administrative Officer shall notify in writing, by certified mail, the complainant, the individual against whom the complaint was filed, the Chief, and the Executive Director, the results of his review and any action taken.

Sincerely,
The Civilian Police Oversight Agency Board by

Patricia J. French, Chair

cc: Albuquerque Police Department Chief of Police