

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board *Beth Mohr, Chair*

Johnny J. Armijo

Joanne Fine

Rev. Dr. David Z. Ring III

Edward Harness, Executive Director

Susanne Brown

Carlotta Garcia

Leonard Waites, Vice Chair

Eric H. Cruz

Dr. Lisa M. Orick-Martinez

POLICE OVERSIGHT BOARD AGENDA

Thursday, September 8, 2016 – 5:00 PM

Vincent E. Griego Chambers

- I. Welcome and call to order.
- II. Pledge of Allegiance – *Chair Beth Mohr*
- III. Approval of the Agenda
- IV. Public Comments
- V. Review and Approval of Minutes
- VI. Discussion:
 - a. Update re: Letter to Chief regarding drug testing
- VII. Consent Agenda Cases:
 - a. Administratively Closed Cases

030-15	031-15	050-15	007-16
130-16	147-16	149-16	
 - b. Cases investigated

037-16	045-16	052-16	053-16
066-16	076-16	079-16	115-16
117-16	121-16	125-16	
 - c. CIRT cases

C-009-15	C-009-16	C-011-16	
----------	----------	----------	--
- VIII. Reports from Subcommittees
 - a. Outreach Subcommittee – *Leonard Waites*
 - b. Policy and Procedure Review Subcommittee – *Susanne Brown*
 - i. Policy change recommendation to 3-29 Policy Development Process
 - c. Case review Subcommittee – *Leonard Waites*
 - i. Discussion of tiered prioritization matrix for investigation of citizen complaints – *Joanne Fine*
 - d. Personnel Subcommittee – *Beth Mohr*
- IX. Subcommittee meeting space
- X. Reports from City Staff
 - a. APD
 - i. Policy and Procedures re: Officers involved in motor vehicle accidents to include timelines

PO Box 1293

Albuquerque

New Mexico 87103

www.cabq.gov

- b. City Council
- c. Mayor's Office
- d. City Attorney
- e. Community Policing Councils
- f. CPOA – *Edward Harness, Executive Director*

- XI. Meeting with Counsel re: Closed session to discuss matters subject to the attorney-client privilege pertaining to threatened or pending litigation in which the POB is or may become a participant- Board Attorney Mark Baker.**

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).

- XII. Other Business**

- XIII. Adjournment- *Next Regularly scheduled POB meeting will be on October 13, 2016 at 5 p.m. in the Vincent E. Griego Chambers.***

(POB will be taking a dinner break prior to Committee Reports, if possible.)

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board *Beth Mohr, Chair*

Johnny J. Armijo

Dr. Susanne Brown

Joanne Fine

Dr. Carlotta A. Garcia

Rev. Dr. David Z. Ring III

Edward Harness, Esq., Executive Director

Leonard Waites, Vice Chair

Eric H. Cruz

Dr. Lisa M. Orick-Martinez

September 9, 2016

Via certified mail

Re: Citizen Police Complaint 030-15

Dear Mr.

Your complaint against Albuquerque Police Department (APD) Officers M., C., and S., as well as their command staff up to and including Chief E., was received by our office on February 27, 2015 for incident which was alleged to have occurred on December 3, 2014. Your complaint was reviewed by the former Independent Review Officer, Robin Hammer, and the complaint was assigned to the Assistant Lead Investigator of the Independent review Office on March 9, 2015.

PO Box 1293

I. THE COMPLAINT

Albuquerque

In your complaint, you alleged that on December 3, 2014 you observed three patrol cars being used on the street without proper licensing. The vehicles were assigned to Officer M., Officer C., and Officer S.. In the case of Officer M.'s vehicle, you alleged that Officer M. was improperly using a car dealer demo permit, which is a violation of New Mexico Motor Vehicle Code. In the case of Officer S., you had a conversation with Officer S., and Officer S. informed you, incorrectly, that the law allowed him to drive without proper licensing. You alleged that the three officers violated the law. You referred to the violations as criminal acts and you requested that your complaint be forwarded by the Independent Review Office (IRO) to the APD Internal Affairs Division. You also included a link to a video that you shot showing the alleged violations.

New Mexico 87103

www.cabq.gov

II. THE INVESTIGATION

In an effort to assist you, the Assistant Lead Investigator conducted a preliminary investigation to determine whether or not the allegations contained in your complaint involved criminal activity. New Mexico State Statute 66-8-7 NMSA 1978 states that it is a misdemeanor for any person to violate any provisions of the Motor Vehicle Code (66-1-1 NMSA) unless the violation is declared a felony. Furthermore, in conducting the preliminary investigation, the Assistant lead Investigator determined that Malloy Dodge, the dealership that sold APD the vehicles, intentionally allowed the vehicles to be driven off their lots after

they transferred from their inventory to the City of Albuquerque with Demonstration Tags attached to the cars. That act by the dealership violated New Mexico Motor Vehicle Code 66-8-2. The preliminary investigation showed that the officers were most likely operating these vehicles in violation of New Mexico Law. Mr. was interviewed by the Assistant Lead Investigator in person on all three of the complaints that he filed.

Mr. filed this complaint as well as two other complaints while the Settlement Agreement was being instituted. All three of the complaints, 030-15, 031-15 and 050-15 had to do with dealer demonstration tags being displayed on APD vehicles that were in service and being driven on the streets.

Under New Mexico law, a vehicle that has been sold from dealer inventory must have the dealer demonstration tag removed and a temporary registration tag must be displayed on the vehicle that was sold and transferred from dealer inventory. The tags that were displayed on the police vehicles were demonstration tags affixed by the dealership. The dealership never issued temporary tags to the vehicles and they let those vehicles leave their inventory with the demonstration tags still attached.

Temporary tags expire after 30 days. Demonstration tags never expire.

Mr. had filed a similar complaint back in 2012. That complaint alleged that APD vehicles were being driven with expired temporary tags. The IRO Assistant Lead Investigator in that case found that APD violated the law by allowing those vehicles to be issued and driven on the streets when they had no valid license plate or tag displayed on the vehicle. APD was aware of the problem yet they did nothing to correct it. APD is not exempt from the law.

A former, now retired Deputy Chief was very upset at the finding in that 2012 complaint. That former Deputy Chief and Ms. Hammer evidently worked out a solution so that the finding would be changed. In fact, before the findings letter in that case went to Mr. Ms. Hammer changed the Assistant Lead Investigator's finding so APD would not be sustained for violating the law. It was the Assistant Lead Investigator's understanding from Ms. Hammer, and she is recorded as saying it in a POC meeting, that arrangements had been made by the APD Deputy Chief with the MVD so that APD could print their own temporary tags in the future. Mr. filed an appeal in that case which he eventually dropped because the POC was being disbanded. Around that same time, the IRO went several months without a Police Oversight Board. New legislation changed the name of the of the Independent Review Office to the Civilian Police Oversight Agency and the Police Oversight Commission was replaced with an all new Police Oversight Board.

The Settlement Agreement had already been reached and was being instituted when Mr. filed his three 2015 complaints. Paragraph 188 of the Settlement Agreement states:

If at any time during misconduct complaint intake or investigation the investigator determines that there may have been criminal conduct by any APD personnel, the investigator shall immediately notify the Internal Affairs Bureau commanding officer. If the complaint is being investigated by the Civilian Police Oversight Agency, the investigator

will transfer the administrative investigation to the Internal Affairs Bureau. The Internal Affairs Bureau commanding officer shall immediately notify the Chief. The Chief shall consult with the relevant prosecuting agency or federal law enforcement agency regarding the initiation of a criminal investigation. Where the allegation is investigated criminally, the Internal Affairs Bureau shall continue with the Administrative Investigation of the allegation.

The CPOA Assistant Lead Investigator conducted a significant amount of preliminary investigation into the allegations as set forth by Mr. . in his complaints. The CPOA Assistant Lead Investigator determined that what Ms. Hammer told the POC about APD and MVD having an agreement so that APD could print their own temporary tags was an untruth. The investigation into these complaints showed no such agreement ever existed. The preliminary investigation conducted showed that the dealership where the vehicles were bought intentionally violated the law by releasing those vehicles to APD with demonstration tags attached to them. The preliminary investigation determined that someone in APD, unknown who, allowed these vehicles to be placed into service with demonstration tags attached to them. That is a violation of New Mexico motor vehicle code and by statute a criminal violation.

In compliance with Paragraph 188, and also in accordance with Mr. 's wishes, the CPOA Assistant Lead Investigator sent Mr. 's complaints to APD Internal Affairs on May 15, 2015. There was much discussion amongst the parties as to whether Paragraph 188 applied to minor traffic violations committed by APD officers and as to which agency would investigate those allegations.

Months passed while the parties were trying to determine the intent of paragraph 188.

On July 28, 2015, Mr. 's complaints were sent back to CPOA. APD declined to conduct any criminal investigation into the complaints. The APD Sergeant at Internal Affairs sent a Memorandum along with the returned complaints that stated that the Chief of Police, the Assistant Chief of Police, and the City Attorney had determined that the officer's actions were not criminal in nature. The cases were sent back to the CPOA for further administrative investigation.

CPC 030-15 and CPC 031-15 were assigned to the Assistant Lead Investigator on March 9, 2015. CPC 050-15 was assigned to the Assistant Lead Investigator on April 6, 2015. APD IA never obtained an extension of time to investigate these cases. The 90 day time frame for investigation of CPC 030-15 and 031-15 expired on June 6, 2015. The 90 day time frame for investigation of CPC 050-15 expired on July 4, 2015. The cases were returned to the CPOA by APD well after the time limits for investigation had expired.

The complaints filed by Mr. would have required interviews of at least 11 officers. By July 28, 2015, even if the officers admitted to or were found by the CPOA to have violated Standard Operating Procedures, no disciplinary action could have been imposed upon them by the Albuquerque Police Department.

When Dr. Moira Amado-McCoy was part of the Police Oversight Board and Chair of the Case Review Committee, she met with the CPOA Assistant Lead Investigator assigned to the cases and discussed the cases in depth with the Investigator. Dr. Amado-McCoy appeared concerned with the fact that APD returned the cases to the CPOA after the time period for investigation had expired. Dr. Amado-McCoy met with an APD Deputy Chief regarding the cases and the Deputy Chief informed Dr. Amado-McCoy that the Albuquerque Police Department issued Special Order 15-16 on March 9, 2015, the same day that the original complaints were assigned to the CPOA Investigator. That Special Order stated that any new vehicle issued with a Temporary Demonstration Placard must be taken to the dealership so that the dealership can issue a Temporary Registration placard. Failing to comply with the Special Order would be considered a violation of the Take Home Vehicle Policy and subject to progressive discipline.

Evidenced by that Special Order, the APD did take immediate action to address Mr. [REDACTED]'s concerns shortly after he filed his complaints.

Dr. Amado-McCoy also asked the CPOA Assistant Lead Investigator to wait before proceeding with any further investigation into the complaints so that the new Executive Director, Ed Harness, and the Case Review Committee could work together to handle the concerns raised by Mr. [REDACTED]. The issue was addressed further by Dr. Amado-McCoy at a POB meeting in November 2015.

Since that time, The Executive Director of the CPOA, the CPOA Assistant Lead Investigator, and members of the Police Oversight Board have worked diligently on getting changes made to APD policy so that incidents such as those complained of by Mr. [REDACTED] would be reduced or would be eliminated in the future. These changes were specifically incorporated into APD policy because of Mr. [REDACTED]'s complaints CPC 030-15, CPC 031-15, and CPC 050-15.

Policy changes take up a significant amount of time as there are many levels of review before a policy can be changed and published.

APD General Order 1-19 became effective and published on June 1, 2016. 1-19-3 I specifically addresses registration issues. It states:

All department vehicles (except SID vehicles) must have a "G" government license plate or valid temporary tag. If a department vehicle does not have a "G" plate or valid temporary tag, the person to whom the vehicle is used must report to the Operations Review Lieutenant to obtain a "G" plate or valid temporary tag.

If an officer violates that section they will be subject to disciplinary action. With the policy change, the officer can now be held accountable if the officer fails to address an expired temporary tag.

APD Administrative Order 3-22, Complaints Involving Department Policy or Personnel was revised and published on June 2, 2016. The very first definition in the policy, 3-22-3 A, defines apparent Criminal Misconduct. This is the first time that apparent criminal misconduct has been defined since the Settlement Agreement came out. It reads:

Apparent criminal misconduct is an act or omission that violates United States or New Mexico State Criminal codes, with the exception of minor traffic violations. Minor traffic violations are defined as violations of NMSA Section 66-7-1 et seq. except, Driving While Intoxicated (DWI), Reckless Driving, Leaving the Scene of an Accident, and Vehicular Homicide. Parking violations are not apparent criminal misconduct.

This definition was put into APD policy at the request of the CPOA and its representatives because Mr. 's complaints alleged that APD was guilty of criminal misconduct because police vehicles were being operated on the street with expired temporary tags or demonstration tags being displayed on them. It was because of those allegations and paragraph 188 of the settlement agreement that there was a delay in the investigation of Mr. s complaints. Administrative Order 3-22 makes it clear that allegations of minor traffic violations will not be treated as criminal misconduct and such allegations will be investigated by the CPOA as administrative violations of Standard Operating Procedures.

There was no conspiracy to halt the investigation of Mr. 's complaints. The fact is that that the complaints were returned to the CPOA after the time frame for investigation expired. Further investigation into the alleged minor and duplicative violations of SOP after the investigation time period expired would have been burdensome, time consuming, and fruitless. Even if wrong doing was found by the officers involved, no disciplinary action could have been taken against those officers. Instead, the Executive Director of the CPOA, the Assistant Lead Investigator of the CPOA, and members of the Police Oversight Board worked diligently with the Albuquerque Police Department Standard Operating Procedures Review Committee, the Albuquerque Police Department Policies and Procedures Review Board, and the Office of Policy Analysis to make changes to policy so that personnel could be held accountable. There is now a clear definition of apparent criminal misconduct and personnel can now be held individually accountable for driving an issued vehicle with an expired or improper tag.

Mr. s complaints were not fully investigated because the time limits to investigate his complaints had already expired. Even though that occurred, his complaints did not go unnoticed and in fact resulted in changes to existing APD policy. Mr. 's concerns about the delay are understandable but he filed these complaints during a difficult transitional period of time for APD when apparent criminal misconduct was not defined. Even defining that term took considerable time and discussion between the parties. As a direct result of Mr. 's complaints, policy was changed. That is significant in and of itself and a much better result than no one being held accountable for a minor policy violation.

III. CONCLUSION

Your complaint was investigated to the furthest extent possible based on the information you provided. Once the preliminary investigation showed a possibility of criminal misconduct, the complaints were sent to the Internal Affairs Division for further investigation. Internal Affairs failed to obtain an extension of time to investigate your complaints. Because the time limits for investigation had expired when the complaints were sent back to CPOA, no further investigation could have been conducted.

Letter to Mr. _____, CPC 030-15
September 9, 2016
Page 6

Because the allegations contained in CPC 030-15, 031-15, and 050-15 were minor in nature, and because the allegations made in those complaints were duplicative, and because the investigation into those complaints could not be conducted because time limits to do so had expired, the CPOA is Administratively Closing the complaints and no further investigation will be conducted.

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 *Beth Mohr, Chair* *Leonard Waites, Vice Chair*
Johnny J. Armijo *Dr. Susanne Brown* *Eric H. Cruz*
Joanne Fine *Dr. Carlotta A. Garcia* *Dr. Lisa M. Orick-Martinez*
Rev. Dr. David Z. Ring III
Edward Harness, Esq., Executive Director

September 9, 2016
Via certified mail

Re: Citizen Police Complaint 031-15

Dear Mr.

Your complaint against Albuquerque Police Department (APD) Officers C., R., H., H2., P., and V., as well as their command staff up to and including Chief E., was received by our office on February 27, 2015 for incident which was alleged to have occurred on December 8th and 9th, 2014. Your complaint also alleged IPRA policy violations by APD Records Custodian, Mr. C.. Your complaint was reviewed by the former Independent Review Officer, Robin Hammer, and the complaint was assigned to the Assistant Lead Investigator of the Independent review Office on March 9, 2015.

PO Box 1293

Albuquerque

I. THE COMPLAINT

In your complaint, you alleged that on December 8th, 2014 and December 9, 2014 you observed several in service APD black and white patrol cars in the parking lot of the APD Academy missing temporary tags, license plates, or improperly using dealer demonstration permits. You included a link to a video which you shot showing the alleged violations. You complaint further alleged that APD Records Custodian Mr. C., had illegally denied you information that you requested as to the agreement between APD and MVD as to APD's self-issuing of temporary tags and the withholding of the dates of issue and temp tag numbers issued to all APD marked vehicles purchased after January 1, 2014. You alleged that the officers issued the vehicles violated the law. You referred to the violations as criminal acts and you requested that your complaint be forwarded by the Independent Review Office (IRO) to the APD Internal Affairs Division.

New Mexico 87103

www.cabq.gov

II. THE INVESTIGATION

In an effort to assist you, the Assistant Lead Investigator conducted a preliminary investigation to determine whether or not the allegations contained in your complaint involved criminal activity. New Mexico State Statute 66-8-7 NMSA 1978 states that it is a misdemeanor for any person to violate any provisions of the Motor Vehicle Code (66-1-1 NMSA) unless the violation is declared a felony. Furthermore, in conducting the preliminary

investigation, the Assistant Lead Investigator determined that Malloy Dodge, the dealership that sold APD the vehicles, intentionally allowed the vehicles to be driven off their lots after they transferred from their inventory to the City of Albuquerque with Demonstration Tags attached to the cars. That act by the dealership violated New Mexico Motor Vehicle Code 66-8-2. The preliminary investigation showed that the officers were most likely operating these vehicles in violation of New Mexico Law. The investigation showed that no temporary tags were issued by Malloy Dodge for the vehicles in question. Mr. [REDACTED] was interviewed by the Assistant Lead Investigator in person on all three of the complaints that he filed.

Mr. C. was terminated from employment while this investigation was pending.

Mr. [REDACTED] filed this complaint as well as two other complaints while the Settlement Agreement was being instituted. All three of the complaints, 030-15, 031-15 and 050-15 had to do with dealer demonstration tags being displayed on APD vehicles that were in service and being driven on the streets.

Under New Mexico law, a vehicle that has been sold from dealer inventory must have the dealer demonstration tag removed and a temporary registration tag must be displayed on the vehicle that was sold and transferred from dealer inventory. The tags that were displayed on the police vehicles were demonstration tags affixed by the dealership. The dealership never issued temporary tags to the vehicles and they let those vehicles leave their inventory with the demonstration tags still attached.

Temporary tags expire after 30 days. Demonstration tags never expire.

Mr. [REDACTED] had filed a similar complaint back in 2012 (210-12). That complaint alleged that APD vehicles were being driven with expired temporary tags. The IRO Assistant Lead Investigator in that case found that APD violated the law by allowing those vehicles to be issued and driven on the streets when they had no valid license plate or tag displayed on the vehicle. APD was aware of the problem yet they did nothing to correct it. APD is not exempt from the law.

A former, now retired Deputy Chief was very upset at the finding in that 2012 complaint. That former Deputy Chief and Ms. Hammer evidently worked out a solution so that the finding would be changed. In fact, before the findings letter in that case went to Mr. [REDACTED], Ms. Hammer changed the Assistant Lead Investigator's finding so APD would not be sustained for violating the law. It was the Assistant Lead Investigator's understanding from Ms. Hammer, and she is recorded as saying it in a POC meeting, that arrangements had been made by the APD Deputy Chief with the MVD so that APD could print their own temporary tags in the future. Mr. [REDACTED] filed an appeal in that case which he eventually dropped because the POC was being disbanded. Around that same time, the IRO went several months without a Police Oversight Board. New legislation changed the name of the of the Independent Review Office to the Civilian Police Oversight Agency and the Police Oversight Commission was replaced with an all new Police Oversight Board.

The Settlement Agreement had already been reached and was being instituted when Mr. [REDACTED] filed his three 2015 complaints. Paragraph 188 of the Settlement Agreement states:

If at any time during misconduct complaint intake or investigation the investigator determines that there may have been criminal conduct by any APD personnel, the investigator shall immediately notify the Internal Affairs Bureau commanding officer. If the complaint is being investigated by the Civilian Police Oversight Agency, the investigator will transfer the administrative investigation to the Internal Affairs Bureau. The Internal Affairs Bureau commanding officer shall immediately notify the Chief. The Chief shall consult with the relevant prosecuting agency or federal law enforcement agency regarding the initiation of a criminal investigation. Where the allegation is investigated criminally, the Internal Affairs Bureau shall continue with the Administrative Investigation of the allegation.

The CPOA Assistant Lead Investigator conducted a significant amount of preliminary investigation into the allegations as set forth by Mr. in his complaints. The CPOA Assistant Lead Investigator determined that what Ms. Hammer told the POC about APD and MVD having an agreement so that APD could print their own temporary tags was an untruth. The investigation into these complaints showed no such agreement ever existed. The preliminary investigation conducted showed that the dealership where the vehicles were bought intentionally violated the law by releasing those vehicles to APD with demonstration tags attached to them. The preliminary investigation determined that someone in APD, unknown who, allowed these vehicles to be placed into service with demonstration tags attached to them. That is a violation of New Mexico motor vehicle code and by statute a criminal violation.

In compliance with Paragraph 188, and also in accordance with Mr. 's wishes, the CPOA Assistant Lead Investigator sent Mr. complaints to APD Internal Affairs on May 15, 2015. There was much discussion amongst the parties as to whether Paragraph 188 applied to minor traffic violations committed by APD officers and as to which agency would investigate those allegations.

Months passed while the parties were trying to determine the intent of paragraph 188.

On July 28, 2015, Mr. 's complaints were sent back to CPOA. APD declined to conduct any criminal investigation into the complaints. The APD Sergeant at Internal Affairs sent a Memorandum along with the returned complaints that stated that the Chief of Police, the Assistant Chief of Police, and the City Attorney had determined that the officer's actions were not criminal in nature. The cases were sent back to the CPOA for further administrative investigation.

CPC 030-15 and CPC 031-15 were assigned to the Assistant Lead Investigator on March 9, 2015. CPC 050-15 was assigned to the Assistant Lead Investigator on April 6, 2015. APD IA never obtained an extension of time to investigate these cases. The 90 day time frame for investigation of CPC 030-15 and 031-15 expired on June 6, 2015. The 90 day time frame for investigation of CPC 050-15 expired on July 4, 2015. The cases were returned to the CPOA by APD well after the time limits for investigation had expired.

The complaints filed by Mr. would have required interviews of at least 11 officers. By July 28, 2015, even if the officers admitted to or were found by the CPOA to have violated

Standard Operating Procedures, no disciplinary action could have been imposed upon them by the Albuquerque Police Department.

When Dr. Moira Amado-McCoy was part of the Police Oversight Board and Chair of the Case Review Committee, she met with the CPOA Assistant Lead Investigator assigned to the cases and discussed the cases in depth with the Investigator. Dr. Amado-McCoy appeared concerned with the fact that APD returned the cases to the CPOA after the time period for investigation had expired. Dr. Amado-McCoy met with an APD Deputy Chief regarding the cases and the Deputy Chief informed Dr. Amado-McCoy that the Albuquerque Police Department issued Special Order 15-16 on March 9, 2015, the same day that the original complaints were assigned to the CPOA Investigator. That Special Order stated that any new vehicle issued with a Temporary Demonstration Placard must be taken to the dealership so that the dealership can issue a Temporary Registration placard. Failing to comply with the Special Order would be considered a violation of the Take Home Vehicle Policy and subject to progressive discipline.

Evidenced by that Special Order, the APD did take immediate action to address Mr. [REDACTED]'s concerns shortly after he filed his complaints.

Dr. Amado-McCoy also asked the CPOA Assistant Lead Investigator to wait before proceeding with any further investigation into the complaints so that the new Executive Director, Ed Harness, and the Case Review Committee could work together to handle the concerns raised by Mr. [REDACTED]. The issue was addressed further by Dr. Amado-McCoy at a POB meeting in November 2015.

Since that time, The Executive Director of the CPOA, the CPOA Assistant Lead Investigator, and members of the Police Oversight Board have worked diligently on getting changes made to APD policy so that incidents such as those complained of by Mr. [REDACTED] would be reduced or would be eliminated in the future. These changes were specifically incorporated into APD policy because of Mr. [REDACTED] complaints CPC 030-15, CPC 031-15, and CPC 050-15.

Policy changes take up a significant amount of time as there are many levels of review before a policy can be changed and published.

APD General Order 1-19 became effective and published on June 1, 2016. 1-19-3 I specifically addresses registration issues. It states:

All department vehicles (except SID vehicles) must have a "G" government license plate or valid temporary tag. If a department vehicle does not have a "G" plate or valid temporary tag, the person to whom the vehicle is used must report to the Operations Review Lieutenant to obtain a "G" plate or valid temporary tag.

If an officer violates that section they will be subject to disciplinary action. With the policy change, the officer can now be held accountable if the officer fails to address an expired temporary tag.

APD Administrative Order 3-22, Complaints Involving Department Policy or Personnel was revised and published on June 2, 2016. The very first definition in the policy, 3-22-3 A,

defines apparent Criminal Misconduct. This is the first time that apparent criminal misconduct has been defined since the Settlement Agreement came out. It reads:

Apparent criminal misconduct is an act or omission that violates United States or New Mexico State Criminal codes, with the exception of minor traffic violations. Minor traffic violations are defined as violations of NMSA Section 66-7-1 et seq. except, Driving While Intoxicated (DWI), Reckless Driving, Leaving the Scene of an Accident, and Vehicular Homicide. Parking violations are not apparent criminal misconduct.

This definition was put into APD policy at the request of the CPOA and its representatives because Mr. complaints alleged that APD was guilty of criminal misconduct because police vehicles were being operated on the street with expired temporary tags or demonstration tags being displayed on them. It was because of those allegations and paragraph 188 of the settlement agreement that there was a delay in the investigation of Mr. complaints. Administrative Order 3-22 makes it clear that allegations of minor traffic violations will not be treated as criminal misconduct and such allegations will be investigated by the CPOA as administrative violations of Standard Operating Procedures.

There was no conspiracy to halt the investigation of Mr. 's complaints. The fact is that that the complaints were returned to the CPOA after the time frame for investigation expired. Further investigation into the alleged minor and duplicative violations of SOP after the investigation time period expired would have been burdensome, time consuming, and fruitless. Even if wrong doing was found by the officers involved, no disciplinary action could have been taken against those officers. Instead, the Executive Director of the CPOA, the Assistant Lead Investigator of the CPOA, and members of the Police Oversight Board worked diligently with the Albuquerque Police Department Standard Operating Procedures Review Committee, the Albuquerque Police Department Policies and Procedures Review Board, and the Office of Policy Analysis to make changes to policy so that personnel could be held accountable. There is now a clear definition of apparent criminal misconduct and personnel can now be held individually accountable for driving an issued vehicle with an expired or improper tag.

Mr. 's complaints were not fully investigated because the time limits to investigate his complaints had already expired. Even though that occurred, his complaints did not go unnoticed and in fact resulted in changes to existing APD policy. Mr. 's concerns about the delay are understandable but he filed these complaints during a difficult transitional period of time for APD when apparent criminal misconduct was not defined. Even defining that term took considerable time and discussion between the parties. As a direct result of Mr. 's complaints, policy was changed. That is significant in and of itself and a much better result than no one being held accountable for a minor policy violation.

III. CONCLUSION

Your complaint was investigated to the furthest extent possible based on the information you provided. Once the preliminary investigation showed a possibility of criminal misconduct, the complaints were sent to the Internal Affairs Division for further investigation. APD Records Custodian Mr. C. was terminated from employment with the APD while the investigation was pending. Internal Affairs failed to obtain an extension of time to investigate your complaints.

Letter to Mr. . . . , CPC 031-15

September 9, 2016

Page 6

Because the time limits for investigation had expired when the complaints were sent back to CPOA, no further investigation could have been conducted.

Because the allegations contained in CPC 030-15, 031-15, and 050-15 were minor in nature, and because the allegations made in those complaints were duplicative, and because the investigation into those complaints could not be conducted because time limits to do so had expired, the CPOA is Administratively Closing the complaints and no further investigation will be conducted.

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

Please contact me if you have any questions or concerns.

Sincerely,



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 *Beth Mohr, Chair* *Leonard Waites, Vice Chair*
Johnny J. Armijo *Dr. Susanne Brown* *Eric H. Cruz*
Joanne Fine *Dr. Carlotta A. Garcia* *Dr. Lisa M. Orick-Martinez*
Rev. Dr. David Z. Ring III
Edward Harness, Esq., Executive Director

September 9, 2016
Via certified mail

Re: Citizen Police Complaint 050-15

Dear Mr.

Your complaint against Albuquerque Police Department (APD) Officers H. and S. as well as their command staff up to and including Chief E., was received by our office on April 3, 2015 for incident which was alleged to have occurred on January 30, 2015. Your complaint was reviewed by the former Independent Review Officer, Robin Hammer, and the complaint was assigned to the Assistant Lead Investigator of the Independent Review Office on April 6, 2015.

PO Box 1293

I. THE COMPLAINT

In your complaint, you alleged that on January 30, 2015 at about 11:00 AM, you were at the Starbucks located at 1450 Montano NE, when you observed two black APD Chevrolet Tahoe vehicles parked precariously up the curbing and into the rock landscaping one in front of the other, possibly illegally, in the lot between Starbuck's and McDonald's. You observed two officers dressed in green uniforms, possibly SWAT Officers, and after you had your coffee, you left. As you were leaving, you took a closer look at the Tahoes and you observed that one of the Tahoes did not have a license plate or temporary tag displayed. The other Tahoe also had no license plate but it did have a visible temporary tag on it which was expired and therefore illegally displayed. You also noticed that the Tahoe with the temporary tag had a broken taillight which was broken to the extent that all of the lights in that taillight would have been inoperable. The body panel was also severely damaged. An IPRA request showed that the damaged vehicle was assigned to Officer H. You learned from your IPRA request that Officer H. had damaged the Tahoe while it was parked in his driveway and he backed into it with his personally owned vehicle. Your complaint further alleged that APD Records Custodian Mr. C., had failed to provide you the date of issuance of the temporary tag on the Tahoe and the date the vehicle was placed into service. You alleged that to be a breach of NM IPRA law. You requested that all APD Personnel involved up to and including Chief E. be investigated for violations of department procedures, New Mexico Motor Vehicle Laws, and the NM IPRA. You asked that Officer H.'s driving privileges be revoked. You stated in your complaint that you had photographic evidence of the violations that you later provided to the Assistant Lead Investigator.

Albuquerque

New Mexico 87103

www.cabq.gov

II. THE INVESTIGATION

In an effort to assist you, the Assistant Lead Investigator conducted a preliminary investigation to determine whether or not the allegations contained in your complaint involved criminal activity. New Mexico State Statute 66-8-7 NMSA 1978 states that it is a misdemeanor for any person to violate any provisions of the Motor Vehicle Code (66-1-1 NMSA) unless the violation is declared a felony. The preliminary investigation showed that the officers were most likely operating these vehicles in violation of New Mexico Law. Mr. [REDACTED] was interviewed by the Assistant Lead Investigator in person on all three of the complaints that he filed.

Mr. C. was terminated from employment while this investigation was pending.

Mr. [REDACTED] filed this complaint as well as two other complaints while the Settlement Agreement was being instituted. All three of the complaints, 030-15, 031-15 and 050-15 had to do with dealer demonstration tags or expired temporary tags being displayed on APD vehicles that were in service and being driven on the streets.

Under New Mexico law, a vehicle that has been sold from dealer inventory must have the dealer demonstration tag removed and a temporary registration tag must be displayed on the vehicle that was sold and transferred from dealer inventory. In this case, there was a temporary tag on one of the vehicles but it was expired. Operating a vehicle on an expired tag is a violation of State Law. There is no exception for Law Enforcement. The other vehicle had no license plate and operating it on the street or highway would also be a violation of State Law. Again, there is no exception for Law Enforcement.

Mr. [REDACTED] had filed a similar complaint back in 2012 (210-12). That complaint alleged that APD vehicles were being driven with expired temporary tags. The IRO Assistant Lead Investigator in that case found that APD violated the law by allowing those vehicles to be issued and driven on the streets when they had no valid license plate or tag displayed on the vehicle. APD was aware of the problem yet they did nothing to correct it. APD is not exempt from the law.

A former, now retired Deputy Chief was very upset at the finding in that 2012 complaint. That former Deputy Chief and Ms. Hammer evidently worked out a solution so that the finding would be changed. In fact, before the findings letter in that case went to Mr. [REDACTED], Ms. Hammer changed the Assistant Lead Investigator's finding so APD would not be sustained for violating the law. It was the Assistant Lead Investigator's understanding from Ms. Hammer, and she is recorded as saying it in a POC meeting, that arrangements had been made by the APD Deputy Chief with the MVD so that APD could print their own temporary tags in the future. Mr. [REDACTED] filed an appeal in that case which he eventually dropped because the POC was being disbanded. Around that same time, the IRO went several months without a Police Oversight Board. New legislation changed the name of the of the Independent Review Office to the Civilian Police Oversight Agency and the Police Oversight Commission was replaced with an all new Police Oversight Board.

The Settlement Agreement had already been reached and was being instituted when Mr. [REDACTED] filed his three 2015 complaints. Paragraph 188 of the Settlement Agreement states:

If at any time during misconduct complaint intake or investigation the investigator determines that there may have been criminal conduct by any APD personnel, the investigator shall immediately notify the Internal Affairs Bureau commanding officer. If the complaint is being investigated by the Civilian Police Oversight Agency, the investigator will transfer the administrative investigation to the Internal Affairs Bureau. The Internal Affairs Bureau commanding officer shall immediately notify the Chief. The Chief shall consult with the relevant prosecuting agency or federal law enforcement agency regarding the initiation of a criminal investigation. Where the allegation is investigated criminally, the Internal Affairs Bureau shall continue with the Administrative Investigation of the allegation.

The CPOA Assistant Lead Investigator conducted a significant amount of preliminary investigation into the allegations as set forth by Mr. _____ in his complaints. The CPOA Assistant Lead Investigator determined that what Ms. Hammer told the POC about APD and MVD having an agreement so that APD could print their own temporary tags was an untruth. The investigation into these complaints showed no such agreement ever existed. The preliminary investigation conducted showed that the dealership where the vehicles were bought intentionally violated the law by releasing those vehicles to APD with demonstration tags attached to them. The preliminary investigation determined that someone in APD, unknown who, allowed these vehicles to be placed into service with demonstration tags attached to them. That is a violation of New Mexico motor vehicle code and by statute a criminal violation.

In compliance with Paragraph 188, and also in accordance with Mr. _____'s wishes, the CPOA Assistant Lead Investigator sent Mr. _____'s complaints to APD Internal Affairs on May 15, 2015. There was much discussion amongst the parties as to whether Paragraph 188 applied to minor traffic violations committed by APD officers and as to which agency would investigate those allegations.

Months passed while the parties were trying to determine the intent of paragraph 188.

On July 28, 2015, Mr. _____'s complaints were sent back to CPOA. APD declined to conduct any criminal investigation into the complaints. The APD Sergeant at Internal Affairs sent a Memorandum along with the returned complaints that stated that the Chief of Police, the Assistant Chief of Police, and the City Attorney had determined that the officer's actions were not criminal in nature. The cases were sent back to the CPOA for further administrative investigation.

CPC 030-15 and CPC 031-15 were assigned to the Assistant Lead Investigator on March 9, 2015. CPC 050-15 was assigned to the Assistant Lead Investigator on April 6, 2015. APD IA never obtained an extension of time to investigate these cases. The 90 day time frame for investigation of CPC 030-15 and 031-15 expired on June 6, 2015. The 90 day time frame for investigation of CPC 050-15 expired on July 4, 2015. The cases were returned to the CPOA by APD well after the time limits for investigation had expired.

The complaints filed by Mr. _____ would have required interviews of at least 11 officers. By July 28, 2015, even if the officers admitted to or were found by the CPOA to have violated

Standard Operating Procedures, no disciplinary action could have been imposed upon them by the Albuquerque Police Department.

When Dr. Moira Amado-McCoy was part of the Police Oversight Board and Chair of the Case Review Committee, she met with the CPOA Assistant Lead Investigator assigned to the cases and discussed the cases in depth with the Investigator. Dr. Amado-McCoy appeared concerned with the fact that APD returned the cases to the CPOA after the time period for investigation had expired. Dr. Amado-McCoy met with an APD Deputy Chief regarding the cases and the Deputy Chief informed Dr. Amado-McCoy that the Albuquerque Police Department issued Special Order 15-16 on March 9, 2015, the same day that the original complaints were assigned to the CPOA Investigator. That Special Order stated that any new vehicle issued with a Temporary Demonstration Placard must be taken to the dealership so that the dealership can issue a Temporary Registration placard. Failing to comply with the Special Order would be considered a violation of the Take Home Vehicle Policy and subject to progressive discipline.

Evidenced by that Special Order, the APD did take immediate action to address Mr. _____'s concerns shortly after he filed his complaints.

Dr. Amado-McCoy also asked the CPOA Assistant Lead Investigator to wait before proceeding with any further investigation into the complaints so that the new Executive Director, Ed Harness, and the Case Review Committee could work together to handle the concerns raised by Mr. _____. The issue was addressed further by Dr. Amado-McCoy at a POB meeting in November 2015.

Since that time, The Executive Director of the CPOA, the CPOA Assistant Lead Investigator, and members of the Police Oversight Board have worked diligently on getting changes made to APD policy so that incidents such as those complained of by Mr. _____ would be reduced or would be eliminated in the future. These changes were specifically incorporated into APD policy because of Mr. _____'s complaints CPC 030-15, CPC 031-15, and CPC 050-15.

Policy changes take up a significant amount of time as there are many levels of review before a policy can be changed and published.

APD General Order 1-19 became effective and published on June 1, 2016. 1-19-3 I specifically addresses registration issues. It states:

All department vehicles (except SID vehicles) must have a "G" government license plate or valid temporary tag. If a department vehicle does not have a "G" plate or valid temporary tag, the person to whom the vehicle is used must report to the Operations Review Lieutenant to obtain a "G" plate or valid temporary tag.

If an officer violates that section they will be subject to disciplinary action. With the policy change, the officer can now be held accountable if the officer fails to address an expired temporary tag.

APD Administrative Order 3-22, Complaints Involving Department Policy or Personnel was revised and published on June 2, 2016. The very first definition in the policy, 3-22-3 A,

defines apparent Criminal Misconduct. This is the first time that apparent criminal misconduct has been defined since the Settlement Agreement came out. It reads:

Apparent criminal misconduct is an act or omission that violates United States or New Mexico State Criminal codes, with the exception of minor traffic violations. Minor traffic violations are defined as violations of NMSA Section 66-7-1 et seq. except, Driving While Intoxicated (DWI), Reckless Driving, Leaving the Scene of an Accident, and Vehicular Homicide. Parking violations are not apparent criminal misconduct.

This definition was put into APD policy at the request of the CPOA and its representatives because Mr. [REDACTED]'s complaints alleged that APD was guilty of criminal misconduct because police vehicles were being operated on the street with expired temporary tags or demonstration tags being displayed on them. It was because of those allegations and paragraph 188 of the settlement agreement that there was a delay in the investigation of Mr. [REDACTED]'s complaints. Administrative Order 3-22 makes it clear that allegations of minor traffic violations will not be treated as criminal misconduct and such allegations will be investigated by the CPOA as administrative violations of Standard Operating Procedures.

There was no conspiracy to halt the investigation of Mr. [REDACTED]'s complaints. The fact is that that the complaints were returned to the CPOA after the time frame for investigation expired. Further investigation into the alleged minor and duplicative violations of SOP after the investigation time period expired would have been burdensome, time consuming, and fruitless. Even if wrong doing was found by the officers involved, no disciplinary action could have been taken against those officers. Instead, the Executive Director of the CPOA, the Assistant Lead Investigator of the CPOA, and members of the Police Oversight Board worked diligently with the Albuquerque Police Department Standard Operating Procedures Review Committee, the Albuquerque Police Department Policies and Procedures Review Board, and the Office of Policy Analysis to make changes to policy so that personnel could be held accountable. There is now a clear definition of apparent criminal misconduct and personnel can now be held individually accountable for driving an issued vehicle with an expired or improper tag.

Mr. [REDACTED]'s complaints were not fully investigated because the time limits to investigate his complaints had already expired. Even though that occurred, his complaints did not go unnoticed and in fact resulted in changes to existing APD policy. Mr. [REDACTED] concerns about the delay are understandable but he filed these complaints during a difficult transitional period of time for APD when apparent criminal misconduct was not defined. Even defining that term took considerable time and discussion between the parties. As a direct result of Mr. [REDACTED]'s complaints, policy was changed. That is significant in and of itself and a much better result than no one being held accountable for a minor policy violation.

III. CONCLUSION

Your complaint was investigated to the furthest extent possible based on the information you provided. Once the preliminary investigation showed a possibility of criminal misconduct, the complaints were sent to the Internal Affairs Division for further investigation. APD Records Custodian Mr. C. was terminated from employment with the APD while the investigation was pending. Internal Affairs failed to obtain an extension of time to investigate your complaints.

Letter to Mr. _____, CPC 050-15
September 9, 2016
Page 6

Because the time limits for investigation had expired when the complaints were sent back to CPOA, no further investigation could have been conducted.

Because the allegations contained in CPC 030-15, 031-15, and 050-15 were minor in nature, and because the allegations made in those complaints were duplicative, and because the investigation into those complaints could not be conducted because time limits to do so had expired, the CPOA is Administratively Closing the complaints and no further investigation will be conducted.

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

Please contact me if you have any questions or concerns.

Sincerely,



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 *Beth Mohr, Chair* *Leonard Waites, Vice Chair*
Johnny J. Armijo *Dr. Susanne Brown* *Eric H. Cruz*
Joanne Fine *Dr. Carlotta A. Garcia* *Dr. Lisa M. Orick-Martinez*
Rev. Dr. David Z. Ring III
Edward Harness, Esq., Executive Director

September 9, 2016
Via certified mail

Re: Citizen Police Complaint 007-16

Dear Mrs. _____

Your complaint against Albuquerque Police Department (APD) Officer C. was received by our office on January 12, 2016, for an incident occurred on December 21, 2015. Your complaint was reviewed by the Civilian Police Oversight Agency (CPOA) Director. The CPOA Director assigned your complaint to a CPOA Investigator on January 16, 2016 for investigation.

PO Box 1293

I. THE COMPLAINT

Albuquerque

In your complaint, you did not state the date of the incident or the location of the incident but you did identify the officer and your complaint said that you had been involved in vehicle crash. You complained that the officer who handled the crash, Officer C., was rude to you, that he yelled at you, and he used profanity when speaking with you and your husband.

New Mexico 87103

II. THE INVESTIGATION

www.cabq.gov

In an effort to assist you, the CPOA Investigator searched for and found the crash report. The Investigator called you to discuss the complaint but received no return phone call. The CPOA Investigator sent you a certified letter requesting contact but that letter was returned as "unclaimed." The CPOA Investigator searched for the officer's lapel video recording of the incident but because 120 days had passed since the incident, the video had been deleted.

On July 26, 2016, the CPOA Investigator once again tried contacting you by phone but only received your voicemail. You did return the call on July 27, 2016 and the CPOA Investigator spoke briefly with you. Because you spoke only Spanish, you and the Investigator decided that it would be best to conduct your interview through your husband, who speaks English and Spanish. That telephone interview was conducted on July 28, 2016.

You repeated what was in your written complaint. You stated that when the officer arrived at the crash, he immediately placed blame for the crash on you. You stated that the officer yelled at you and told you to go wait on the sidewalk, while he spoke with your husband. You stated that you did not have a ride home and that the officer offered to give you a ride home. When your husband expressed to Officer C. that he was concerned about what the neighbors would think when you got dropped off at your home in a police car, Officer C. allegedly stated something to the effect of "I don't give a f*** what the neighbors will think."

The CPOA Investigator asked you what you would like to see happen to the officer. You stated that you did not want the officer to get into trouble. You stated that you and your husband are older individuals and that the use of profanity in conversation with you is offensive and not acceptable behavior. You stated that the officer should also not be so quick to place blame on someone. You stated that the officer should not have raised his voice with you.

You told the CPOA Investigator that you would be satisfied if the officer's supervisor addressed your concerns with Officer C.. You stated that Officer C. should be reminded that the use of profanity with older people is not okay and that everyone should be treated with respect. You said that if the officer's supervisor talked to the officer about your concerns then that would bring a satisfactory resolution to your complaint.

The CPOA Investigator did interview Officer C.. The interview revealed that Officer C. did raise his voice but that he wanted you to stay up on the sidewalk for your own safety. Officer C. denied that he placed blame on you for the crash and the written report did not place fault on you. Officer C. said that he may have used profanity when speaking with your husband.

The CPOA Executive Director researched Officer C.'s disciplinary history and Officer C. has never had another complaint accusing him of being unprofessional or using profanity.

The CPOA Investigator contacted Sergeant P.. He is Officer C.'s supervisor. Sergeant P. was briefed on your complaint and was told of the outcome you were seeking to satisfactorily resolve your complaint. Sergeant P. said that he would speak with Officer C. and that he would remind Officer C. of the policy that prohibits using profanity and he would also remind Officer C. about the need for Officer C. to be professional at all times with people regardless of their age, status, nationality, etc.

Sergeant P. confirmed that he did meet with Officer C. and he reminded Officer C. of the above. Sergeant P. believes that Officer C. took the meeting seriously and Sergeant P. believes that Officer C. will behave professionally with everyone in the future.

III. CONCLUSION

Your complaint was investigated to the fullest extent possible. The use of profanity is a minor policy violation and Officer C. does not have a disciplinary record that shows a pattern of misconduct. You asked for an informal resolution to your complaint which was completed. Officer C. was counseled by his Supervisor. Since that took place, and since the incident

Letter to Mrs. . , CPC 007-16
September 9, 2016
Page 3

involved a minor policy violation, we are administratively closing your complaint and no further investigation will be conducted.

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

Please contact me if you have any questions or concerns.

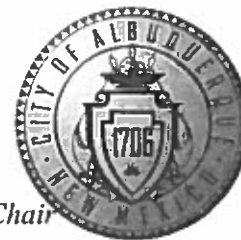
Sincerely,



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 *Beth Mohr, Chair* *Leonard Waites, Vice Chair*
Johnny J. Armijo *Dr. Susanne Brown* *Eric H. Cruz*
Joanne Fine *Dr. Carlotta A. Garcia* *Dr. Lisa M. Orick-Martinez*
Rev. Dr. David Z. Ring III
Edward Harness, Esq., Executive Director

September 9, 2016
Via Certified Mail

Re: CPC # 037-16

Dear Mrs.

Our office received the complaints you filed on March 1, 2016 against Officer P. of the Albuquerque Police Department (APD) for an incident involving your daughter, L. Coleman, which occurred on February 26, 2016. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint.

PO Box 1293

Albuquerque

New Mexico 87103

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.

www.cabq.gov

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

I. THE COMPLAINT

Mrs. _____ said her 17 year old daughter, _____, was involved in a car accident on February 26, 2016 and APD Officer P. responded. Mrs. _____ complained Officer P. failed to have immediate concern for _____ health and medical needs, which included being visibly shaken and physically injured. Mrs. _____ complained Officer P., who is white, was racially prejudiced against _____, who is black, when he gave all his attention to the other driver, who is also white. Mrs. _____ complained Officer P. discriminated also against _____ because of her age. Mrs. _____ complained Officer P. failed to add information from an independent witness to the accident who could have corroborated _____'s version of events, and whom Officer P. told to mind her own business. Mrs. _____ complained Officer P. was

dismissive towards her when she was trying to obtain information from him about the accident and said his behavior was unprofessional, was unbecoming an officer and was a violation of _____ constitutional rights.

II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING OFFICER P.'S 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, the accident report, the CADS report, Officer P.'s lapel video, and interviews with the complainant, the complainant's daughter, _____, Officer P., back-up Officer A., and Ms. _____, who was a witness to the accident.

A) The CPOA reviewed APD SOP 1-03-3 (A)(3), which states:

1-03 BIASED BASED POLICING/PROFILING

1-03-3 Rules

A. General Procedures

3. Department personnel will provide the same level of police service to every citizen regardless of their race, color, national origin or ancestry, citizenship status, language spoken, religion, gender, gender identity, sexual orientation, age, disability, or economic status.

Mrs. _____ complained that Officer P., who is white, was racially prejudiced against _____ who is black, when he gave all his attention to the other driver, who is also white. Mrs. _____ complained Officer P. also discriminated against _____ because of her age.

A review of the lapel video and the interviews revealed that Officer P. did not discriminate against _____ based on her race or age. Additionally, the other driver was identified as Hispanic and not white, as alleged in the complaint.

The CPOA finds Officer P.'s conduct to be **UNFOUNDED** regarding the allegations of violations of this SOP, which means the investigation determined, by clear and convincing evidence that the alleged misconduct did not occur or did not involve the subject officer.

B) The CPOA reviewed APD SOP 1-4-1 (F), which states:

1-4 PERSONNEL CODE OF CONDUCT

1-4-1 Compliance with Laws, Rules and Regulations

F. Personnel shall conduct themselves both on and off-duty in such a manner as to reflect most favorably on the department.

Mrs. complained that Officer P. failed to have immediate concern for health and medical needs, which included being visibly shaken and physically injured. She complained that Officer P. was dismissive towards her when she was trying to obtain information from him about the accident and said his behavior was unprofessional and unbecoming an officer.

A review of the lapel video and interviews with the complainant, Officer P. and Officer A., revealed that upon his arrival Officer P. contacted and her boyfriend, as they stood on the sidewalk, and asked, "Are you guys okay?" before he contacted the other driver. The video showed Officer P. asked and her boyfriend a second time if they were okay, to which she replied she was fine. The video revealed Officer P. told rescue personnel were going to take a look at her anyway. told the CPOA Investigator Officer P. asked her if she was okay and if she needed medical attention to which she replied she did not. also told the CPOA Investigator she was physically injured although she didn't tell Officer P. that she was as she did not want anyone touching her, to include rescue personnel.

A review of the interviews revealed that Mrs. arrived on scene to help and when she approached Officer P. to ask about details of the accident, he questioned who she was, which Mrs. described as being dismissive. The evidence revealed Officer P. failed to record the contact with Mrs.

While Officer P.'s conduct regarding having concern for well-being is unfounded, Officer P. failed to record his contact with Mrs. ; therefore the CPOA finds Officer P.'s conduct to be **NOT SUSTAINED** regarding the allegations of violations of this SOP, which means the investigation was unable to determine, by a preponderance of the evidence, whether the alleged misconduct occurred.

C) The CPOA reviewed APD SOP 1-39-1 (A) which states:

1-39 USE OF TAPE/DIGITAL RECORDERS

1-39-1 Use of Tape/Digital Recorders

A. Personnel will use issued tape/digital recorders to document the incidents listed below.

It will be the responsibility of the primary officer to ensure that the incident will be recorded in its entirety. If at any time the primary and secondary officer(s) should become separated, it will be the responsibility of the secondary officer(s) to record all their contact and/or actions during that incident. In such incidents where the primary officer tags a recording and secondary officer(s) also have a recording: all recordings will be tagged into evidence. If the primary officer tags a complete recording or there is an outside source recording tagged into evidence and no secondary recording

exist; this shall serve as meeting the requirements for this section.

Mrs. [REDACTED] complained that Officer P. failed to record their interaction, which would have proven her allegations against Officer P., to include how he was dismissive towards her.

A review of the lapel video and the interview with Officer P. revealed he did not record the contact with [REDACTED] and Mrs. [REDACTED] in its entirety.

The CPOA finds Officer P.'s conduct to be **SUSTAINED** regarding the allegations of violations of this SOP, which means the investigation determined, by a preponderance of the evidence that the alleged misconduct did occur.

D) The CPOA reviewed APD SOP 2-24-3 (A)(5)(b and f), which state:

2-24 PRELIMINARY AND FOLLOW UP CRIMINAL INVESTIGATIONS

2-24-3 Rules

A. Preliminary Investigations

5. Steps to be followed in conducting preliminary investigations that may include but are not limited to:

b. Locate, identify, and interview witnesses, victims, and suspect(s).

f. Report the incident fully and accurately.

Mrs. [REDACTED] complained that Officer P. failed to add information from an independent witness to the accident who could have corroborated [REDACTED] version of events, and told that witness to mind her own business.

A review of the lapel video and interviews with Officer P. and the independent witness, Ms. [REDACTED], revealed that upon his arrival Officer P. contacted a female bystander, later identified as [REDACTED], and asked if she was involved in the accident, to which she replied she was not; however, she pointed out the parties involved in the accident. The lapel video revealed Ms. [REDACTED] did not identify herself to Officer P. or back up Officer A. as a witness to the accident, nor did she stay on scene and provide any information to either of the officers; therefore, Officer P. did not tell her to "mind her own business", as alleged in the complaint. During her interview, Ms. [REDACTED] stated she witnessed the accident and gave her telephone number to [REDACTED] in the event [REDACTED] needed Ms. [REDACTED] to provide a statement. The evidence revealed that Ms. [REDACTED] did not call APD to report her version of events; therefore Officer P. could not add information from an independent witness he did not know existed.

The lapel video, written report and interviews with Ms. [REDACTED] and Officer P. revealed that [REDACTED] and the other driver both admitted to Officer P. they drove through the intersection against a yellow light, and that [REDACTED] made a left-hand turn across oncoming traffic. The evidence revealed that a driver who is making a left-handed turn across oncoming traffic is required to

yield the right-of-way to any oncoming traffic. If said driver fails to yield they are the driver at fault. The evidence revealed Officer P. reported the accident as fully and accurately as he could with the information he was given by both drivers and by seeing the damage to both vehicles.

The CPOA finds Officer P.'s conduct to be **UNFOUNDED** regarding the allegations of violations of this SOP, which means the investigation determined, by clear and convincing evidence that the alleged misconduct did not occur or did not involve the subject officer.

Your complaint and these findings are made part of Officer P.'s Internal Affairs records.

You have the right to appeal this decision.

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

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

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

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

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 *Beth Mohr, Chair* *Leonard Waites, Vice Chair*
Johnny J. Armijo *Dr. Susanne Brown* *Eric H. Cruz*
Joanne Fine *Dr. Carlotta A. Garcia* *Dr. Lisa M. Orick-Martinez*
Rev. Dr. David Z. Ring III
Edward Harness, Esq., Executive Director

September 9, 2016
Via Certified Mail

Re: CPC #045-16

Dear Ms.

Our office received the complaints you filed on February 16, 2016 against Officer M., Officer G. and Officer C. of the Albuquerque Police Department (APD) regarding an incident that occurred on April 30, 2015. 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

Ms. . said on April 30, 2015, APD Officers M., G. and C. took the boots off her feet, slammed her into the ground, and then shackled her arms and feet, even though she was non-violent. She complained these officers filed false battery charges against her when a simple citation could have been issued. She said the officers took photos of her injuries at the Metropolitan Detention Center (MDC) afterwards.

II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING OFFICER M.'S 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, and interviews with the complainant, Officer M., Officer G., Officer C. and witness Officer A. and Sergeant (Sgt.) B., as well as the CADs report, the written reports by Officers C., G. and A., and lapel videos from Officers M., G. and C.

A) The CPOA reviewed APD SOP 2-52-3 (A) which states:

2-52-3 GENERAL REQUIREMENTS AND EXPECTATIONS FOR ALL OFFICERS WITH REGARD TO USE OF FORCE

A. Officers may use force when objectively reasonable based on a totality of the circumstances. The objectives for which force may be appropriate include:

- To effect a lawful arrest or detention of a person.***
- To gain control of a combative prisoner.***

Ms. [REDACTED] said on April 30, 2015, APD Officer M. took the boots off her feet, slammed her into the ground, and then shackled her arms and feet, even though she was non-violent.

Ms. [REDACTED] was interviewed and repeated what was in her written complaint. Officers M., G. and C. were interviewed, as were witnesses Officer A. and Sgt. B. The CADS, written reports and lapel videos were reviewed. The lapel videos showed Officer M. was a back-up officer and made contact with Ms. [REDACTED] and stood by until he assisted Officer C. with trying to remove the boots from Ms. [REDACTED]'s feet, which was unsuccessful. After Ms. [REDACTED]'s repeated attempts to kick and eventually strike the officers, Ms. [REDACTED] was rolled on her side and the boots removed. As she was being escorted to Officer C.'s patrol car, she pulled and bent and twisted away from the officers while cursing at them. Ms. [REDACTED] refused to get into the patrol car so the officers carried her to the ground and put the Passive Restraint System (PRS), also known as shackles, on before she was ultimately placed inside the patrol car and transported to the MDC.

The lapel videos showed Officer M. did not pick Ms. [REDACTED] up and slam her into the ground, nor did he sit on her back, as alleged in her complaint. The lapel videos showed the officers shackled Ms. [REDACTED]'s feet to prevent her from kicking them.

The CPOA finds Officer M.'s conduct regarding placing Ms. [REDACTED] into shackles is exonerated as it was within APD SOPs that she be restrained; however the CPOA finds Officer M.'s conduct **UNFOUNDED** regarding the allegation of a violation of this SOP as it relates to Ms. [REDACTED] being slammed into the ground because the investigation determined, by clear and convincing evidence, that the alleged misconduct did not occur or did not involve the subject officer.

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

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable SOPs, the Complaint, and interviews with the complainant, Officer M., Officer G., Officer C. and witness Officer A. and Sgt. B., as well as the CADs report, the written reports by Officers C., G. and A., and lapel videos from Officers M., G. and C.

A) The CPOA reviewed APD SOP 2-52-3 (A) which states:

2-52-3 GENERAL REQUIREMENTS AND EXPECTATIONS FOR ALL OFFICERS WITH REGARD TO USE OF FORCE

A. Officers may use force when objectively reasonable based on a totality of the circumstances. The objectives for which force may be appropriate include:

- *To effect a lawful arrest or detention of a person.*
- *To gain control of a combative prisoner.*

Ms. said on April 30, 2015, APD Officer G. took the boots off her feet, slammed her into the ground, and then shackled her arms and feet, even though she was non-violent.

Ms. was interviewed and repeated what was in her written complaint. Officers M., G. and C. were interviewed, as were witnesses Officer A. and Sgt. B. The CADS, written reports and lapel videos were reviewed. The lapel videos showed Officer G. was a back-up officer and made contact with Ms. and stood by until he assisted Officer C. with standing Ms. up and placing handcuffs on her. After trying to remove the boots from Ms. feet and her repeatedly kicking at and striking the officers, Ms. was eventually rolled on her side and the boots removed. As she was being escorted to Officer C.'s patrol car, she pulled and bent and twisted away from the officers while cursing at them. Ms. refused to get into the patrol car so the officers carried her to the ground and put the PRS, also known as shackles, on before she was ultimately placed inside the patrol car and transported to the MDC.

The lapel videos showed Officer G. did not pick Ms. up and slam her into the ground, nor did he sit on her back, as alleged in her complaint. The lapel videos showed the officers shackled Ms. feet to prevent her from kicking them.

The CPOA finds Officer G.'s conduct regarding placing Ms. into shackles is exonerated as it was within APD SOPs that she be restrained; however the CPOA finds Officer G.'s conduct **UNFOUNDED** regarding the allegation of a violation of this SOP as it relates to Ms. being slammed into the ground because the investigation determined, by clear and

convincing evidence, that the alleged misconduct did not occur or did not involve the subject officer.

IV. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING OFFICER C.'S 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, and interviews with the complainant, Officer M., Officer G., Officer C. and witness Officer A. and Sgt. B., as well as the CADs report, the written reports by Officers C., G. and A., and lapel videos from Officers M., G. and C.

A) The CPOA reviewed APD SOP 2-52-3 (A) which states:

2-52-3 GENERAL REQUIREMENTS AND EXPECTATIONS FOR ALL OFFICERS WITH REGARD TO USE OF FORCE

A. Officers may use force when objectively reasonable based on a totality of the circumstances. The objectives for which force may be appropriate include:

- ***To effect a lawful arrest or detention of a person.***
- ***To gain control of a combative prisoner.***

Ms. [REDACTED] said on April 30, 2015, APD Officer C. took the boots off her feet, slammed her into the ground, and then shackled her arms and feet, even though she was non-violent.

Ms. [REDACTED] was interviewed and repeated what was in her written complaint. Officers M., G. and C. were interviewed, as were witnesses Officer A. and Sgt. B. The CADS, written reports and lapel videos were reviewed. The lapel videos showed Officer C. made contact with Ms. [REDACTED] and repeatedly asked her to remove the stolen boots from her feet, which she refused to do so he and Officer G. had her stand up and they placed handcuffs on her. After trying to remove the boots from Ms. [REDACTED] feet and her repeatedly kicking at and striking the officers, Ms. [REDACTED] was eventually rolled on her side and the boots removed. As she was being escorted to Officer C.'s patrol car, she pulled and bent and twisted away from the officers while cursing at them. Ms. [REDACTED] refused to get into the patrol car so the officers carried her to the ground and put the PRS, also known as shackles, on before she was ultimately placed inside the patrol car and transported to the MDC.

The lapel videos showed Officer C. did not pick Ms. [REDACTED] up and slam her into the ground, nor did he sit on her back, as alleged in her complaint. The lapel videos showed the officers shackled Ms. [REDACTED] feet to prevent her from kicking them.

The CPOA finds Officer C.'s conduct regarding placing Ms. [REDACTED] into shackles is exonerated as it was within APD SOPs that she be restrained; however the CPOA finds Officer C.'s conduct **UNFOUNDED** regarding the allegation of a violation of this SOP as it relates to Ms. [REDACTED]

being slammed into the ground because the investigation determined, by clear and convincing evidence, that the alleged misconduct did not occur or did not involve the subject officer.

Your complaint and these findings are made part of Officer M.'s, Officer G.'s and Officer C.'s Internal Affairs records.

You have the right to appeal this decision.

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

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

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

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

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 *Beth Mohr, Chair* *Leonard Waites, Vice Chair*
Johnny J. Armijo *Dr. Susanne Brown* *Eric H. Cruz*
Joanne Fine *Dr. Carlotta A. Garcia* *Dr. Lisa M. Orick-Martinez*
Rev. Dr. David Z. Ring III
Edward Harness, Esq., Executive Director

September 9, 2016
Via Certified Mail

Re: CPC #052-16

Dear Mr.

Our office received the complaint you filed on February 29, 2016 against Officers of the Albuquerque Police Department (APD), regarding an incident that was investigated by APD on March 21, 2012 and subsequent dates. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint on March 25, 2016. 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

New Mexico 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 AND INVESTIGATION

A woman that Mr. [redacted] was involved with intimately accused Mr. [redacted] of several different offenses. The woman initially reported the incident anonymously, but then decided to report the incident officially. Detective N of the sex crimes unit was assigned to the case. Mr. [redacted] filed a complaint regarding Detective N's investigation. Mr. [redacted] also believed Detective N was biased against him in how Detective N handled the case.

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable SOPs, the complaint, the police

reports, Detective N's interview, and audio recordings of phone calls, interviews, and the Grand Jury hearing.

II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING DETECTIVE N'S CONDUCT

A) The CPOA reviewed Standard Operating Procedural Order 2-24-4F2, 8, 9, & 12 regarding Detective N's conduct, which states:

Steps to be followed in conducting follow up investigations 2. Conduct additional interviews and interrogations, when necessary. 8. Collect physical evidence. 9. Identify and apprehend the suspect(s). 12. Prepare cases for court presentations and assist in the prosecutions.

Mr. [REDACTED] wrote Detective N conducted a one-sided investigation. Mr. [REDACTED] wrote one example of this was that Detective N did not conduct a "data dump" of his cell phone, but she did of the alleged victim's phone. Mr. [REDACTED] also wrote that his DNA was collected, but tests were not conducted to eliminate other possible sexual partners the alleged victim may have had. Mr. [REDACTED] wrote Detective N falsely represented facts and did not follow protocols and procedures, but his written complaint did not elaborate. Mr. [REDACTED] also wrote Detective N failed to lead, supervise, and train, but his written complaint did not elaborate. Mr. [REDACTED] claimed Detective N committed Sixth Amendment violations against him, which he did not explain how she was involved.

Detective N explained she did not perform a data dump of Mr. [REDACTED] phone because a forensic data dump pulls all information: sent, received, and deleted. Mr. [REDACTED] phone would have the same content as the victim's phone when it came to contact between the two of them. Detective N collected DNA, but orders for testing only come from the DA's office, not officers. Detective N did not know what Mr. [REDACTED] meant when he accused her of failing to lead, supervise, or train as at the time she was not in a supervisory role. Detective N had nothing to do with the circumstances that would fall under the Sixth Amendment. Given the totality of her investigation, she decided an arrest of Mr. [REDACTED] was appropriate. She prepared her case for the DA and then the DA's office does its work.

Mr. [REDACTED] was given several opportunities to participate in the investigative process, but failed to cooperate. Detective N interviewed the victim and Mr. [REDACTED]. Detective N collected evidence such as information from the cell phone, which both sides would be represented in the method of collection used. Detective N took pictures of Mr. [REDACTED] furniture that he offered as an explanation for the injuries to the victim. Detective N collected DNA, but the orders to test the DNA rest with the District Attorney's office, not the officer. Mr. [REDACTED] attorney stated Detective N followed policy and found failings with some of the ADA's actions, which are outside of the scope of the CPOA. Detective N was not in a supervisory role at the time of this investigation so it was unclear what Mr. [REDACTED] meant by his allegations involving leading, supervising, or training. The Sixth Amendment deals with mostly trial issues, which had nothing to do with Detective N. Detective N advised Mr. [REDACTED]

of his charges, which would be the primary involvement Detective N would have regarding the Sixth Amendment. The victim identified Mr. as the offender and the totality of the investigation led to the arrest of Mr. The case was prepared for the DA's office and the ADA assigned to the case took it from there.

The CPOA finds Detective N's conduct to be **Unfounded** where the investigation determined that the alleged misconduct did not occur.

III. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING DETECTIVE N'S CONDUCT

B) The CPOA reviewed Standard Operating General Order 1-04-4N regarding Detective N's conduct, which states:

Personnel will not act officiously or permit personal feelings, animosities, or friendship to influence their decisions.

Mr. wrote Detective N alleged to his attorney that he was a progressing offender even though he had no criminal record. Mr. wrote Detective N intentionally omitted facts favorable to his position to the Grand Jury in order to get a true bill against him. Mr. claimed Detective N persuaded and coached the alleged victim during questioning in the interviews and the Grand Jury. Mr. wrote Detective N may have conspired with the alleged victim to slander and destroy his reputation.

Mr. was given several opportunities to participate in the investigative process, but failed to cooperate. Mr.'s taped interview showed Mr. complained that Detective N pushed the victim into continuing with the case. Mr.'s taped interview showed Mr. accused Detective N of pushing the victim into continuing with the case, but the tape recording also showed Detective N explained that initially the victim had the option to report things informally and only at the victim's decision would the case be moved forward. However, once the victim provided a formal interview, said she wanted to file charges, and a domestic violence element became clear, then a waiver of prosecution or dropping the case was no longer an option. The tape showed Mr. talked about how he heard he had done this before, but the information was not directly from Detective N. The tape recording showed Detective N never accused him of being a progressing offender, but did ask some questions about his past involving possible sexual misconduct. The purpose of the Grand Jury is to present the information in support of the proposed charges. The process is not the same as a trial. The tape recording showed Detective N answered the questions as posed to her by the ADA. Detective N had documented in her report that the victim had returned to Mr.'s home after the incident, but the ADA did not ask questions about that fact in Grand Jury. The tape recording showed Detective N asked the victim typical questions during her interview, but she did not ask any questions during the Grand Jury as Detective N was not even in the room. There was no evidence of bias or favoritism by Detective N on the various recordings in the case.

The CPOA finds Detective N's conduct to be **Unfounded** where the investigation determined that the alleged misconduct did not occur.

You have the right to appeal this decision.

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

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

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

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

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 *Beth Mohr, Chair* *Leonard Waites, Vice Chair*

Johnny J. Armijo *Dr. Susanne Brown* *Eric H. Cruz*

Joanne Fine *Dr. Carlotta A. Garcia* *Dr. Lisa M. Orick-Martinez*

Rev. Dr. David Z. Ring III

Edward Harness, Esq., Executive Director

September 9, 2016

Via Certified Mail

Re: CPC # 053-16

Dear Ms

Our office received the complaint you filed on March 7, 2016 against Communications Operator T. of the Albuquerque Police Department (APD) regarding an incident which occurred on March 1, 2016. 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 Operator 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

New Mexico 87103

Please be aware, the contract between the Albuquerque Police Officers' Association (APOA) and the City of Albuquerque requires that officers and operators cooperate in the investigation; therefore, the officer's and operator'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

Ms. [redacted] said that on March 1, 2016, she heard an argument followed by four gunshots at her apartment complex. She complained she called APD 911 to report the incident Operator T. asked her a series of questions, to include if she wanted officer contact, to which she responded she did not because she didn't want the shooter to know she called. She complained that instead of reassuring her that officers were on their way, Operator T. hung up on her because she was a hysterical caller. She complained that Operator T. failed to provide safety.

II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING OPERATOR T.'S 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, interviews with Ms. Archie and Operator T., the CADS reports, the officer's written report regarding this incident, and the recorded call between Ms. Archie and Operator T.

A) The CPOA reviewed APD SOP 2-01-10 (D)(2), which states:

2-01-10 911 GUIDELINES

D. TELEPHONE CONDUCT

2. Use telephone etiquette on every telephone call. The call taker will make a reasonable effort to supply information and/or assistance to a caller. When necessary, promptly refer the caller to the appropriate department, section, or outside agency.

Ms. _____ complained she called APD 911 to report an incident and 911 Operator T. asked her a series of questions, to include if she wanted officer contact, to which she responded she did not because she didn't want the shooter to know she called. She complained that instead of reassuring her that officers were on their way, Operator T. hung up on her because she was a hysterical caller. She complained that Operator T. failed to provide safety.

A review of the interviews, the CADS and written report, along with the recorded 911 call between Operator T. and Ms. _____ revealed Operator T. asked the appropriate amount of questions in an attempt to ascertain the nature of Ms. _____ call. The recorded call revealed Ms. _____, frustration with Operator T. and his line of questioning. The recorded call revealed Operator T. hung up on Ms. _____ once he obtained enough information. The evidence revealed Operator T. did not use telephone etiquette on this call when he hung up on Ms. _____.

The CPOA finds Operator T.'s conduct to be **SUSTAINED** regarding the allegations of violations of this SOP, which means the investigation determined, by a preponderance of the evidence, that the alleged misconduct did occur.

Your complaint and these findings are made part of Operator T.'s Internal Affairs records.

You have the right to appeal this decision.

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

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

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

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

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 *Beth Mohr, Chair* *Leonard Waites, Vice Chair*
Johnny J. Armijo *Dr. Susanne Brown* *Eric H. Cruz*
Joanne Fine *Dr. Carlotta A. Garcia* *Dr. Lisa M. Orick-Martinez*
Rev. Dr. David Z. Ring III
Edward Harness, Esq., Executive Director

September 9, 2016
Via Certified Mail

Re: CPC #066-16

Dear Mr.

Our office received the complaint you filed on March 25, 2016 against Personnel of the Albuquerque Police Department (APD), regarding an incident that occurred March 14, 2016. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint on April 20, 2016. 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

New Mexico 87103

Below is a summary of the complaint, the CPOA's investigation, and findings.

I. THE COMPLAINT AND INVESTIGATION

www.cabq.gov

Mr. complaint was that officers never showed to his home when he and his young son called for service. Mr. was not home at the time and officers said they would respond to his home to assist his thirteen-year-old son. Mr. daughter, who no longer lived at the home, was attempting to gain entry, scaring his son, prompting the call for police service. Officers never responded until Mr. called several hours later to find out what happened. notified the Communications Manager about his concerns. The Communications Manager completed a memo about Mr. complaint and the preliminary information she gathered; then this investigation commenced.

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable SOPs, the complaint, the Computer Aided Dispatches (CADs), the recorded calls for service, Mr. 's interview, Operator M's interview, Dispatcher G's interview, and a conversation with supervisory staff.

II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING OPERATOR M'S CONDUCT

A) The CPOA reviewed Standard Operating General Order 1-04-4A regarding Operator M's conduct, which states:

Personnel shall constantly direct their best efforts to accomplish the functions of the department intelligently and efficiently.

The Communications Manager received a verbal complaint from Mr. _____ about the handling of a call. In the Communication Manager's preliminary review of the incident and collection of the calls, she identified a misstatement by Operator M while Operator M spoke to a caller. Operator M advised the caller that the officers were responding with lights and sirens when the call was not a priority one call.

The call recording confirmed the statement was made about responding with lights and sirens. Operator M admitted making a mistake. The complainant was unaware the misstatement even occurred. It was only discovered when the communications manager listened to all of the calls involved in the incident. The issue is perhaps a customer service concern, but does not rise to the level of a policy violation.

The CPOA finds Operator M's conduct to be **Exonerated** where the investigation determined the alleged conduct did occur, but did not rise to a level to violate APD policies, procedures, or training.

III. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING DISPATCHER G'S CONDUCT

A) The CPOA reviewed Standard Operating General Order 1-04-4A regarding Dispatcher G's conduct, which states:

Personnel shall constantly direct their best efforts to accomplish the functions of the department intelligently and efficiently.

Mr. _____ complained that officers never responded to his call for service, leaving his thirteen-year-old son home in potential danger. Mr. _____ expressed concern for his son's safety because his estranged daughter was trying to get in the house and the situation could have escalated. Mr. _____ called police again when he got home about three hours later. Officers would have never arrived to his home had he not called again.

Dispatcher G explained there is a known system glitch that the system will close a call out and not send officers when the system should have left the call pending. Dispatcher G blamed the failure of units not being sent to Mr. _____ call due to this issue. It is difficult to keep track of calls that might have closed based on the call volume. Dispatcher G stated this issue has been brought to the attention of her immediate supervisors and a topic of discussion with other dispatchers.

This system issue was explored further with two Communications supervisors. They explained that in a specific set of circumstances, which occurred in this call, a known performance issue occurs where the call is closed out instead of being placed in a pending status. The supervisors stated this issue has been discussed with dispatchers to be cognizant of their calls. However, the expectation of a dispatcher to keep track of all calls where an officer clears the call themselves and then a dispatcher later redirects officers is unreasonable given the numbers of calls a dispatcher deals with at a given time. The dispatcher should not be held accountable for a system failure. The department should take action to resolve the issue with the vendor.

The CPOA finds Dispatcher G's conduct to be **Exonerated** where the investigation determined the alleged conduct did occur, but did not rise to a level to violate APD policies, procedures, or training.

You have the right to appeal this decision.

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

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

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

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

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

Letter to Mr. _____, CPC 066-16

September 9, 2016

Page 4

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

Sincerely,
The Civilian Police Oversight Agency by



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 *Beth Mohr, Chair* *Leonard Waites, Vice Chair*
Johnny J. Armijo *Dr. Susanne Brown* *Eric H. Cruz*
Joanne Fine *Dr. Carlotta A. Garcia* *Dr. Lisa M. Orick-Martinez*
Rev. Dr. David Z. Ring III
Edward Harness, Esq., Executive Director

September 9, 2016
Via Certified Mail

Re: CPC #076-16

Dear Mr.

Our office received the complaint you filed on April 28, 2016 against Officers of the Albuquerque Police Department (APD) regarding an incident that occurred on April 14, 2016. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. On May 9, 2016 we transferred your case to the Internal Affairs Division (IAD) of Albuquerque Police Department because you alleged an APD officer stole \$180.00 case from you.

PO Box 1293

Albuquerque

New Mexico 87103

www.cabq.gov

Upon completion of the investigation the CPOA reviewed the IAD investigation and 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 concur with the findings from IAD. They are as follows:

FINDINGS

Did Officer B. comply with Albuquerque Police Department General Order #1-4-1(A), which mandates:

1-4-1 COMPLIANCE WITH LAWS, RULES, AND REGULATIONS

Personnel shall obey all laws, rules, and regulations, and to the best of their abilities, protect the rights of the people as provided in the Constitution of the United States.

After reviewing the interviews and the evidence, it was determined the alleged misconduct did not occur. The allegation of criminal misconduct concerned whether Officer B. stole \$180 from Officer B.'s lapel video includes several instances in which Officer B. asks about the property on his person. In each instance, _____ confirms to Officer B. that he only has change in his pockets. At one point in the video, Officer B. removes the property from _____ pockets and places it on the rear-hood of his police vehicle. The property included a set of keys, a cellular phone, and many coins. In the process of emptying Mr. _____ pockets, Officer B. drops something on the ground. Officer B. indicates it is a number of coins (change) and is later seen retrieving it from the ground. The coins are not visible on camera but the sound of solid objects (coins) can be heard as Officer B. picks them up. At no point in the lapel videos is \$180 ever mentioned or observed.

This issue is "UNFOUNDED", which means the investigation determines, by clear and convincing evidence, that the alleged misconduct did not occur or did not involve the subject officer.

Did Officer B. comply with Albuquerque Police Department General Order #1-8-2(8)(1), which mandates:

1-8-2 EMERGENCY MEDICAL SERVICES

Serious Injury

In cases of serious injury, illness, or suspected death, personnel shall immediately request AFD rescue. Transportation of victims will be provided by department personnel only in extreme emergencies. Personnel will have Communications make every attempt to contact next of kin to advise them of the nature of the injury/illness and the location of the victim.

After reviewing the interviews and the evidence it was determined the alleged misconduct did not occur. Officer B. did not deprive _____ of medical assistance as it was never requested by Mr. _____. Furthermore, no evidence was provided to Officer B. to suggest Mr. _____ was in need of emergency medical services. The first instance in which _____ tells Officer B. that he is having a panic attack was unheard. Officer B. asks Mr. _____ twice to repeat himself but received no answer. When Mr. _____ mentions panic attacks a second and final time, he says, "I have panic attacks, especially around law enforcement". At this point, Officer B. attempts to calm him down and tells him to take several deep breaths. The statement that Mr. _____ made (which was ultimately heard and acknowledged by Officer B.) was not definitive but hypothetical. Per the SOP section which dictates the use of Emergency Medical Services, Officers are required to request AFD rescue in

the case of serious injury, illness, or suspected death. There was no indication that _____ was seriously ill or injured.

This issue is "UNFOUNDED", which means the investigation determines, by clear and convincing evidence, that the alleged misconduct did not occur or did not involve the subject officer.

Did Officer B. comply with Albuquerque Police Department General Order #2-52-3(A)(4), which mandates:

USE OF FORCE

General Requirements and Expectations of All Officers with Regard to All Use of Force Incidents

When force is necessary and objectively reasonable, officers must strive to use the minimum amount of force necessary in the available range of objectively reasonable force options

After reviewing the interviews and the evidence it was determined the alleged misconduct did not occur. _____ alleged in his original complaint that Officer B. had used excessive force while buckling his seatbelt and caused physical injury. He further explained Officer B. had shoved his face in a leftward direction using his hand. The lapel video does not visually prove or disprove this action because of how dark the display is. However, the audio captures the sound of a seatbelt clicking and nothing else. There are no sounds of force, violence, or struggle. Once the seatbelt clicks, _____ says, "Thank you. I appreciate it." and then continues to speak with Officer B. in a cordial manner. His demeanor is inconsistent with someone who had just suffered a physical injury as a result of excessive force. During the criminal review, Lt. _____ (Investigative Response Team) noted that he spoke with MDC medical personnel who reviewed Mr. _____'s intake documents. They state that Mr. _____ had no injuries at the time of his intake or complaints of any injuries. Officer B. stated in his interview that he handcuffed _____ the way he was trained in the academy which is to say he placed his forearm across Mr. _____'s body and placed his hand on Mr. _____'s left shoulder. This is done in order to prevent a handcuffed prisoner from lurching forward and causing harm to a police officer while they are in the precarious position of buckling a prisoner's seatbelt.

This issue is "UNFOUNDED", which means the investigation determines, by clear and convincing evidence, that the alleged misconduct did not occur or did not involve the subject officer.

Did Officer B. comply with Albuquerque Police Department General Order #2-52-3(A)(10), which mandates:

USE OF FORCE

General Requirements and Expectations of All Officers with Regard to

All Use of Force Incidents

10. Officers are prohibited from using force against persons in handcuffs, except as objectively reasonable to prevent imminent bodily harm to the officer or another person or persons, to overcome active resistance, or where physical removal is necessary to overcome passive resistance.

After reviewing the interviews and the evidence, it was determined the alleged misconduct did not occur. [redacted] alleged in his original complaint that Officer B. had used excessive force while buckling his seatbelt and caused physical injury. He further explained Officer B. had shoved his face in a leftward direction using his hand. The lapel video does not visually prove or disprove this action because of how dark the display is. However, the audio captures the sound of a seatbelt clicking and nothing else. There are no sounds of force, violence, or struggle. Once the seatbelt clicks, [redacted] says, "Thank you. I appreciate it." and then continues to speak with Officer B. in a cordial manner. His demeanor is inconsistent with someone who had just suffered a physical injury as a result of excessive force. During the criminal review, Lt. [redacted] (Investigative Response Team) noted that he spoke with MDC medical personnel who reviewed Mr. [redacted] intake documents. They state that Mr. [redacted] had no injuries at the time his intake or complaints of any injuries. Officer B. stated in his interview that he handcuffed [redacted] the way he was trained which is to say he placed his forearm across Mr. [redacted] body and placed his hand on Mr. [redacted] left shoulder. This is done in order to prevent a handcuffed prisoner from lurching forward and causing harm to a police officer while they are in the precarious position of buckling a prisoner's seatbelt.

This issue is "UNFOUNDED", which means the investigation determines, by clear and convincing evidence, that the alleged misconduct did not occur or did not involve the subject officer.

You have the right to appeal this decision.

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

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

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



CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board *Beth Mohr, Chair* *Leonard Waites, Vice Chair*
Johnny J. Armijo *Dr. Susanne Brown* *Eric H. Cruz*
Joanne Fine *Dr. Carlotta A. Garcia* *Dr. Lisa M. Orick-Martinez*
Rev. Dr. David Z. Ring III
Edward Harness, Esq., Executive Director

September 9, 2016
Via Email

Melissa O'Connell

Re: CPC # 079-16

Dear Ms.

Our office received the complaint you filed on April 12, 2016 against Communications Operator S. of the Albuquerque Police Department (APD) regarding an incident which occurred on April 11, 2016. 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 Operator 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

New Mexico 87103

Please be aware, the contract between the Albuquerque Police Officers' Association (APOA) and the City of Albuquerque requires that officers and operators cooperate in the investigation; therefore, the officer's and operator'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

Ms. said that on April 11, 2016 at 7:31 PM, she contacted 242-COPS to add information to a call her son made to 242-COPS at about 6:10 PM that same day, regarding a 14 year old boy having been kicked out of his home by his family. Ms. complained the male operator, identified as Operator S., obtained the additional information from her and abruptly hung up on her when she wasn't done talking. She complained Operator S. gave no warning before disconnecting the call and his actions were unprofessional. Ms. suggested Operator S. receive additional customer service training.

**II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD
OPERATING PROCEDURES REGARDING OPERATOR S.'S 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, the interview with Operator S., and the recorded call between Ms. [REDACTED] and Operator S. NOTE: The CPOA Investigator was unable to contact Ms. [REDACTED], therefore she was not interviewed and this investigation was based solely on her written complaint.

A) The CPOA reviewed APD SOP 1-04-4 (Q), which states:

1-04-4 CONDUCT WHILE ON-DUTY

Q. Personnel shall obtain information in an official and courteous manner, and act upon it in a proper and judicious manner, within the scope of their duties, and consistent with established department procedures whenever any person requests assistance or advice, or makes complaints or reports, either by telephone or in person.

Ms. [REDACTED] complained she called 242-COPS to give additional information about a previous call made by her son and after Operator S. obtained the additional information from her he abruptly and without warning disconnected the call.

A review of the 242-COPS recorded call, along with Operator S.'s interview, revealed that Operator S. answered Ms. [REDACTED] telephone call and obtained additional information from her regarding an earlier call and once he obtained that information he abruptly and without warning hung up on her.

The CPOA finds Operator S.'s conduct to be **SUSTAINED** regarding the allegation of violations of this SOP, which means the investigation determined, by a preponderance of the evidence that the alleged misconduct did occur.

Your complaint and these findings are made part of Operator S.'s Internal Affairs records.

You have the right to appeal this decision.

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

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

- A) The APD policy or APD policies that were considered by the POB were the wrong policies or they were used in the wrong way; or,
- B) The APD policy or APD policies considered by the POB were chosen randomly or they do not address the issues in your complaint; or,

- C) The findings of the POB had no explanation that would lead to the conclusion made by the POB; or,
- D) The findings by the POB were not supported by evidence that was available to the POB at the time of the investigation.

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

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 *Beth Mohr, Chair* *Leonard Waites, Vice Chair*
Johnny J. Armijo *Dr. Susanne Brown* *Eric H. Cruz*
Joanne Fine *Dr. Carlotta A. Garcia* *Dr. Lisa M. Orick-Martinez*
Rev. Dr. David Z. Ring III
Edward Harness, Esq., Executive Director

September 9, 2016
Via Certified Mail

Re: CPC #115-16

Dear Ms. _____

Our office received the complaint you filed against Albuquerque Police Department (APD) Officer N. April 26, 2016, regarding an incident that occurred on that same day. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint on July 1, 2016. The CPOA made findings of whether the Albuquerque Police Department (APD) officers involved violated Standard Operating Procedures (SOPs) based on a preponderance of the evidence. A preponderance of the evidence means that one side has a greater weight of evidence that is more credible and convincing than the other side. Another way of saying it is more than 50% of the credible evidence. If the credible evidence is 50-50, the proper finding is Not Sustained.

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

I. THE COMPLAINT

Ms. _____ called in her complaint to the Civilian Police Oversight Agency on April 26, 2016 and her complaint was taken over the phone by a CPOA Investigator. Ms. _____ said that at 8:45 AM on April 26, 2016, she called the Albuquerque Police Department to report an attempted burglary at her business located at _____ Central Avenue. Ms. _____ waited for an officer to come out but no officer responded. Ms. _____ called the police department back at about 3:00 PM and the operator told her that according to the information that the operator had, an officer did respond to the call around 9:30 AM and the officer was logged out on the call for about 20 minutes. Ms. _____ complained that if an officer did respond to her call for service, the officer never contacted her or any of her employees. A second officer was sent out after that and the second officer documented the incident. Ms. _____ stated that it was important that someone, such as the original officer's supervisor, knew that the original officer did not respond to the call for service.

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

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable Standard Operating Procedures (SOPS), the Complaint, the Computer Assisted Dispatch (CAD) report, recorded interviews with Ms. [REDACTED], APD Officer N., and a review of the officer's lapel camera video recording of the incident.

A) The CPOA reviewed Standard Operating Procedure 1-7-2 F (2) regarding APD Officer N.'s conduct, which states:

Ms. [REDACTED] complained that an officer did not respond to her call for service and that if an officer did, the officer never contacted her or any of her employees. Ms. [REDACTED] stated that it was important that someone, such as the original officer's supervisor, knew that the original officer did not respond to the call for service.

The investigation showed that the original officer dispatched to the call was Officer N.. Ms. [REDACTED]'s business, located at [REDACTED] Central Avenue, and a mental health transitional living facility, located at [REDACTED] Central Avenue are connected by a common wall and are one door away from each other. When Officer N. got out of his car at the call, he was approached by a female from the mental health transitional living facility. Officer N. assumed that female was the person who had called the police earlier to report an attempted burglary. Officer N. spoke with the woman in the courtyard of the facility. The lapel video showed Officer N. ask the woman, "So why did you call the police today?" Instead of the woman saying that she did not call the police, the woman told Officer N. that someone had tried breaking into her room. The two talked about that and Officer N. also spoke with two staff members and even mentioned Ms. [REDACTED] by name. The staff members acted as if they did not know who Ms. [REDACTED] was (because they didn't) and the staff members said that the clients sometimes get ahold of phones and they call the police to report such things. Officer N. believed that he did handle the original call for service based on what the woman, whom he had contacted, told him. There was no intent by Officer N. not to handle the original call. Officer N. made a reasonable assumption that the woman whom he dealt with was the person who had called the police.

Ms. [REDACTED] was contacted by the CPOA Investigator and she was told what the investigation revealed. She was very understanding and satisfied with the response and said that no further action was required on behalf of this office.

The CPOA finds Officer N.'s conduct to be **Exonerated**, as the investigation determined by a preponderance of the evidence that the alleged conduct did occur but did not violate APD policies, procedures, or training.

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

You have the right to appeal this decision.

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

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

- A) The APD policy or APD policies that were considered by the POB were the wrong policies or they were used in the wrong way; or,
- B) The APD 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



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 *Beth Mohr, Chair* *Leonard Waites, Vice Chair*

Johnny J. Armijo *Dr. Susanne Brown* *Eric H. Cruz*

Joanne Fine *Dr. Carlotta A. Garcia* *Dr. Lisa M. Orick-Martinez*

Rev. Dr. David Z. Ring III

Edward Harness, Esq., Executive Director

September 9, 2016

Via Certified Mail

Re: CPC #117-16

Dear Mrs.

Our office received the complaint you filed against Albuquerque Police Department (APD) Officer S. via e-mail on June 9, 2016, regarding an incident that occurred on June 5, 2016. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint on July 5, 2016. The CPOA made findings of whether the Albuquerque Police Department (APD) Officer involved violated Standard Operating Procedures (SOPs) based on a preponderance of the evidence. A preponderance of the evidence means that one side has a greater weight of evidence that is more credible and convincing than the other side. Another way of saying it is more than 50% of the credible evidence. If the credible evidence is 50-50, the proper finding is Not Sustained.

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

I. THE COMPLAINT

Mrs. _____ wrote in her complaint that on June 5, 2016 ADT Alarm Company called APD to notify them of alarm that had been activated at Ms. _____ residence. Ms. _____ stated that they were out of town camping and had no phone service at the time that this incident occurred. Ms. _____ stated that the gate to the backyard was locked but the front door had been exited, was unlocked, and the screen door was also unlocked. The sliding glass back door to the residence was smashed out. Officer S. responded to the alarm call but he never tried the front door, nor did he make any effort to view the back yard. The neighbor offered Officer S. a ladder so that he could look over the brick wall but the officer refused the offer. Mrs. _____ stated that her home was left unsecured until the next day when they finally had cell service and became aware of the call from the alarm company. The police were called back and a second officer went to the home and took a report. Mrs.

PO Box 1293

Albuquerque

New Mexico 87103

www.cabq.gov

complained that Officer S. was incompetent when it came to investigating the property for signs of a possible break in.

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

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable Standard Operating Procedures (SOPS), the Complaint, the Computer Assisted Dispatch (CAD) report, recorded interviews with Mrs. , APD Officer S., and a recorded interview with Mrs.

neighbor, There was no lapel camera video of the officer's actions as this type of incident is not required to be recorded.

A) The CPOA reviewed Standard Operating Procedure 2-24-4 A (5) a, regarding APD Officer S.'s conduct, which states:

Steps to be followed in conducting preliminary investigations may include but are not limited to:

a. Observe all conditions, events, and remarks.

Mrs. wrote in her complaint that on June 5, 2016 ADT Alarm Company called APD to notify them of alarm that had been activated at Ms. : residence. Ms.

stated that they were out of town camping and had no phone service at the time that this incident occurred. Ms. stated that the gate to the backyard was locked but the front door had been exited, was unlocked, and the screen door was also unlocked. The sliding glass back door to the residence was smashed out. Officer S. responded to the alarm call but he never tried the front door, nor did he make any effort to view the back yard. The neighbor offered Officer S. a ladder so that he could look over the brick wall but the officer refused the offer. Mrs. stated that her home was left unsecured until the next day

when they finally had cell service and became aware of the call from the alarm company. The police were called back and a second officer went to the home and took a report. Mrs. complained that Officer S. was incompetent when it came to investigating the property for signs of a possible break in.

The investigation showed that the home had an alarm sensor on the back door but it was a contact sensor and not a glass breakage sensor. When the glass was broken out of the back door, the alarm was not activated. When ADT called APD, they informed APD that only the motion sensor in the living room and the contact sensor on the front door had been activated. There was no information provided that there was any activity in the back of the house.

Officer S. responded to the call and he checked the front of the home for signs of forced entry and found none. Officer S. said that he did try the front door by pushing on it and it appeared to be secure. He looked in through a widow and he did not see anything out of the ordinary or anything that appeared to be disturbed in the home. Officer S. tried the gate to the back yard but it was locked. The investigation showed that Officer S. did have a conversation with the neighbor but he did not remember them offering him a ladder.

Ms. [redacted] reported that she got involved in this incident the day after Officer S. responded to the home. She said that her mother, a neighbor of Mrs. [redacted] received a telephone call from Mrs. [redacted] saying that an alarm had been activated at the house and Mrs. [redacted] asked if her mother could go check on the home. Ms. [redacted] told her mother that she would go over and check the house.

Ms. [redacted] said that she went to the [redacted] home and she didn't see anything unusual. She said that the screen door was unlocked but that the front door was tightly shut. She said that she pushed on the front door and it didn't move. Ms. [redacted] went back and her mother called Mrs. [redacted] and her mother told Mrs. [redacted] specifically that the screen door was unlocked but the front door was tightly shut. Mrs. [redacted] told Ms. [redacted] s mother that the screen door should have been locked. Ms. [redacted] returned to the house with her dog and she tried the front door again. This time it opened. When she went in she saw that the sliding glass back door was shattered out. She returned to her mother's house and she called Mrs. [redacted] back and told her that the house had been broken into. They then called the police.

Mrs. [redacted] told the CPOA Investigator that based on what she had learned from the alarm company, the burglar must have smashed the glass, activated the motion sensor in the living room, then went to the bedroom where another sensor was activated. The burglar then left through the front door. Mrs. [redacted] believed that the burglar was already gone by the time Officer S. arrived.

Mrs. [redacted] acknowledged that even if the officer would have discovered the burglary, there was no way that she could have been contacted by the department or by the alarm company because they had no cell service. She said that the alarm company also failed to call her son who was next on the call down list to see if he could respond to the home to check it out. She said had the alarm company done that, her son would have discovered the burglary that night. She said that the thought of her house being unsecured all night just sickened her.

Mrs. [redacted] was asked how she would like her complaint resolved. She said that she didn't want the officer to get into any trouble but that the officer needs to be told that in the future, on calls like these, he needs to do a better job investigating. He should be more aware and more diligent when he handles calls like these.

A preponderance of the evidence convinces me that Officer S. did check the front door and the front of the home for signs of forced entry and that he found none. It appeared to him that everything was secure and there was no indication from the alarm company that there was any activity at the back of the house. The alarm company never told the police that the bedroom sensor had been activated. Ms. [redacted] went the next day to the house and did the same thing that Officer S. did. She too believed initially that home was secure and had not been broken into.

The CPOA finds Officer S.'s conduct to be **Exonerated**, where the investigation determined that the alleged conduct did occur but it did not violate APD policies, procedures, or training.

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

You have the right to appeal this decision.

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

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

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

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

If you have a computer available, we would greatly appreciate your completing our client survey form at <http://www.cabq.gov/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 *Beth Mohr, Chair* *Leonard Waites, Vice Chair*
Johnny J. Armijo *Dr. Susanne Brown* *Eric H. Cruz*
Joanne Fine *Dr. Carlotta A. Garcia* *Dr. Lisa M. Orick-Martinez*
Rev. Dr. David Z. Ring III
Edward Harness, Esq., Executive Director

September 9, 2016
Via Certified Mail

Re: CPC #121-16

Dear Mr.

Our office received the complaint you filed against Albuquerque Police Department (APD) Officer S. and Officer Y. on June 13, 2016, regarding an incident that occurred on May 14, 2014. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint on July 5, 2016. The CPOA made findings of whether the Albuquerque Police Department (APD) Officers involved violated Standard Operating Procedures (SOPs) based on a preponderance of the evidence. A preponderance of the evidence means that one side has a greater weight of evidence that is more credible and convincing than the other side. Another way of saying it is more than 50% of the credible evidence. If the credible evidence is 50-50, the proper finding is Not Sustained.

Please be aware, the contract between the Albuquerque Police Officer's 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. [redacted] wrote in his complaint that the incident that he was complaining of occurred in May of 2014. In July of 2014, Mr. [redacted] was involved in a major car accident which caused him a brain injury. It was only now that he was able to file his complaint. Mr. [redacted] wrote in his complaint that on May 14, 2014 he was asleep on his couch in his home located at 228 ½ Chama. There was a knock at his door. When Mr. [redacted] answered the door, a police officer in a yellow shirt asked Mr. [redacted] to step outside. When Mr. [redacted] did, the officer wearing the yellow shirt pushed Mr. [redacted] against the screen door and handcuffed Mr. [redacted]. When Mr. [redacted] asked the officer in the yellow shirt what all of this was about the officer did not answer him. The officer in the yellow shirt then told Mr. [redacted] that he was going to take Mr. [redacted] guns. Mr. [redacted] wrote that he unleashed a profanity laced response to the officer and Mr. [redacted] accused the officer of attempting to violate his Second Amendment right. The officer did not take his guns. The

PO Box 1293

Albuquerque

New Mexico 87103

www.cabq.gov

officer in the yellow shirt then forced Mr. to go to the hospital. A medic who was on scene lied saying that Mr. hand was infected and the medic also suspected that Mr. was on speed. Mr. submitted a hospital report that he believed contradicted everything that the neighbor and medic said. The officer in the yellow shirt never did tell Mr. what this was all about. Mr. complained that the officer in the yellow shirt violated his civil rights by handcuffing him with no reason to do so. He claimed that the officer tried three times to take his guns.

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

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable Standard Operating Procedures (SOPS), the Complaint, the Computer Assisted Dispatch (CAD) report, the phone call placed to APD for assistance, the police report, a medical report, recorded interviews with Mr. , APD Officer S., APD Officer Y., and APD Officer G., and a recorded interview with Mr. 's mother, Mrs. . This complaint was filed two years and one month after the incident took place. Lapel camera video is only retained for 180 days. The lapel camera video that was recorded was deleted long before the complaint was filed.

A) The CPOA reviewed Standard Operating Procedure 1-02-2 B (2) regarding APD Officer S.'s conduct, which states:

Officers shall familiarize themselves with and have working knowledge of all laws of the State of New Mexico and the Ordinances of the City of Albuquerque which they are required to enforce. Officers shall...Make only those arrests, searches, and seizures which they know or should know are legal and in accordance with departmental procedures.

Mr. complained that in May of 2014, a police officer in a yellow shirt knocked on Mr. door and asked Mr. to step outside. When Mr. did, the officer wearing the yellow shirt pushed Mr. against the screen door and handcuffed Mr. . When Mr. asked the officer in the yellow shirt what all of this was about the officer did not answer him. The officer in the yellow shirt then told Mr. that he was going to take Mr. guns. Mr. wrote that he unleashed a profanity laced response to the officer and Mr. accused the officer of attempting to violate his Second Amendment right. The officer did not take his guns. The officer in the yellow shirt then forced Mr. to go to the hospital. Mr. submitted a hospital report that he believed contradicted everything. The officer in the yellow shirt never did tell Mr. what this was all about. Mr. complained that the officer in the yellow shirt violated his civil rights by handcuffing him with no reason to do so. He claimed that the officer tried three times to take his guns.

The evidence in this case, the police report, the CADS report, interviews with the police officers involved, and interviews of Mrs. and a confidential source all confirm

that Mr. recollection of the event over two years ago is inaccurate. There was no police officer in a yellow shirt.

The facts as revealed by the investigation showed that Mrs. and her husband were concerned for Mr.'s well-being. Mr.; Mrs. and the medical record showed that Mr. had only days before the incident severely burned his hand when a candle that he was holding exploded. The record and the evidence show that Mr. had, at the time, experienced episodes of mania and had a history of bipolar disorder. Mr. when interviewed, told the CPOA Investigator that the injury to his hand was so severe that he was in and out of consciousness for 3-4 days. He was treating his burn with a sunburn medication spray, toilet paper, and corn starch. Mr. mother, Mrs. , told the CPOA Investigator that on the day the incident took place, Mr. was suffering from psychosis, that he was not feeling well at all, and that he was sick to his stomach. Mr.'s parents had tried to get him help for the mental health issues that that Mr. was experiencing but had been unable to do so. A neighbor suggested a crisis intervention call and it was Albuquerque Ambulance who requested that the police contact Mr. first before they went in to speak with Mr. The call that was placed to dispatch was reviewed and the caller told the APD that Mr. had guns in the home. Mrs. also told the police when they arrived on scene that Mr. had access to guns, not because she thought that Mr. would use those guns but because she felt that she needed to let the officers know that he did have access to guns.

The police officers who responded to the call are Crisis Intervention Trained officers. Officer S. looked through the window and saw Mr. vomiting into a bucket. Mrs. confirmed that Mr. was sick to his stomach that day. Officer S. had another officer, Officer G., phone Mr. and that officer asked Mr. to come outside. Mr. claimed that he was asleep on the couch and that there was a knock at the door and that his phone was not working at that time. In any case, Mr. stepped outside. Mr. was handcuffed and pat searched for the safety of all. The detention was brief and once it was determined that Mr. was cooperative with the police and was not armed, he was released from the handcuffs.

Mr. claimed that he unleashed a profane laced reply to the officer who tried to take his guns. There is nothing in the record to prove that Mr. did so. Had Mr. been angry, or if he used profanity, or if he would not have been cooperative with the police it would have been noted in the reports somewhere. The notation in the CADS report is exactly the opposite of that. It said that Mr. was respectful and cooperative during the encounter. The confidential source who saw part of the interaction between Mr. and the police said that they did not see Mr. handcuffed and that any interaction that they did witness, appeared to be polite and respectful. There was no yelling by the police or by Mr.

Officer S. did ask Mr. about his guns. The CADS report and the police report indicated that Mr. gave the officers permission to enter his home. Officer S. saw the guns and asked Mr. if he wanted the police to take his guns for safekeeping while he

was being treated. Mr. [REDACTED] told the police that he did not want his guns taken for safekeeping. Officer S. expressed that he asked to take the guns because it was clear that Mr. [REDACTED] was suffering from mental and physical illness and was not taking his medications. He felt that self-treating such a severe wound with toilet paper was most likely not a proper way to care for a wound. Officer S. felt that Mr. [REDACTED] could get worse and end up posing a danger to himself or others. Officer S. felt that if Mr. [REDACTED] would allow the officers to take the guns for safekeeping, that Mr. [REDACTED] would not have access to them if he did get worse. Mr. [REDACTED] did not allow the officers to take the guns for safekeeping. There was no violation of any second amendment right because the officer asked Mr. [REDACTED] if he could take the guns for safekeeping. All parties admit the guns were not seized.

Mr. [REDACTED] further alleged that he was forced to go to the hospital by the police. The evidence simply does not support that. Officer S. indicated that Mr. [REDACTED] agreed, voluntarily, to go to the hospital with the Ambulance Personnel. Mrs. [REDACTED] said that Mr. [REDACTED] agreed to go voluntarily to the hospital. The record would have shown if that was not the case. For example, any time a person is taken involuntarily to the hospital for a mental health evaluation, the officer must fill out a statement showing why the officer felt the person was mentally ill. No such document exists in this case. Furthermore, if he was taken involuntarily as he claims, the officer would have followed the ambulance to the hospital and they would have remained there until Mr. [REDACTED] was released. That did not happen in this case. A preponderance of the evidence showed that Mr. [REDACTED] was not forced to go to the hospital but that he went voluntarily. The medical record did show that Mr. [REDACTED]'s hand was not infected and that he did not appear at the time to be mentally ill even though they noted his history with mental illness.

Lastly, Mrs. [REDACTED] told the CPOA Investigator this, "It's turned out pretty well for because he finally did get, you know, help. We finally got him to a psychiatrist and he's quit drinking, 16 months ago, so he's been doing awfully well."

The CPOA finds Officer S.'s conduct to be **Unfounded**, as the investigation determined by clear and convincing evidence that the alleged misconduct did not occur.

B) The CPOA reviewed Standard Operating Procedure 1-02-2 B (2) regarding APD Officer Y.'s conduct, which states:

Officers shall familiarize themselves with and have working knowledge of all laws of the State of New Mexico and the Ordinances of the City of Albuquerque which they are required to enforce. Officers shall...Make only those arrests, searches, and seizures which they know or should know are legal and in accordance with departmental procedures.

Mr. [REDACTED] complained that the officer in the yellow shirt violated his civil rights by handcuffing him with no reason to do so.

The officer who handcuffed Mr. [REDACTED] was Officer Y.. He was not wearing a yellow shirt. Everyone who was there and who saw the officers who responded said that there was no

officer in a yellow shirt there. The analysis though, is as to whether or not the handcuffing was within policy and proper.

A review of the call for assistance that was placed to APD dispatch and the information provided to the responding officers showed that Mr. was reported at the time to be bipolar, manic, and experiencing a mental health episode. The caller informed dispatch that Mr. had been smoking marijuana and was off his medications. Dispatch was advised that Mr. had guns in his home but that he had not made any threats. The caller informed dispatch that they did not know if the guns were locked up or not but that Mr. did have access to the guns. The caller stated that Mr. would resist medical assistance.

When the officers arrived and they met with family members the officers were given much of the same information. The officers have a duty to protect the people they serve and part of that duty is making sure that a situation is safe for everyone. In this case, Albuquerque Ambulance asked the officers to do just that before they were to contact Mr. The ambulance personnel were concerned for their own safety.

Officers are allowed by policy, in circumstances such as these, to conduct a brief investigative detention and pat down search of a person whom they have reason to believe may pose a threat to the officers or others. Given the fact that Mr. had access to firearms and was mentally and physically ill at the time, the brief handcuffing, pat search, and investigative detention, before he was unhandcuffed for medical treatment was reasonable and allowed.

The CPOA finds Officer Y.'s conduct to be **Exonerated**, where the investigation determined that the alleged conduct did occur but it did not violate APD policies, procedures, or training.

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

You have the right to appeal this decision.

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

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

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

POB at the time of the investigation.

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

If you have a computer available, we would greatly appreciate your completing our client survey form at <http://www.cabq.gov/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 *Beth Mohr, Chair* *Leonard Waites, Vice Chair*
Johnny J. Armijo *Dr. Susanne Brown* *Eric H. Cruz*
Joanne Fine *Dr. Carlotta A. Garcia* *Dr. Lisa M. Orick-Martinez*
Rev. Dr. David Z. Ring III
Edward Harness, Esq., Executive Director

September 9, 2016

Anonymous
To File

Re: CPC #125-16

To file:

Our office received the complaint you filed on June 8, 2016 against Officers of the Albuquerque Police Department (APD), regarding an incident that occurred on June 3, 2016. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint on July 7, 2016. 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

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.

New Mexico 87

I. THE COMPLAINT AND INVESTIGATION

www.cabq.gov

An anonymous complainant filed a complaint about the driving behaviors of an officer at Martin Luther King Jr. Ave. and Oak St.

The Executive Director of the CPOA reviewed the investigation conducted by the CPOA Investigator, which included a review of the applicable SOPs, the complaint, the Computer Aided Dispatches (CAD), and Officer H's interview.

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

A) The CPOA reviewed Standard Operating General Order 1-4-4F2 regarding Officer H's conduct, which states:

Personnel will operate official vehicles in a careful and prudent manner and will obey all laws and all department orders about such operation....

The complainant wrote Officer H cut in front of the complainant without a turn signal. They both stopped at the Oak Street light. After the light turned green Officer H traveled at an excessive speed east on Martin Luther King Jr. Ave. by at least 20 miles over the speed limit. The complainant wrote Officer H did not have his emergency lights on so there was no emergency.

Officer H was originally dispatched to a priority 3 call. He was then redirected to a priority 1 call at around the time the complainant said the incident occurred. The priority 1 call referenced two individuals armed with improvised weapons who looked like they were going to fight. Officer H explained he was still gathering information from the call and the intersection was unsafe to proceed so he waited for the light cycle. Officer H explained why the use of the siren would not be appropriate in this instance. Officer H stated he used his emergency equipment when necessary. The complainant filed anonymously so there was no ability to question the complainant for clarification.

The CPOA finds Officer H's conduct to be **Exonerated** where the investigation determined that the alleged conduct did occur, but did not violate APD policies, procedures, or training.

You have the right to appeal this decision.

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

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

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

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

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

September 9, 2016

Page 3

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

Sincerely,
The Civilian Police Oversight Agency by



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

Johnny J. Armijo

Joanne Fine

Rev. Dr. David Z. Ring III

Edward Harness, Esq., Executive Director

Beth Mohr, Chair

Dr. Susanne Brown

Dr. Carlotta A. Garcia

Leonard Waites, Vice Chair

Eric H. Cruz

Dr. Lisa M. Orick-Martinez

September 9, 2016

Via Certified Mail

...

Re: CPC #130-16

Dear Ms.:

Our office received the complaints you filed on July 11, 2016 against officers of the Albuquerque Police Department (APD) regarding an incident "five years ago".

I. THE COMPLAINT

PO Box 1293

The complaint alleges ever since you called APD's 911 reporting system, strange people have come to your door, and once you received a message during a phone call that your phone line was being "monitored".

Albuquerque

II. INVESTIGATION

New Mexico 87103 In your complaint you fail to identify any particular officer from APD that may have violated a policy or procedure. You only identify members of the Drug Task Force from five years ago. That is not enough information on which I can commence or complete an investigation.

www.cabq.gov

III. CONCLUSION

The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** the 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>.

Letter to Ms. _____, CPC 130-16
September 9, 2016
Page 2

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 *Beth Mohr, Chair* *Leonard Waites, Vice Chair*
Johnny J. Armijo *Dr. Susanne Brown* *Eric H. Cruz*
Joanne Fine *Dr. Carlotta A. Garcia* *Dr. Lisa M. Orick-Martinez*
Rev. Dr. David Z. Ring III
Edward Harness, Esq., Executive Director

September 9, 2016
Via EMail

Re: Citizen Police Complaint 147-16

Dear Ms.

Your complaint against a man named "Chris" whom you believe to be an Albuquerque Police Department (APD) Officer was received by our office on June 30, 2016, for incidents which were alleged to have occurred over the last four years. Your complaint was reviewed by the Civilian Police Oversight Agency (CPOA) Director. The CPOA Director assigned your complaint to a CPOA Investigator on July 29, 2016 for preliminary investigation.

PO Box 1293

I. THE COMPLAINT

Albuquerque

New Mexico 87103

www.cabq.gov

In your complaint, you alleged that a man named [REDACTED], whom you believe to be an APD Officer, has been influencing and organizing different people to monitor you, manipulate you, and interfere in your life. You stated that it has taken you a long time to report [REDACTED] because you did not know that it was [REDACTED] who was influencing so many strange occurrences around you or how extensive the manipulation was. You stated that it would be difficult to prove all of this because [REDACTED] uses many different people, mostly police officers, to carry out his manipulation. You stated that all of the police officers in all of the gyms seem to follow [REDACTED]'s instructions which leaves you to wonder if [REDACTED] is part of the police administration or in some sort of high position. You believe that [REDACTED]'s actions are legally considered stalking and harassment. You believe your rights have been violated and that [REDACTED] has mis-used his position on the police force.

To support your allegations against [REDACTED], you wrote that starting about 4 years ago, you worked out at Defined Fitness in [REDACTED] NM. It was there that you first became aware of [REDACTED]. You do not know his last name but you did provide a description and a sketch of what you believe [REDACTED] looks like. You wrote in your complaint that anytime a man would approach you in the gym and talk to you, [REDACTED] would interfere. If you appeared interested in a man there, [REDACTED] would send over other women to talk to the man even if the man was right in front of you. You don't know if those other women were girlfriends or spouses of the men that you were interested in but somehow [REDACTED] knows that you get angry and won't pursue men if they have a girlfriend or spouse. You wrote that at other times, [REDACTED] would just walk up and tell them men who were talking to you to disappear. After a while you realized that the

repeated disappearance of men who would talk to you was more than coincidence. Some of those men would later reappear to play some silly game with you that dreamed up. You named two of those men as and . You did not give any last names. When all of that became too much for you, you started going to other Defined Fitness locations. In November of 2015, you switched to / Gym.

It was at / Gym that there was a tall man at who began following you around. You suspected that had the man follow you. You then switched gyms and went to Planet Fitness in . It was there that you befriended a man named who also used to work out at the Defined Fitness in . became an irritant to you because he would follow you and interrupt you any time you would try to talk to a guy.

After that, you went to to work out. Similar occurrences would take place there but you like the gym there and are going to stay because you believe that no matter where you are going to work out, will find you and stalk you.

You stated that men will follow you and stare at you. Later those same men will show up with a girlfriend and often the men who do talk to you then disappear for long periods of time. Often when you would get close to a man, those men would run or walk away. You believe that there are often four or five individuals whom you recognize as acting peculiar around you. Sometimes when you enter the sauna or a hot tub, men who are in there will get out.

You believe that controls all of the above. You believe that has influence over the management at Defined Fitness. You have seen , at Cottonwood Mall and at your daughter's Violin recital. You believe that is obsessed with you and he is using other people to carry out his games. You believe that is bribing people and getting into police department funds to do so. You believe is using his police status to convince management and others to do things and he is giving out false information. Lastly you asked our agency to check your car for tracking devices.

II. THE INVESTIGATION

In an effort to assist you, the CPOA Executive Director tried obtaining more information from you so that could be identified. You described at 5'1" to 5'2" in height, with light brown hair. You stated that had many identifying tattoos and he works out at Defined Fitness. You stated that is bilingual and appears to be in his forties. You could not provide any last name for and stated that you had only been told by a PD officer with the last name of ; that was an APD officer. You stated that Officer was related to who used to be a personal trainer at the defined fitness in .

With only the sketch and the limited information you provided to our agency, the CPOA investigator went to the Defined Fitness in and met with the Assistant Manager there. The Assistant Manager was provided with the sketch that you submitted with your complaint and the Assistant Manager who has been employed there for 7 years did not recognize the individual in the sketch. The CPOA Investigator left copies of your sketch with

Defined Fitness to see if any one who worked there might recognize [redacted]. A follow up call to the Manager at Define Fitness a week later proved fruitless. The Manager said that none of the employees recognized anyone who may have resembled your sketch of [redacted].

The CPOA Investigator went to [redacted] PD to speak with Officer [redacted]. Rio Rancho PD does not employ, nor have they ever employed, an Officer named [redacted].

Finally, the CPOA Investigator was able to track down the former Defined Fitness personal Trainer, [redacted], who stopped training at Defined Fitness over five years ago and he has no idea who [redacted] is. Mr. [redacted] said that his father is a police officer with [redacted] PD, not [redacted] PD as you had indicated in your complaint. [redacted] was shown your sketch of [redacted] and he said that the sketch did not resemble any one that he knew.

The CPOA Investigator then contacted Officer [redacted] of the [redacted] PD. He also said that he has not worked out at Defined Fitness in over 5 years. He was shown your sketch of [redacted] and he said that he has no clue who [redacted] is. He said that as a police officer he would have certainly noticed someone with such identifying tattoos.

III. CONCLUSION

Your complaint was investigated to the extent possible based on the information you provided. There was insufficient information provided by you to identify who [redacted] is. There is no way, from the information you provided, or from the preliminary investigation conducted to prove that [redacted] is an APD officer. Our office has exhausted all means available to us to identify [redacted] at this time. Because of insufficient evidence or lack of evidence, there is no way to proceed any further in investigating your complaint. We are administratively closing your complaint and no further investigation will be conducted.

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

Please contact me if you have any questions or concerns.

Sincerely,



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

CC: Albuquerque Police Department, Chief of Police



CIVILIAN POLICE OVERSIGHT AGENCY

Police Oversight Board *Beth Mohr, Chair* *Leonard Waites, Vice Chair*
Johnny J. Armijo *Dr. Susanne Brown* *Eric H. Cruz*
Joanne Fine *Dr. Carlotta A. Garcia* *Dr. Lisa M. Orick-Martinez*
Rev. Dr. David Z. Ring III
Edward Harness, Esq., Executive Director

September 9, 2016
Via Certified Mail

Re: CPC 149-16

Dear Mr.

Our office received the complaint you filed on July 11, 2016 against unknown officers of the Albuquerque Police Department (APD) regarding an incident that occurred on July 11, 2016. 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

New Mexico 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. said that on July 11, 2016 at approximately 0025 hours, he called APD 911 to report a girl screaming and men fighting at Mr. complained the dispatcher repeatedly asked him for information regarding the disturbance next door and said he provided as much information as he could without becoming involved. Mr. complained about the length of time it took APD officers to respond to the call, and said he expected more of a sense of urgency from officers for reports of a woman screaming. Mr. wanted to know if officers ever made contact with the residents at to ensure no one was injured.

II. FINDINGS AND CONCLUSIONS REGARDING APPLICABLE STANDARD OPERATING PROCEDURES REGARDING UNKNOWN APD OFFICERS' CONDUCT

A Civilian Police Oversight Agency (CPOA) Investigator reviewed your complaint and researched the matter so that we could obtain more information about the incident you complained of. The CPOA Investigator obtained the recording and Computer Assisted Dispatch (CAD) report ([REDACTED]) pertaining to the 911 call you placed on July 11, 2016 at 0042 hours. The evidence revealed the 911 Operator asked you several questions regarding the incident; however, at no time did the Operator ask you to put yourself in harm's way. Additionally, the dispatcher followed APD policies and procedures pertaining to the line of questioning, which may have seemed excessive at the time but were necessary in order to obtain information for responding officers to ensure their safety and the safety of others.

The CAD revealed you made the 911 call at 0042 hours and no officers were immediately available to respond to the call; however, officers were dispatched at 0053 hours and arrived on scene at 0107 hours. The CAD revealed the responding officers contacted the homeowner at [REDACTED] and told him to be quiet, and he agreed to do so.

The CPOA Investigator contacted you on August 11, 2016 and explained the situation to you, to include the aforementioned information. You told the CPOA Investigator that you were satisfied with the explanation and our investigation into the matter and that no further investigation would be necessary into the incident.

III. CONCLUSION

The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** your complaint because there were no violations of APD's Standard Operating Procedures.

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