

**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

**POLICE OVERSIGHT BOARD MEETING**

**DATE: October 13, 2016**

**Attachments:**

- **Agenda**
- **Redacted Findings Letters**

**CIVILIAN POLICE OVERSIGHT AGENCY**

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*Rev. Dr. David Z. Ring III*  
Edward Harness, Executive Director

**POLICE OVERSIGHT BOARD AGENDA**

Thursday, October 13, 2016 – 5:00 PM  
Vincent E. Griego Chambers

- I. Welcome and call to order.
- II. Pledge of Allegiance – *Leonard Waites*
- III. Approval of the Agenda
- IV. Public Comments
- V. Review and Approval of Minutes
- VI. Discussion:
  - a. Open Meetings Act Resolution
  - b. CPC 088-16
- VII. Consent Agenda Cases:
  - a. Administratively Closed Cases  
081-16     104-16     144-16     145-16
  - b. Cases investigated  
140-16
  - c. CIRT Cases  
C-004-16     C-029-16
- VIII. POB's Review of Garrity Materials
- IX. Reports from Subcommittees
  - a. Community Outreach Subcommittee – *Leonard Waites*
    - i. POB Mission Statement Study Session Review – *Beth Mohr*
    - ii. Approval to Amend POB Mission Statement
    - iii. Appoint Community Outreach Subcommittee Participants
  - b. Policy and Procedure Review Subcommittee – *Susanne Brown*
    - i. 3-29 Policy Development Process
    - ii. Selection, Authority, and Responsibility of the Chief of Police Policy 3-1
  - c. Case review Subcommittee – *Leonard Waites*
    - i. Tabled at September 8, 2016 meeting: Discussion of tiered prioritization matrix for investigation of citizen complaints – *Joanne Fine*
  - d. Personnel Subcommittee – *Beth Mohr*

- X. Reports from City Staff**
  - a. APD
  - b. City Council
  - c. Mayor's Office
  - d. City Attorney
  - e. Community Policing Councils
  - f. CPOA – *Edward Harness, Executive Director*
    - i. I-44-16
    - ii. Report on NCIC

**XI. Meeting with Counsel re: Pending Litigation & Personnel Issues:**

**Closed Discussion and Possible Action re: Pending Litigation & Personnel Issues**

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

**XII. Other Business**

- XIII. Adjournment- *Next Regularly scheduled POB meeting will be on November 10, 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



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*Rev. Dr. David Z. Ring III*  
Edward Harness, Esq., Executive Director

October 14, 2016  
Via Certified Mail

**Re: CPC #081-16**

Dear Ms.

Our office received the complaint you filed on May 11, 2016 against Albuquerque Police Department (APD) Sergeant (Sgt.) L. regarding an incident which occurred on September 8, 2015. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint.

PO Box 1293

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

Ms.            said she was involved in a traffic accident on September 8, 2015 with a male citizen named Mr. I. B., and APD Sgt. L. responded to the accident. Ms.            complained Sgt. L. made several errors in the traffic accident report, to include an incorrect vehicle identification number, a remark that 'no injuries were reported', and incomplete information as it related to Mr. B.'s occupation and vehicle owner's information, as the vehicle did not belong to Mr. B.. Ms.            also complained Mr. B. gave Sgt. L. false insurance information and as a result, she has been unable to contact his insurance company to file a claim against Mr. B., or the vehicle's owner.

## II. THE INVESTIGATION

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 contacted Sgt. L. and learned he wrote a supplemental report with the correct vehicle identification numbers on it. Sgt. L. also said that at the time of the accident Ms. refused rescue stating she was not injured; therefore the statement about 'no injuries were reported' was accurate. Ms. admitted to the CPOA Investigator she refused rescue so she could stay on scene with her vehicle and ensure everything went well. Sgt. L. said he made several attempts to contact Mr. B. at the address listed on the accident report; however was not successful as no one has ever been at the given address. Sgt. L. said Mr. B. provided him with an insurance card and he used that to enter the insurance information on the accident report. Sgt. L. told Ms. she could retain an attorney if she wanted to pursue a case against Mr. B. as is done in other accident cases, when necessary.

The CPOA Investigator spoke with Ms. over the telephone and repeated what was learned from Sgt. L.. Ms. stated she did not intend to file a complaint against Sgt. L. and didn't want him to get in trouble; she just wanted the accident report corrected to show the correct vehicle identification information and Mr. B.'s correct insurance information so she could file a claim against Mr. B. and the vehicle's owner. The CPOA Investigator repeated to Ms. what was learned from Sgt. L. regarding Mr. B. and the insurance information he provided to Sgt. L.; however Ms. was not satisfied with the CPOA Investigator's response and wanted the CPOA Investigator, or Sgt. L. to "run" Mr. B.'s vehicle identification number in a database to retrieve the necessary vehicle owner's information and insurance information. The CPOA Investigator told Ms. our office did not have access to such a database; therefore we could not provide this information.

## III. CONCLUSION

The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** your complaint because Sgt. L. did not violate any APD Standard Operating Procedures (SOPs). Sgt. L. made the necessary correction to the accident report via a supplemental report and the accident report accurately reflects the information available to Sgt. L. at the time of the accident. Additionally, Sgt. L. made several attempts to assist you in obtaining Mr. B.'s insurance information; however, he was ultimately unable to located Mr. B. at the address given him by Mr. B.

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 081-16  
October 14, 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



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*Rev. Dr. David Z. Ring III*  
Edward Harness, Esq., Executive Director

October 14, 2016  
Via Certified Mail

**Re: CPC #104-16**

Dear Ms.

Our office received the complaint you filed on June 15, 2016 against Albuquerque Police Department (APD) Officers C., P. and A. regarding an incident which occurred on May 23, 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

Ms. [redacted] said she was involved in a traffic accident on May 23, 2016 and APD Officers C., P., and A. responded to the accident. Ms. [redacted] complained Officers P. and A. yelled at her, questioning who else was in the vehicle with her and when she said she was alone these officers accused her of lying. Ms. [redacted] complained Officer C. accused her boyfriend of being the driver of the vehicle due to injuries he sustained in a motorcycle accident the day before. Ms. [redacted] complained Officer C. demanded from Ms. [redacted]'s sister that their father text a picture of an insurance card because he needed it now. Ms. [redacted] complained that when Officer C. was told Mr. [redacted] was driving and shouldn't be texting and driving, Officer C. became argumentative and said it didn't matter because he needed proof of insurance immediately.

## II. THE INVESTIGATION

A CPOA Investigator reviewed your complaint and researched the matter so that we could obtain more information about the incident you complained of. Ms. [REDACTED] was interviewed and repeated what was in her complaint. The CPOA Investigator reviewed lapel videos from Officers C. and P. and allowed Ms. [REDACTED] and her father to review the lapel videos, as well, after the interview concluded.

The lapel videos showed Officer C. contacted Ms. [REDACTED] upon arrival at the scene and throughout their contact he was professional and polite. The lapel videos showed Officer C. did not accuse Ms. [REDACTED]'s boyfriend of being the driver of the vehicle. After review of the lapel video, Ms. [REDACTED] agreed Officer C. did not violate any APD SOPs.

The lapel videos showed Officer P. made contact with Ms. [REDACTED]'s boyfriend when her boyfriend walked up to her vehicle as Officer P. was looking at it. The video showed Ms. [REDACTED]'s boyfriend was holding an ice pack to the left side of his neck and had substantial bruising on the front and left side of his upper torso, which he stated was the result of a motorcycle accident the day before. The lapel videos showed that both front airbags on Ms. [REDACTED]'s car were deployed and the front passenger seatbelt was fully extended and locked, which would indicate that someone was seated in the front passenger seat at the time of the accident. Additionally, Ms. [REDACTED]'s boyfriend was the registered owner of the vehicle Ms. [REDACTED] was driving. The combination of the injuries on Ms. [REDACTED]'s boyfriend, the fact that he owned the car and the physical evidence inside the car (i.e. deployed airbags and extended seatbelt) understandably lead Officer P. to believe that Ms. [REDACTED]'s boyfriend was driving his vehicle at the time of the accident. As a result, Officer P. questioned Ms. [REDACTED]'s boyfriend and accused him of driving the car but Officer P. was not unprofessional in doing so, and did not violate any APD SOPs. Despite the aforementioned evidence to the contrary, Ms. [REDACTED] and the driver of the other vehicle, along with an uninvolved witness all stated Ms. [REDACTED] was alone in her vehicle at the time of the accident. As a result of witness statements, Ms. [REDACTED] boyfriend was no longer questioned by Officer P., or Officers C. and A..

The lapel videos showed Officers P. and A. did not yell at Ms. [REDACTED]; rather they yelled at Officer C. who was standing next to Ms. [REDACTED]; although her perception was they were looking at her, specifically. The video appears to show Officer P. and A. yelled from the center of the intersection to the corner of the intersection where Ms. [REDACTED] sat talking to Officer C. due to the distance between them. The video showed Officers P. and A. conduct did not violate APD SOPs.

After reviewing the lapel videos, Ms. [REDACTED] stated she did not want Officers P., C. or A. to get in trouble and agreed to administratively close her complaint.

## III. CONCLUSION

The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** your complaint, as agreed upon during your interview.

Letter to Ms. [REDACTED], CPC 104-16  
October 14, 2016  
Page 3

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

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

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

Sincerely,  
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department Chief of Police

# CITY OF ALBUQUERQUE



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*Rev. Dr. David Z. Ring III*  
Edward Harness, Esq., Executive Director

October 14, 2016  
Via Email

Jade D. Ellis

**Re: CPC #140-16**

Dear Mr. \_\_\_\_\_

Our office received the complaint you filed on July 22, 2016 against Officers of the Albuquerque Police Department (APD), regarding an incident that occurred on July 21, 2016. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your Complaint on August 10, 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**

Mr. \_\_\_\_\_ drove by a fight in progress at the bus stop near Central and Wyoming. Mr. \_\_\_\_\_ observed police activity at a nearby location of Central and Wisconsin. Mr. \_\_\_\_\_ observed Officer D watching the fight and even after Mr. \_\_\_\_\_ brought it to Officer D's attention, Officer D did not care and did not help.

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, the Computer Aided Dispatches (CAD), pictures of the scene, Mr. \_\_\_\_\_' interview, Officer D's interview, and Officer D's lapel video.

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

A) The CPOA reviewed Standard Operating General Order 1-2-3B3a regarding Officer D's conduct, which states:

*Officers shall abide by the following principles: a. Take appropriate action and render assistance in any instance that comes to their attention, whether on duty or off duty.*

Mr. [redacted] observed a fight at the bus stop and observed Officer D watching the same fight, but Officer D did nothing to intervene. Mr. [redacted] drove around to the parking lot of a McDonalds nearby. Another unknown citizen did the same thing and they both shouted to Officer D that someone was being "stomped out." Officer D said someone was on the way and did nothing to assist. Mr. [redacted]'s concern was that Officer D made no movement towards helping the victim and allowed the offenders to beat the victim without fear of reprisal.

Officer D was ordered to be on a perimeter location for an active priority one call that started prior to the call for the disturbance at the bus stop. The CADs showed there were calls about the disturbance and officers dispatched, which Officer D knew when Mr. [redacted] contacted him. Officer D conveyed that information to Mr. [redacted]. Officer D attempted to record his interaction with Mr. [redacted] but their contact was too brief. However, Officer D's video captured how busy the area was at about that time with both vehicle and pedestrian traffic. Additionally, given the darkness, lights, traffic, distance, and natural obstructions from Officer D's vantage point the activity at the bus stop was not visible to Officer D. A daytime photo of the scene also showed the bus stop, which is about 125 feet away, was not visible from Officer D's location due to trees and bushes blocking the view so he could not have been watching the altercation. Officer D would have been in violation of policy if he had left his post to go to another call when officers were already dispatched.

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

B) The CPOA reviewed Standard Operating General Order 1-4-4D15 regarding Officer D's conduct, which states:

*Personnel will treat the public with respect, courtesy, and professionalism at all times.*

Mr. [redacted] stated Officer D gestured with his hands that he and the other individual needed to leave the area. Mr. [redacted] wrote Officer D shrugged his shoulders and told them to move along. Mr. [redacted] stated Officer D indicated he did not want to deal with him and if Mr. [redacted] had not left, things would have been an issue. Mr. [redacted] received this impression by the officer's tone. Mr. [redacted] decided to leave to avoid problems. Mr. [redacted] felt Officer D was uncaring about the situation.

Officer D denied he was rude or that he gestured to anyone that he or she needed to move along. Officer D stated he never told Mr. [redacted] he needed to leave because Mr. [redacted] was

permitted to be in the parking lot if he wished. Officer D knew the other call was being handled as expeditiously as possible and he had his responsibilities at his location.

Mr. \_\_\_\_\_ claimed Officer D conveyed an attitude of disinterest and annoyance with his presence, which Officer D denied. There was no lapel video of the interaction between Mr. \_\_\_\_\_ and Officer D, even though Officer D tried, because the interaction was too short.

The CPOA finds Officer D's conduct to be **Not Sustained** where the investigation is unable to determine whether the alleged misconduct occurred.

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 140-16

October 14, 2016

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

Sincerely,  
The Civilian Police Oversight Agency by



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

cc: Albuquerque Police Department Chief of Police

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*Rev. Dr. David Z. Ring III*  
Edward Harness, Esq., Executive Director

October 14, 2016  
Via Certified Mail

**Re: CPC 144-16**

Dear Ms.

Our office received the complaint you filed on April 12, 2016 against several Albuquerque Police Department (APD) officers regarding an incident that took place at your residence beginning April 11, 2016 and into April 12, 2016. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint and reviewed your complaint. Below is a summary of the complaint, the CPOA's investigation and findings.

PO Box 1293

### I. THE COMPLAINT

Albuquerque

Ms. [redacted] said several APD officers arrived at her home April 11, 2016 to serve a warrant (ref. APD case # [redacted]). Ms. [redacted] complained that the officers spoke to her aggressively and made several threats to open the door. Additionally, Ms. [redacted] complained the officers interrogated her daughter for no reason and then arrested her son. She also complained she was threatened by Children, Youth and Families Department (CYFD) personnel.

New Mexico 87103

www.cabq.gov

### II. THE INVESTIGATION

A CPOA Investigator reviewed your complaint and attempted to contact you via telephone to obtain more information regarding your complaint and to schedule an interview with you; however those attempts were unsuccessful.

### III. CONCLUSION

The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** your complaint because it is unclear how the CPOA can assist you since you have not contacted the CPOA Investigator.

Letter to Ms.  
October 14, 2016  
Page 2

CPC 144-16

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.

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Executive Director  
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cc: Albuquerque Police Department Chief of Police

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Edward Harness, Esq., Executive Director

*Leonard Waites, Vice Chair*

*Eric H. Cruz*

*Dr. Lisa M. Orick-Martinez*

October 14, 2016  
Via Certified Mail

**Re: CPC 145-16**

Dear Ms.

Our office received the complaint you filed on June 1, 2016 against Albuquerque Police Department (APD) Officer C.A., Officer F. and Officer M. regarding an investigation into the death of your brother, \_\_\_\_\_, which occurred on July 7, 2003. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint and reviewed your complaint. Below is a summary of the complaint, the CPOA's investigation and findings.

PO Box 1293

Albuquerque

### **I. THE COMPLAINT**

Ms. \_\_\_\_\_ said her brother, \_\_\_\_\_ died July 7, 2003 from two gunshot wounds to the head, which was later ruled a suicide. Ms. \_\_\_\_\_ said the night of her Mr. \_\_\_\_\_' death, his ex-wife, Ms. C.L., and her boyfriend, Mr. A.P., broke into Mr. \_\_\_\_\_' home and stole all of his property. Ms. \_\_\_\_\_ complained that when she reported the burglary to APD she was told it was a civil matter because Mr. \_\_\_\_\_ and Ms. L. were married, and there was nothing APD could do about the alleged burglary. Additionally, APD told Ms. \_\_\_\_\_ she wouldn't be able to prove it was a burglary anyway. Ms. \_\_\_\_\_ said that at the end of May 2016, Ms. L. dropped off two boxes of Mr. \_\_\_\_\_' property she allegedly took 13 years ago, which proves she took the property from Mr. \_\_\_\_\_ after his death. Ms. \_\_\_\_\_ complained APD didn't listen to her in 2003; however she wants to know if APD will listen to her now.

www.cabq.gov

### **II. THE INVESTIGATION**

A CPOA Investigator reviewed your complaint and attempted to contact you via telephone and email to obtain more information regarding your complaint and to schedule an interview with you; however those attempts were unsuccessful.

### **III. CONCLUSION**

The CPOA has made the decision to **ADMINISTRATIVELY CLOSE** your complaint because it is unclear how the CPOA can assist you since you have not contacted the CPOA Investigator.

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> .

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