Civilian Police Oversight Agency Board

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

BOARD AGENDA

Thursday, August 11, 2022 - 5:00 p.m.

Attendance: In response to the Public Health Emergency, the Civilian Police Oversight Agency (CPOA) Board meeting on Thursday, August 11, 2022, at 5:00 p.m. will be held via Zoom video conference.

Viewing: Members of the public will have the ability to view the meeting through GOVTV on Comcast Channel 16, or to stream live on the GOVTV website at: https://www.cabq.gov/culturalservices/govtv, or on YouTube at: https://www.cabq.gov/cpoa/events/cpoa-board-meeting-08-11-2022. (Please note that the link for YouTube has not yet been generated, however, the link could easily be found on the link provided above prior to the start of the meeting). The GOVTV live stream can be accessed at these addresses from most smartphones, tablets, or computers.

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

Public Comment: The agenda for the meeting will be posted on the CPOA website by 5:00 p.m., Monday, August 8, 2022, at www.cabq.gov/cpoa.

The CPOA Board will take general public comment and comment on the meeting's specific agenda items in written form via email through 4:00 p.m. on Thursday, August 11, 2022. Submit your public comments to: POB@cabq.gov. These comments will be distributed to all CPOA Board members for review.

I. **Welcome and call to order - *Patricia J. French, Chair***

II. **Roll Call**

III. **Approval of the Agenda**

IV. **Approval of Consent Agenda**

a. **Administratively Closed**

006-22 **052-22** **060-22** **150-22**

b. **Not Sustained**

045-22

c. **Unfounded and Exonerated**

031-22 **047-22** **057-22**

d. **Unfounded**

038-22 042-22 049-22 050-22 067-22

e. **Exonerated**

053-22

V. **Public Comments**

VI. **Review and Approval of Minutes from July 14, 2022 Meeting**

VII. **Reports from City Departments**

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

b. **City Council – *Chris Sylvan***
c. **Public Safety Committee - *Chris Sylvan***
d. **Mayor's Office – *Pastor David Walker***
e. **City Attorney – *Lauren Keefe***
f. **CPC – *Kelly Mensah***
g. **APOA – *Shaun Willoughby***

VIII. **Requests for Reconsideration**

IX. **Review of Cases**

a. **Sustained**

035-22 055-22 086-22

X. **Non-Concurrence Cases**

XI. **Reports from Subcommittees**

a. **Policy and Procedure – *Jesse Crawford***
   1. Met August 4, 2022 (video conference)
   2. Next Meeting September 1, 2022, at 4:30 p.m.

XII. **Discussion, Updates, and Possible Action:**

a. **Consideration of PPRB Policies with No Recommendation: - *Jesse Crawford***
b. **Reformatting how data is provided to the Board – *Eric Nixon***
c. **CPOA Policies and Procedures Additional Revisions – *Patricia J. French***
d. **Consideration of proposed MOU between the City of Albuquerque, CPOA/CPOAB and APOA on OIS/SUOF Materials – *Tina Gooch, CPOA/CPOAB Legal Counsel***
e. **Annual Training Proposal – *Tina Gooch, CPOA/CPOAB Legal Counsel and Mike Wartell***

f. **CPOA Board Subcommittee Assignments – *Patricia J. French***
g. **NACOLE Conference – *Patricia J. French***
h. **Update requests-Chair/Board Members - *Patricia J. French***

XIII. Old Business

XIV. New Business

XV. Adjournment- *Next Regularly scheduled CPOA Board meeting will be on September 8, 2022, at 5:00 p.m.*

CITY OF ALBUQUERQUE

CIVILIAN POLICE OVERSIGHT AGENCY
Civilian Police Oversight Agency Board
Patricia J. French, Chair *Jesse Crawford, Vice-Chair* *Greg Jackson*
Eric Nixon *Rashad Raynor* *Michael Wartell*
Diane McDermott, Lead Investigator on behalf of the CPOA Executive Director

August 12, 2022

Via Certified Mail

7018 1130 0002 3429 1606

Re: CPC # 035-22

Ms. L S

PO Box 1293

Albuquerque

NM 87103

www.cabq.gov

COMPLAINT:

On 02/27/2022, T and L S filed a CPOA complaint that stated Officer G was one of the officers that came to the residence for a family disturbance. The sisters complained that Officer G was, *"very rude and abusive."* When Officer G told T: to go outside, she looked to her mother for approval, and Officer G immediately raised her voice and stated their mother did not have the right to interfere with questioning during an investigation. The sisters stated Officer G told their mother she should be ashamed of herself as she left the residence.

EVIDENCE REVIEWED:

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

Complainant Interviewed: Yes Witness(es) Interviewed: Yes

APD Employee Interviewed: Yes

APD Employee Involved: Officer G

Other Materials: n/a

Date Investigation Completed: June 27, 2022

FINDINGS

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

Policies Reviewed: **1.1.5.A.1**

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

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

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

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

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

Additional Comments:

APD policy states that personnel will treat the public with respect, professionalism, and courtesy at all times. The complainants alleged Officer G was rude and made inappropriate comments. The lapel video showed Officer G did make the alleged comments. Officer G admitted she did make the comment, acknowledging she should not have, but was concerned for the welfare of the family given a previous incident.

The Board recommends an eight hour suspension for the officer.

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

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

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

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

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

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

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

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

Sincerely,
The Civilian Police Oversight Agency by

Diane McDermott
Lead Investigator on behalf of the
CPOA Executive Director
(505) 924-3770

cc: Albuquerque Police Department Chief of Police

CITY OF ALBUQUERQUE

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Diane McDermott, Lead Investigator on behalf of the CPOA Executive Director

August 12, 2022

Via Certified Mail
7018 1130 0002 3429 1613

A

Re: CPC # 055-22

Dear M : H

PO Box 1293

COMPLAINT:

Ms. Hernandez reported that Officer Z did not write a incident report, that only a CAD was created.

Albuquerque

NM 87103

www.cabq.gov

EVIDENCE REVIEWED:

Video(s): No APD Report(s): N/A CAD Report(s): Yes

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

APD Employee Interviewed: Yes

APD Employee Involved: Officer Z

Other Materials: Ring doorbell camera videos

Date Investigation Completed: July 13, 2022

FINDINGS

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

Policies Reviewed: 2.16.2.C.1

2. **Sustained.** Investigation classification when the investigator(s) determines, by a preponderance of the evidence, the alleged misconduct did occur by the subject officer.	☑
3. **Not Sustained.** Investigation classification when the investigator(s) is unable to determine one way or the other, by a preponderance of the evidence, whether the alleged misconduct either occurred or did not occur.	☐
4. **Exonerated.** Investigation classification where the investigator(s) determines, by a preponderance of the evidence, that alleged conduct in the underlying complaint did occur but did not violate APD policies, procedures, or training.	☐
5. **Sustained Violation Not Based on Original Complaint.** Investigation classification where the investigator(s) determines, by a preponderance of the evidence, misconduct did occur that was not alleged in the original complaint (whether CPC or internal complaint) but that other misconduct was discovered during the investigation, and by a preponderance of the evidence, that misconduct did occur.	☐
6. **Administratively Closed.** Investigation classification where the investigator determines: The policy violations of a minor nature and do not constitute a pattern of misconduct (i.e. a violation subject to a class 7 sanction, -the allegations are duplicative; -the allegations, even if true, do not constitute misconduct; or -the investigation cannot be conducted because of the lack of information in the complaint, and further investigation would be futile.	☐

Additional Comments:

Ms. H alleged the officer should have written a police report for a situation she believed was an assault, but he only wrote a CAD. The video snippets provided by Ms. H showed Officer Z said he would document the incident, but there was not specific mention of a police report. Officer Z informed her, "Even if we were to take her to court, based on my training that is a petty misdemeanor. It is a simple assault." Officer Z advised he was not trying to down grade the situation but it would not make a strong case." His CAD comments were that he did not observe a criminal act. The videos did not show Ms. H saying that she wanted to go through the courts and Officer Z acknowledging that. However, as was heard in the video Officer Z did mention to Ms. H that he believed that a petty misdemeanor took place. Despite Officer Z's belief it would not make a good case, policy does state a report should be written even for petty misdemeanors.

The CPOA Board recommends a Verbal Reprimand.

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

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cc: Albuquerque Police Department Chief of Police

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Diane McDermott, Lead Investigator on behalf of the CPOA Executive Director

August 12, 2022

Via Email

Anonymous

Re: CPC # 086-22

PO Box 1293

Albuquerque

NM 87103

www.cabq.gov

COMPLAINT:

An anonymous complainant reported that Sergeant L's Facebook post had several things that were incredibly inappropriate for a Police Sergeant to be posting. The complainant reported that Sergeant L's latest post was about how shooting an illegal immigrant 68 times wasn't enough. The complainant reported that Sergeant L was posting the article on social media asking everybody to read it and the complainant did not think that was becoming of an Officer to say those things. The complainant reported they had taken screenshots of the posts and several posts where Sergeant L put herself out there in a bad spotlight. The complainant reported that if something were to happen while Sergeant L was on duty and they saw how hateful her Facebook page was, the city would be sued.

EVIDENCE REVIEWED:

Video(s): N/A APD Report(s): N/A CAD Report(s): N/A

Complainant Interviewed: No. Witness(es) Interviewed: N/A

APD Employee Interviewed: Yes

APD Employee Involved: Sergeant L

Other Materials: Facebook Screenshots

Date Investigation Completed: July 28, 2022

FINDINGS

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

Policies Reviewed: 1.2.4.B.3.v

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

Sergeant L reiterated on several occasions that she was not condoning someone being shot multiple times, she was talking about how laws were different in other states and that Sheriff J supported his officers.

Sergeant L's explanation for the posts did not corroborate with what was posted via Sergeant L's Facebook.

Sergeant L stated on several occasions she should not have made those posts.

The CPOA Board recommends a Written Reprimand

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

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