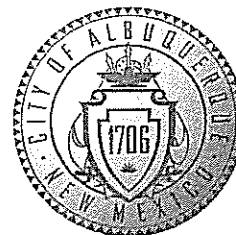


CITY OF ALBUQUERQUE



POLICE OVERSIGHT COMMISSION

Steve Smothermon, Chair

Linda Martinez, Vice Chair

Matthew Archuleta

Hank Cadena

Scott Carreathers

Bambi Folk

Bob Francis

Don Peterson

William W. Deaton, Independent Review Officer

January 25, 2010

Ray Schultz, Chief of Police
C/O Lt. Doug West, Internal Affairs Unit
Albuquerque Police Department
400 Roma NW
Albuquerque, NM 87102

Subject: CPC # 190-09

Dear Chief Schultz,

We concurred on our findings in this case. This complaint will be presented to the POC for final review and, if approved, the attached public record letter will be mailed to the citizen. These findings are now considered final. If any changes to these findings are ever contemplated, inform the Police Oversight Commission and the Independent Review Officer immediately. Please ensure the findings are placed in the officer's retention file.

Please review the summary of the officer's statement and advise me if you think it is too extensive or does not comply with the union contract and Police Oversight Ordinance.

Please contact me if there are questions or concerns.

William W. Deaton
Independent Review Officer

By: Valerie Morales

Senior Administrative Assistant
(505) 924-3771
vmorales@cabq.gov

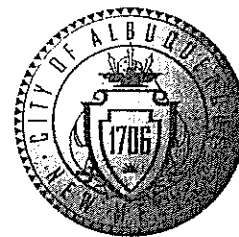
File Accompanies Letter
CC: Police Oversight Commission
(W/O names)

PO Box 1293

Albuquerque

NM 87103

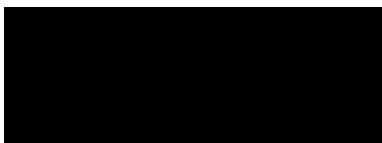
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POLICE OVERSIGHT COMMISSION

Steve Smothermon, Chair
Linda Martinez, Vice Chair
Matthew Archuleta
Hank Cadena
Scott Carreathers
Bambi Folk
Bob Francis
Don Peterson
William W. Deaton, Independent Review Officer

February 11, 2010



Subject: CPC # 190-09

Dear Mr. [REDACTED]:

The complaint you filed was received in our office on September 3, 2009. Based on the PO Box 1293 complaint and our investigation we have determined whether the Standard Operation Procedures (SOPs) listed below have been violated. You will be referred to below as 'the citizen' or by name.

Albuquerque A summary of the investigation and my findings are below.

THE COMPLAINT

NM 87103 **On September 1, 2009, Ms. [REDACTED] called the Albuquerque Police Department to report that her husband, [REDACTED], was attempting suicide by ingesting pills with alcohol. Mr. [REDACTED] was subsequently taken into custody and transported to Kaseman Hospital for a mental evaluation. Mr. [REDACTED] later filed a citizen complaint alleging excessive force and misconduct by the responding officers.**
www.cabq.gov

Since the officers are compelled to cooperate in the investigation, Sections 9-4-1-13 and 9-4-1-14 of the Police Oversight Ordinance state that these statements will not be made public. I am only allowed to summarize the conclusions I reached from their compelled statements.

Your complaint has been thoroughly and impartially investigated. We make findings 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.

ISSUES, FACTS AND CONCLUSIONS

Officers B, V, C, and M

Did Officer B, V, C, and M comply with Albuquerque Police Department General Order #1-05-6 which mandates:

PERSONNEL OF THE DEPARTMENT WILL WRITE REPORTS ON

[7]

. . .

B. Suicides or attempted suicides, and death calls.

This was a call involving an attempted suicide; accordingly, a report was necessary. Officer V wrote the report and since it was not a major incident, no supplemental reports were written by the other Officers. This issue is exonerated.

Officers F, V, C, and M

Did Officers B, V, C, and M comply with Albuquerque Police Department General Order 1-39-1

USE OF TAPE/DIGITAL RECORDERS

[6]

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.

7. All calls involving suspected suicidal and/or suicidal individuals.

Officer B indicated that he had run his tape recorder but that he did not know where the tape was. Officers M and C believed that they ran their tape recorders but neither tagged his tape. Officer V ran his tape but could not say which tape it was or if he recorded over it.

This issue is sustained as to Officers B, C, M, and V.

Officers B, C, M, and V

Did Officers B, C, M, and V comply with Albuquerque Police Department Procedural Order 2-52-2A which mandates:

USE OF NON DEADLY FORCE

[6]

- A. Where force is warranted, officers should assess the incident in order to determine which technique or weapon will reasonably de-escalate the incident and bring it under control safely. Officers shall use only that force which is reasonably necessary to effect lawful objectives.

In his written complaint, Mr. ██████ claimed that officers “slammed” his head into the wall: however, when ██████ was interviewed, he conceded that the hit to his head as he was being turned over. None of the officers recalled that ██████ ever struck his head and he never complained of any injuries at the scene. ██████ stated that he was not treated for any injuries at the hospital and he refused to sign a release for his medical records.

This issue is exonerated.

Officer V

Did Officer V comply with Albuquerque Police Department General Order #1-104-1G which mandates:

- G. Conduct unbecoming an officer or employee shall include:

1. That which could bring the department into disrepute;

While Mr. ██████ was in the hospital the police received a complaint that ██████ was making threatening phone calls. Officer V was given this information and asked ██████ for his cell phone. When ██████ refused to give Officer V the cell phone, Officer V told ██████, “Either give it to me, or I’ll physically take it from you.” ██████ complained that this was a threat of “physical violence.” Stating the options in this situation was not a threat, it was simply advice to a recalcitrant citizen. This issue is exonerated.

Chief Schultz agrees with these findings.

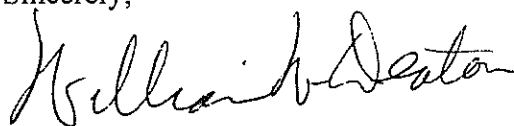
Your complaint and these findings are made part of the officer’s permanent record.

You have the right to appeal this decision. §9-4-1-9(A) of the Police Oversight Ordinance allows any person who has filed a citizen complaint and who is dissatisfied with the findings of the IRO or the Chief may appeal that decision to the POC within ten business days of receipt of this letter. Please promptly communicate your desire to appeal in a signed writing to the undersigned. 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/iro/survey>.

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

Sincerely,

A handwritten signature in cursive script, appearing to read "William W. Deaton". The signature is written in dark ink and is positioned above the typed name.

William W. Deaton

Independent Review Officer

505-924-3774

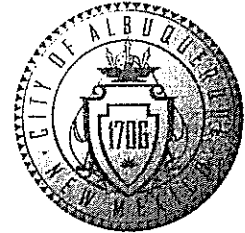
Police Oversight Commission

P. O. Box 1293

Albuquerque, New Mexico 87103

CC: Police Oversight Commission
(W/O names)

CITY OF ALBUQUERQUE

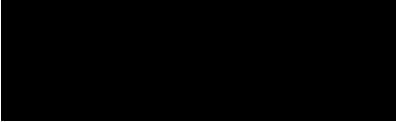


POLICE OVERSIGHT COMMISSION

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Hank Cadena
Scott Carreathers
Bambi Folk
Bob Francis
Don Peterson
William W. Deaton, Independent Review Officer

43-1 9092441326 e 2211
[Redacted]

September 4, 2009



Re: CPC # 190-09

Dear Mr. [Redacted]:

Your written citizen police complaint in this case was received at the IRO office on September 3, 2009. Pursuant to §9-4-1-6 (C) of the *Police Oversight Ordinance*, the complaint was assigned to Internal Affairs for investigation. An investigator from that office should contact you in the near future. If you did not provide a telephone number with your complaint, please call Internal Affairs as soon as possible.

PO Box 1293
Albuquerque
NM 87103
www.cabq.gov

Your complaint was received via e-mail, and therefore does not bear a signature. All complaints must be signed in order to be considered "valid". Please sign the copy of your complaint and return it immediately using the self addressed envelope provided.

Once I receive your signed complaint the investigator will contact you to discuss the details. If I do not receive your signed complaint by September 14, 2009, the investigation will be inactivated as required by statute.

Currently, investigations of complaints require approximately 60 to 90 days to complete. After completion, the officer's supervisor will review the investigation to determine whether any discipline is appropriate based on the findings.

Please remember that complaints involving APD personnel are administrative investigations to determine whether or not any Standard Operating Procedures have been violated. Such violations may result in discipline of the officer. If you desire other relief, please seek additional information on how to proceed.

At the conclusion of the investigation, you will be notified of the results by the IRO and by certified mail from the Chief of Police. If you have further questions, please contact the IRO at 924-3774.

Thank you for you patience and cooperation in the civilian oversight of the police.

William W. Deaton
Independent Review Officer

CC: Lt. Doug West,
Internal Affairs Unit

By: Valerie Morales
Senior Administrative Assistant
(505) 924-3771

Assign to Lt. Wm. 9/3/09

CPL 140.09 3.44

Morales, Valerie C.

From: webmaster@cabq.gov
nt: Thursday, September 03, 2009 11:38 AM
.o: Deaton, William W.
Cc: Morales, Valerie C.
Subject: Online Police Complaint Form Submission

Your Name

[REDACTED]

Your Mailing Address

[REDACTED]

Your Phone Number

[REDACTED]

Date the Incident Occurred

September 01, 2009

Your Date of Birth

[REDACTED]

Your Complaint

On the date above the following officers, Kelley Burt, John McDonnell, Chris Vaughn, William Velasquez, and Lt. Scott Lopez were dispatched to my home on a false police report made by my wife, [REDACTED] who is an [REDACTED]. [REDACTED] claimed that I was trying to harm myself which was not true. She then ordered the police officers to break down the door to my bedroom, where I had gone to bed. The officers forced entry into my bedroom, slammed my head against the wall while on my bed, and handcuffed me for no reason. When I asked why I was being cuffed, they refused to tell me. They then refused to give me my personal property I.E. keys, wallet with ID, and checkbook. THIS IS A CRIMINAL OFFENSE!!!! I want all 4 officers, the Lt. & my wife all investigated formally, and reprimanded in the strictest form possible. In addition, officer Velasquez threatened me with physical violence while @ Kaseman hospital. I want him terminated from the police force effective upon the receipt of this complaint. His misconduct, as well as the misconduct and lack of leadership & ability to control his men by Lt. Lopez make them a disgrace to the police force and to the uniform they wear. I have tried several times to contact Captain Levi Anaya @ the Foothills substation, but he is a slacker as well and has no leadership skills either. He is unwilling to address the issues with the men under his poor command skills. He as well needs a good stern reprimanding. This is the CITY OF ALBUQUERQUE, 2009, NOT 1939 GERMANY! GESTAPO TACTICS WILL NOT BE TOLERATED BY THE CITIZENS OF THIS CITY, COUNTY, STATE, OR NATION. My email address is [REDACTED] Good Day.

09-11-09A11:17 RCVD

