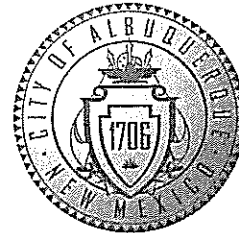


CITY OF ALBUQUERQUE



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 # 202-09

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

www.cabq.gov

CITY OF ALBUQUERQUE

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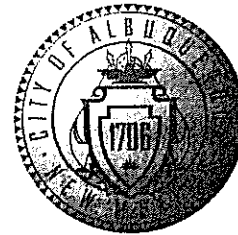
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Bambi Folk

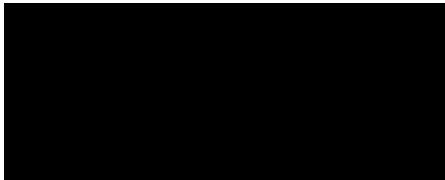
Bob Francis

Don Peterson

William W. Deaton, Independent Review Officer



February 11, 2010



Dear Ms. [REDACTED]

The complaint you filed was received in our office on September 28, 2009. Based on the complaint and the investigation conducted by the Internal Affairs Unit 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.

PO Box 1293

A summary of the investigation and my findings are below.

Albuquerque

THE COMPLAINT

NM 87103

Ms. [REDACTED] filed a complaint which alleges that on September 17, 2009, while she was driving on San Pedro south from Lomas she encountered Officers H and C who were intercepting cars with radar guns. She asserts that the signing (paper signs placed on top of the regular signs) was not adequate to apprise drivers of the decreased speed limit being imposed because of the State Fair. Ms. [REDACTED] parked her car and approached the officer asking what was going on. In the ensuing conversations with Officers H and C, and Sgt. R, and in one physical contact with Officer C, Ms. [REDACTED] complains of the treatment she received. To see the context in which these conversations and actions allegedly took place I attach an addendum to this letter which sets out Ms. [REDACTED]'s version of the events and dialogue.

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

Officer H

Did Officer H comply with Albuquerque Police Department General Order #1-04-1(F), which mandates:

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

While Officer H was running laser on San Pedro NE near the fairgrounds during the State Fair, Ms. [REDACTED] came up to him and engaged him in conversation. She complained that the signs lowering the speed limit could not be seen, and she did not accept Officer's responses including the fact that he was working overtime. Officer H called for his supervisor, and while waiting for the supervisor, Officer C, who was also running lasers to control traffic speed, joined Ms. [REDACTED] and Officer H. Ms. [REDACTED] asked if the officers were having fun, and Officer H indicated that they were. Ms. [REDACTED] repeated her objection to what they were doing, saying that the officers were entrapping speeders and what they were doing was not fair. The use of laser guns in speed control is commonly used in temporary traffic control situations. When Officer H's responses to Ms. [REDACTED]'s inquiries did not satisfy Ms. [REDACTED], Sgt. R, Officer H's supervisor was contacted by radio and came to the scene within a few minutes. Officer H did not call Ms. [REDACTED] any names or say that she was dumb. Officer H did not treat Ms. [REDACTED] in any way which reflected adversely on the department. This issue is exonerated.

Officer C

Did Officer C comply with Albuquerque Police Department General Order #1-04-1(F), which mandates:

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

Officer C was running laser on San Pedro NE near the fairgrounds during the State Fair with Officer H. They picked the location because a couple of officers had been struck by vehicles in the nearby area. After intercepting a few cars speeding, one of which had been immediately in front of Ms. [REDACTED], Officer C saw Officer H engaged in a conversation with Ms. [REDACTED] and he approached them. Ms. [REDACTED] said it looked as if the officers were having fun. Officer H told her that the two officers were working overtime and slowing people down at the State Fair. Ms. [REDACTED] became very argumentative and confrontational in her objections and Officer C returned to his checking the speed of cars in the traffic. When Ms. [REDACTED] stepped in front of his laser blocking it so he could not measure

the speed of oncoming cars, Officer C told her that if she did not get out of the way he would arrest her. She continued to object to the laser exercise and suggested that blinking lights should be put out along with marked patrol cars. Officer C explained that two traffic officers wearing reflective traffic vests had been struck by cars, and he said something like "What do you want us to do, put out clowns and balloons?" Officer C states that this remark was not made in a rude manner. He was responding to Ms. [REDACTED]'s vociferous comments which he considered to be a bit far fetched. Officer C explained to Ms. [REDACTED] that drivers were going ten miles faster than the original speed limit and that there were a lot of pedestrians in the area. The officers had not received any other complaints about the signs lowering the speed limit. When Sgt. R arrived and was pulling into the parking lot Ms. [REDACTED] started walking toward the front of his oncoming car at which time Officer C grabbed her by the arm and pulled her out of the path of the car. Whether the car had stopped when Ms. [REDACTED] was pulled out of its path by Officer C is disputed. Ms. [REDACTED] yelled at Officer C telling him to get his hands off her, and Officer C did so. Officer C denies that he called Ms. [REDACTED] a fool or an idiot or any other opprobrious name at any time. After Sgt. R made contact with Ms. [REDACTED], Officer C went back to his laser interceptions on San Pedro. He could not hear the short conversation that ensued between Ms. [REDACTED] and Sgt. R, but he states that he heard Ms. [REDACTED] call Sgt. R a "fool" or "a mindless fool". I find this issue to be exonerated.

Sergeant R

Did Officer C comply with Albuquerque Police Department General Order #1-04-1(F), which mandates:

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

Sgt. R was working at the APD Command Post for the State Fair Tactical Plan when he received and responded to a call from an officer requesting that he come to the officer's location near Nambe and San Pedro to address a citizen's complaint. Arriving at the aforementioned location, Sgt. R observed Officer Hanes running laser and Officer C talking with a woman. Before he could enter the parking lot at the location he was approached by Officer C and the woman, Ms. [REDACTED]. He advised Officer C and the woman to step back so that he could get off the street and into the parking lot, and as he moved forward, Ms. [REDACTED] stepped in front of his car at which time Officer C grabbed her arm and pulled her back. Ms. [REDACTED] yelled at Officer C telling him to get his hands off her, and Officer C did so, telling her that she was stepping in front of the car and that he had kept her from being struck by the car. Sgt. R put his car in "park" and jumped out to go between the two individuals who were then shouting at each other. After moving a short distance from the patrol car so as to separate Officer C and Ms. [REDACTED], Sgt. R attempted to address Ms. [REDACTED]. Ms. [REDACTED] would not give her name and immediately started berating Sgt. R. She repeated the same arguments set out above, pointed out that she worked in an

emergency room and that she would not be intimidated by the officer, and said "Don't you dare interrupt me" each time Sgt. R sought to explain the traffic setup. After several such exchanges with Sgt. R, becoming silent each time, he told Ms. [REDACTED] that he was not going to post patrol cars with their emergency equipment turned on to warn of the laser exercise; Ms. [REDACTED] called him a "mindless fool" and departed. I find this issue to be exonerated.

Sgt. R and Officers H and C

Did Officers H and C and Sgt. R comply with §1-39-1A 5 which mandates:

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.

...

5. Those contacts where there is reason to believe a complaint could result.

In the circumstances set out above it is most apparent that each of the respective officers should realize that they were dealing with a potential complaining citizen. Most of the inaction between Ms. [REDACTED] and each of the officers was contentious and full of complaints. Almost from the outset of this incident this was the case. Presumably, Sgt. R had some forewarning as to the nature of what he was going to encounter. The exigent circumstances faced by Sgt. R upon his arrival at the scene, made it even more important for him to have prepared to tape record the incident. Given the sequence of the various interactions; the nature of each individual interaction between Ms. [REDACTED] and the particular officer; the shifting duties based on "primary" and "secondary" designations or roles; and the separation of the officers one from another when each was dealing with Ms. [REDACTED]; each officer should have activated his tape recorder when interacting with Ms. [REDACTED], and the recordings should have been checked into evidence. No tape recordings were submitted in this investigation.

I find this issue to be sustained for Officers H and C, and for Sgt. R.

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,



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)

ADDENDUM TO LETTER IN CPC 202-09: COMPLAINT TEXT

Around 5:30 Thursday night, I was on my way to the fairgrounds to volunteer at a booth. Driving south on San Pedro from Lomas, the car in front of me suddenly stopped when a police man stepped out from behind an unmarked car with a radar gun. Several other cars had also been pulled over. I believe it was near Gate 4 near the Fairgrounds.

It surprised me because the guy didn't seem to be going fast. I pulled into a lot to part and walked down the street to find a small paper speed limit sign "25 mph" taped over the regular "35 mph" speed limit sign; it was hard to see.

I parked and walked over to the police officers with the radar guns.

█: "Hi, what's going on?"

Older Cop: "We're stopping speeders because people need to slow down; the speed limit has been lowered for the fair."

█: "that makes sense, It gets pretty congested up the road. But those 25 mph signs are really hard to notice. If the goal is to PREVENT collisions and protect pedestrians, why not put up a big sign near the beginning of the street that blinks, like they do for construction zones?"

Officer 1 (younger, possibly Hispanic): "Hah, what do you want? Do you want us to put out clown and balloons, too?"

Officer 2 (older, caucasian): That's not our job. Talk to Mayor Marty about that; that's his thing (sarcastic tone).

█: (pretty shocked by the immediate snide comments and confrontational behavior) No, I wasn't saying clowns balloons. I'm just thinking it would be better and easier to stop people from speeding ahead of time instead of catching one out of thirty of them after the fact. Why not park regular police cars here instead of marked cars, so people would see them and be warned to slow down."

Coop 2: we don't need to warn them; they should be paying attention.

Cop 1 to me: Ah, You're just pissed of f because you got stopped for speeding. People need to learn how to drive.

█: I agree with you about people "learning to drive," and no, I "did not" get stopped and I wasn't speeding!

Cop 2: Well, you're just a fool like the rest of them.

█: you're calling me a "fool"? How dare you call me - or anybody - names! This is pointless, what you're doing is entrapment. You don't seem to care about public safety at all.

Cop 1: You don't know what you're talking about.

█: I'm just saying if the goal is to slow people down to prevent accidents, there should be more notice of the change in speed limit. You guys look like you're having fun tricking people.

Cop 1. We are. We're enjoying it because we're getting paid overtime. Ha ha! Overtime pay!

█: If you have any ideas about who I can talk to, maybe I can get them to put warning signs up so drivers will slow down before they get here.

Both coops mocking and interrupting me.

Cop 1. You're an idiot. Do you want to talk to my supervisor?

█: Did you just call me an IDIOT? Yes, I want to talk to your supervisor.

(Cop calls him on the phone)

Supervisor show up and parks his car. I started to walk toward it, and the younger officer grabbed my arm and squeezed it.

█: Don't you touch me! Get your hands off me!

Officer: I was just trying to stop you from getting hit by a car.

(The patrol car was stopped when I started to approach it)

Supervisor strides over and immediately starts barking at me in a threatening manner. When I tried to speak, he broke in and asked a question. When I tried to answer, he'd interrupt to say "Huh? Huh? Huh!" so I couldn't talk. I was shocked and horrified at his point. If I had been any more upset, drunk or mentally unstable, I would have wanted to punch him. This is exactly what my older brother used to do to turn me into a raving, violent lunatic. I did call them "jackasses" as I walked away. I am ashamed that I let them "get" to me, but I wonder why police officers would WANT to "get to" me, to incite or aggravate things. They could have just said, "Signs would be good, thanks for suggesting it. Another intervention is radar guns, so we're doing everything we can to slow people down." I would have walked away. This was a real "us and them", macho, arrogant attitude that was shocking and disappointing to me. I would hope that APD trained police officers to deal with the public better than that.

Assign to IA. NWA. 9/21/09

Morales, Valerie C.

OPC 202-09 IA

From: webmaster@cabq.gov
nt: Monday, September 21, 2009 11:05 AM
ro: 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

Sept. 17th, 5:30 pm

Your Date of Birth

[REDACTED]

Your Complaint

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It surprised me, because the guy didn't seem to be going fast. I pulled into a lot to park and walked down the street to find a small paper speed limit sign "25 mph" taped over the regular "35 mph" speed limit sign. Many of the drivers were probably on their normal commute down San Pedro and didn't even see the new sign; it was hard to see.

I parked and walked over to the police officers with the radar guns.

[REDACTED] "Hi, what's going on?"

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Cop 2: We don't need to warn them; they should be paying attention.

Cop 1 to me: Ah, You're just pissed off because you got stopped for speeding. People need to learn how to drive.

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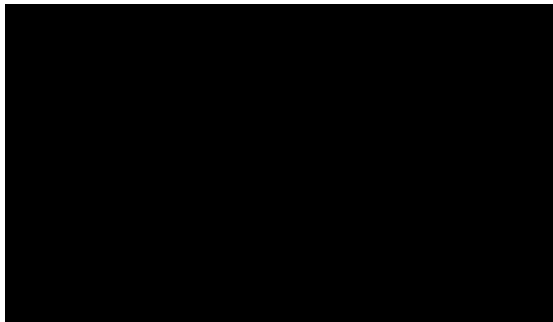
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City of Albuquerque
Police Oversight Commission
Internal Affairs Unit

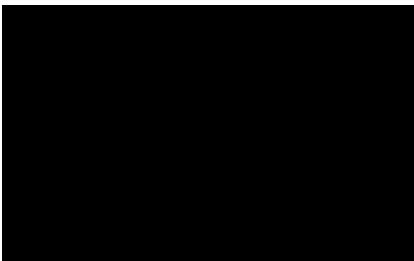
Oct. 8, 2009

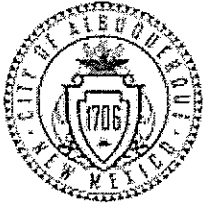
Hello,

Enclosed are two citizen police complaints that I submitted online on Sept. 21, 2009. Last week, I received a notice in my mailbox that I had certified mail requiring a signature to be delivered. I signed the notice and attached it to my mailbox. The next day, no envelope arrived, but I got another certified mail notice, which I also signed and left for the mail deliverer. The next day, I received another notice, so I took it to the post office on Montano. I was handed only a certified letter from the city about the results of a hearing on the Cement Plant, addressed to me as a board member of my neighborhood association.

Yesterday I received the two certified letters from the Police Oversight Commission, saying that if I don't sign my complaints by Oct. 2, 2009, the investigation will be inactivated as required by statute. I called and spoke to Sargeant Glen Stout, who requested that I sign and return the complaints now.

I'm sorry for this delay. I'd like to add that Sargeant Stout and Lieutenant Sadler, who I spoke to last week about my concerns, were both very helpful and understanding with me on the phone. I really appreciate the work that the APD does for us in Albuquerque.





CITY OF ALBUQUERQUE

Albuquerque Police Department
Raymond D. Schultz, Chief of Police

INTEROFFICE MEMORANDUM

October 6, 2009

TO: Bill Deaton, Independent Review Officer

FROM: TJ Thomas Saddler, Sergeant, Internal Affairs Unit

SUBJECT: Inactivation of Case (CPC-202-09)

I received CPC-202-09 for investigation on September 28, 2009. Ms. [REDACTED] filed a complaint against three officers working at the State Fair. She alleged that the officers spoke to her in a rude manner and were very unprofessional. Ms. [REDACTED] did not comply with the IRO letter sent out to her that stated she needed to sign her complaint and return it by October 2, 2009 as required by statute. I checked with Valerie Morales on October 6, 2009, she advised Ms. [REDACTED] did not sign and return the complaint by October 2, 2009. Due to Ms. [REDACTED] not signing the complaint in the time allotted I am requesting that CPC-202-09 be inactivated.

10-9 1 R18-059CEDL

CC: Lieutenant Doug West *concur to inactivate CPC case 10/6/09*