

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

September 17, 2024

To File

No address or email provided by complainant

Re: CPC # 191-22

COMPLAINT:

PO Box 1293

L was arrested on 07/16/2022 for falsely being accused of DUI. Sgt. J came out of the bushes and was set on arresting her. Sgt. J was rude, had shouted at her and was aggressive when he found out she worked in the cannabis industry. L alleged mistreatment during the process; she said Sgt. J had a bias against cannabis as it was evident in his speech and actions.

Albuquerque

NM 87103

www.cabq.gov

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: Sgt. J

Other Materials: n/a

Date Investigation Completed: December 9, 2022

FINDINGS

Policies Reviewed: *1.1.5.A.4*

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.

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.

Policies Reviewed: *2.42.4.A.1 & 2.48.4.A.1.b*

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:

1.1.5.A.4 : There is no evidence to support that L [redacted] was mistreated, harassed, or treated with bias because she worked at a marijuana dispensary. The lapel videos refuted Lujan's claims of unprofessional conduct. Sgt. J was observed conducting his job professionally, appropriately and was courteous towards L [redacted] throughout his interaction with her.

2.42.4.A.1: Sgt. J never falsely accused L [redacted] as claimed. Sgt. J [redacted] conducted his DWI/DUI investigation per policy based on the observations he had at the time. The investigation was properly referred to the DRE officer for further testing and evaluation.

2.48.4.A.1.b : Per Sgt. J's report #220054468, Lujan performed poorly on all three of her sobriety tests. As a result, she was searched, arrested and her vehicle was towed.

You have the right to appeal this decision. If you are not satisfied with the findings and/or recommendations of the CPOA Executive Director within 30 calendar days (inclusive of holidays and weekends) of receipt of this letter, communicate your desire to have an appeal hearing before the CPOA Advisory 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 to CPOA@cabq.gov. Include your CPC number. Upon receipt of the communication, a hearing on the matter will be scheduled at the Board's next regularly scheduled meeting provided there is at least 14 business days between the receipt of the request and the next meeting. In order for the Advisory Board to modify the Director's findings, your appeal must demonstrate one or more of the following:


- 1) A policy was misapplied in the evaluation of the complaint;
- 2) That the findings or recommendations were arbitrary, capricious or constituted an abuse of discretion; or
- 3) that the findings and recommendations were not consistent with the record evidence.

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>. There was a significant delay in the issuance of findings due to the resignation of the Executive Director, another not being appointed by City Council until some months later, and a high volume of reviews to process. Thank you for your patience and participation 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
Executive Director
(505) 924-3770

cc: Albuquerque Police Department Chief of Police