

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

December 17, 2024

Via Email

Re: CPC # 066-23

COMPLAINT:

PO Box 1293

Albuquerque

NM 87103

www.cabq.gov

S [redacted] reported that Officer K stopped her and advised her that he stopped her for speeding, which she denied and told him that she was maybe traveling 43 mph in a 40 mph zone. He stated, "well then I'm giving you a ticket for your window tint." She provided him with her registration and identification and told him to give her a second to find her insurance. He told her that he was going to issue her a citation for the insurance, "even after I found it and he didn't take it." He went to his vehicle for approximately twenty minutes, returned, and said that he had issued her a citation for following too closely and tint. He never issued a citation for speeding. He said that he couldn't provide her with copies of the citations and that she had to sign his copies or he could take her to jail.

EVIDENCE REVIEWED:

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

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

APD Employee Interviewed: Yes

APD Employee Involved: Officer K

Other Materials: Citations and Email Communications.

Date Investigation Completed: August 7, 2023

FINDINGS

Policies Reviewed: 1.1.5.A.4 (Public Welfare)

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.

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:

It was determined that Officer K conducted the traffic stop in a professional manner and used his discretion and available resources to issue S citations for a couple of the multiple violations that he perceived occurred. He provided her with the multiple reasons for the stop and never made the statement regarding her window tint. Officer K patiently waited for S to provide the requested documents and only returned to his vehicle after she stated, "Can you just write me a ticket, I'm kind of in a hurry." S did not provide Officer K with any proof of insurance. The stop was only extended and a citation for careless driving not issued because of printer issues. Officer K explained (as normal) that her signature was not an admission of guilt, only that she would appear in court, and that failure to sign the citations would result in arrest. Due to the printer issues and upon request, S provided Officer K with an email address to send the citations to. He immediately emailed the citations to the provided email address.

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:

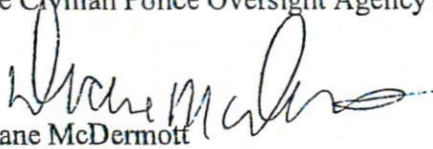
- 1) A policy was misapplied in the evaluation of the complaint;
- 2) That the findings or recommendations were arbitrary, capricious or constituted an abuse of discretion; or
- 3) that the findings and recommendations were not consistent with the record evidence.

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 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