

CIVILIAN POLICE OVERSIGHT BOARD

Thursday, April 14, 2016 – 5:00 PM
Vincent E. Griego Chambers, Basement Level
City/County Government Center – One Civic Plaza NW
Albuquerque, New Mexico

Members Present:

Beth Mohr, Chair
Leonard Waites, Vice Chair
Dr. Susanne Brown
Eric H. Cruz
Joanne Fine
Dr. Lisa M. Orick-Martinez
Dr. Carlotta A. Garcia

Members Absent

Dr. David Z. Ring III

Others Present:

Edward Harness, Executive
Director
Michelle Contreras
Mark Baker
Diane McDermott
Sgt. Anthony Simballa
Marlo Kiefer
Amanda Bustos
Julian Moya
Miriam Verploegh

Minutes

- I. Welcome and call to order:** Chair Mohr called the meeting to order at 5:05 p.m.
- II. Pledge of Allegiance** – Board Member Orick-Martinez led the Board in the Pledge of Allegiance.
- III. Approval of the Agenda:** Copies of the agenda were distributed.
 - A.** Item VI: CPC 186-14 was heard in a previous POB meeting, and will be removed from the Consent Agenda.
 - B.** Item XI: A discussion of rules and regulations will be added to Other Business.
 - C.** Member Waites moved to approve the agenda with changes. Member Brown seconded the motion. **Approved.**
For: Brown, Cruz, Waites, Mohr, and Fine.
- IV. Public Comments:**
 - A. Ms. Geraldine Amato** – Summary of comments to the Board: Ms. Amato stated that APD is under private commercial jurisdiction. The Bar Association runs all of the courts and is not run by good people. Police are recruiting combat veterans who have PTSD. The Feds are strategically placing rogue cops in police departments, to take control of departments. This is how a totalitarian regime takes over. Military ranking of police officers is problematic. They are security officers for the corporate state.

Municipal corporations control all local police departments. They are ordered to kill others or they will be killed. Individuals have been killed according to masonic rituals. It's time for the good people to move out.

- B. Dr. Bill Kass** – Summary of comments to the Board: Dr. Kass stated that he believes policy is the most important place for the Board to effect change. The police department does not seem to want to change policy. The structure needs to be strengthened. The current Policy Board should have members of the community who can contribute. Dr. Kass proposes that Albuquerque adopt something like the Milwaukee model. Right now we have suggestions for policy, which can be easily rejected by the Chief of Police. The CPCs focus on trivial issues that don't seem to have a big impact. The DOJ found a pattern of violence in APD and that should be the focus regarding policy recommendations. Dr. Kass urges the Board to push for new policy and make policy a main focus.

V. Review and approval of minutes:

- A.** Member Cruz moved to approve the minutes from the March 10, 2016 POB meeting as written. Member Waites seconded the motion.

Approved.

For: Waites, Brown, Mohr, Cruz, and Fine.

- B.** Member Waites moved to approve the minutes as written from the April 5, 2016 Special Meeting of the POB. Member Brown seconded the motion.

Approved. For: Waites, Brown, Mohr, Cruz, and Fine.

- VI. Consent Agenda:** The cases on the consent agenda have been individually reviewed by the Board members and the POB agrees with the CPOA's findings. The findings become part of the officer's file.

**142-15 150-15 173-12 176-14 182-13 186-14 190-13 198-14 202-14
204-14 207-14 210-14 213-14 215-14 216-14 218-14 221-14 222-14
223-14 224-14 225-14 228-14 229-14 232-14 249-13 255-13 257-13**

- A.** Waites moved to approve the cases on the consent agenda with the correction of removing CPC 186-14. Member Fine seconded the motion.

Approved. For: Waites, Fine, Cruz, Mohr, and Brown.

- B.** Copies of the full findings letters to citizens can be found at:

<http://www.cabq.gov/cpoa/findings-letters/civilian-complaints-pob-findings>

- VII. Cases to be heard by the POB – 234-15 and 248-15:** According to the Agreement between the APD Union and the City of Albuquerque, the POB is not allowed to know the identity of the police officer named in the complaint. In

accordance with the bargaining agreement, the CPOA does not reveal the officer's name to the Board.

- A. CPC 234-15 alleged that Officer L. was driving while texting and playing YouTube videos in his patrol car. The findings of CPC 234-15 are Sustained for violation of SOP concerning APD vehicle use and driving behaviors. Recommended discipline for Officer L. is a written reprimand. Member Brown moved to approve the findings. Member Fine seconded the motion. **Approved.** For: Cruz, Brown, Fine, Waites, and Mohr.

- B. CPC 248-15 alleged that Officer B. called her a nuisance for calling too often regarding a violation of a restraining order, and that Operator M. told her she called too often and would not send officers out. The CPOA finding was Sustained for Officer B. for violation of SOP concerning use of lapel camera. Recommended discipline for Officer B. is an 8-hour suspension. The finding for Operator M. was Sustained for violation of SOP concerning conduct. The recommended discipline for Operator M. is a 32-hour suspension.
 - i. Board members discussed adding training recommendations for handling domestic violence calls for both Officer B. and Operator M.
 - ii. Member Fine moved to approve the findings and discipline recommendations with the addition of domestic violence training for Both Officer B. and Operator M. Member Brown seconded the motion. **Approved.** For: Waites, Mohr, Cruz, Brown, and Fine.

VIII. Reports from Subcommittees:

A. Outreach Subcommittee – Leonard Waites, Chair:

- i. The proposed mission statement is: “The mission of the POB is to enhance citizen trust and the integrity of the Albuquerque Police Department, objectively review complaints and make findings, offer timely policy recommendations, positively influencing behavior patterns of law enforcement.”
 - a. Chair Mohr would like for all the POB members to spend more time developing a mission statement together. Chair Mohr moved that the POB and the CPOA staff hold a study session to work on the mission statement. Member Fine seconded the motion. **Approved.** For: Mohr, Fine, Brown, Cruz and Waites.
- ii. Members discussed the brochure for the CPOA and looked at several proposed logo designs. The word “Albuquerque” needs to be added to the logo and the word “Agency” can be removed. Most of the POB members favored logo design #1. Member Fine will

- bring a copy of the completed brochure for a vote to the next POB meeting.
- iii. Item iii. (CPCs) cannot be reported on due to Member Ring's absence. Member Waites moved to defer item iii. Member Cruz seconded the motion. **Approved.** For: Waites, Cruz, Fine, Brown, and Mohr.
 - iv. Subcommittees will continue to be held in accordance with the Open Meetings Act, and will not be turned into working groups. Member Ring will give a presentation to the Bear Canyon Neighborhood Association on what the POB is working on. The Outreach Subcommittee will focus on preparing for the NACOLE conference.

B. Policy and Procedures Review Subcommittee – Dr. Susanne Brown, Chair:

- i. Member Brown read a copy of a draft letter to Chief Eden regarding Use of Force Policy. Members suggested several changes to the letter. **See “Attachment A.”**
 - a. Member Brown moved to send the letter to Chief Eden with the suggested changes. Member Fine seconded the motion. **Approved.** For: Waites, Cruz, Brown, A copy of the letter will be forwarded to Julian Moya, City Council President, Dr. Ginger, the Mayor, DOJ, and the City Clerk. Chair Mohr will rewrite the letter with changes.
- ii. Member Brown read a copy of a letter to City Council regarding the new committee on policy, the Office of Policy Analysis (OPA).
 - a. OPA will have a voting member from the POB and from the CPOA. The first full meeting of OPA is scheduled for April 26, 2016 at 8:30 a.m.
 - b. The members discussed several issues regarding the letter to City Council about OPA. Member Waites moved to defer the topic until the next POB meeting. Member Brown seconded the motion. **Approved.** For: Waites, Brown, Cruz, Mohr, and Fine.
- iii. Member Brown read a copy of a letter to City of Albuquerque on changing qualifications for membership on city committees. The letter requests that an exemption be made to give people with felony convictions the ability to join the Citizen Policing Councils.
 - a. Member Brown moved to table this item until the next POB meeting. Member Waites seconded the motion. **Approved.** For: Waites, Brown, Fine, and Mohr.
Opposed: Cruz. Member Cruz would like this topic pushed back to the subcommittee for further discussion.

C. Case Review Subcommittee – Joanne Fine:

- i. **Ordinance Changes – Statute of Limitations on Complaints:**
Member Fine introduced a proposal for having time limits for filing a complaint. Prior to the new ordinance the time limit was 90 days after the incident. Older complaints lack evidence, witnesses, and reliable memories. Board members discussed the issues involved in having a time limit for complaints. Because of the multitude of issues concerning this topic, it will need to be an ongoing discussion.

----Dinner break at 7:00 p.m. Meeting reconvened at 7:30 p.m. ----

IX. Reports from City Staff:

- A. **APD, Sgt. Simballa, Internal Affairs** – Sergeant Simballa gave a report on Statistical Data for the Month of March, 2016. **See “Attachment B” for APD’s report.**
 - i. Sgt. Simballa provided clarification about preventable accidents. They are processed as “at fault” accidents and officers may be disciplined for those accidents depending on their driving history.
- B. **City Council, Julian Moya:**
 - i. City Council is seeking to fill the open POB member position after Jeffrey Scott Wilson’s recent resignation. City Council will not be able to fully comply with the ordinance due to a low number of applicants for the position. The current candidates do not reflect the cultural, gender, and geographic diversity of the city. City Council will take new applications for one month, starting within the next couple of weeks.
 - ii. The supplemental contract for legal council is on the agenda to be approved by City Council at the meeting on April 18, 2016.
 - iii. City Council has received the 2015 Annual Report from the CPOA and it will be introduced to City Council and will go through the committee process before going back to full Council for final approval.
 - iv. City Council has received Chair Mohr’s email regarding the CPOA budget, and will be working toward achieving the requests made by Chair Mohr. The Mayor’s budget proposal for the CPOA is not enough to fund the agency and the Board is asking City Council to increase the budget. The CPOA is currently budgeted for ½% of APD’s budget.
 - v. The Board is invited to attend Parliamentary training on May 2, 2016. RSVP via email by April 18, 2016.
- C. **Mayor’s Office:** No one present to give report.

D. City Attorney: No one present to give report.

E. CPOA Executive Director Edward Harness:

- i. The CPOA received 38 new complaints, and 8 will be referred to mediation. APD received 9 Job Well Done reports in March.
- j. Director Harness has a draft for the policy approval process for OPA. OPA members (City Attorney and Bill Slausen) requested that the CPCs make their policy recommendations through the POB.
- k. Mr. Rickman, the contracted Monitor expert, is presenting two 8-hour blocks of instruction for CPCs on April 16, 2016. Director Harness suggests giving the CPCs a spot on the POB agenda.
- l. Amanda Bustos met with one of the Mayor's constituents and gave them instructions on how to take complaints from citizens and forward them to the CPOA office. Constituent Services would like to know what the Board would like to hear from the Mayor's office.

X. Meeting with Counsel re: Closed session to discuss matters subject to the attorney-client privilege pertaining to threatened or pending litigation in which the CPOA is or may become a participant-Board Attorney Mark Baker.

A. The Board did not meet in closed session during this meeting, as there were no matters to discuss with Attorney Mark Baker at this time.

XI. Other Business:

A. The Board previously voted on a set of rules and regulations which were drafted by Mark Baker. Dr. Ginger. Director Harness, Chair Mohr, and Mark Baker are currently reviewing the rules and regulations and will present them to the full Board when they are finished with the review. It will then go to Council and to the public for review and public comment.

B. The next Outreach meeting is on Monday.

C. The next Policy meeting is on Tuesday, April 19 at 9:00 a.m.

D. The next Case Review Meeting May 3, 2016

E. Board members were reminded to do their ride-alongs with APD within the next six months. Members also need to do firearms simulation training.

XII. Adjournment: Member Fine moved to adjourn the meeting. Member Cruz seconded the motion. Meeting adjourned at 8:10 p.m.

- Next regularly scheduled POB meeting will be on Tuesday, May 17, 2016 at 5 p.m. in the Vincent E. Griego Chambers.

APPROVED:

Beth Mohr, Chair
Civilian Police Oversight Agency

Date

CC: Julian Moya, City Council Staff
Natalie Howard, City Clerk
Dan Lewis, City Council President

“Attachment A”

February 9, 2016

Dear Chief Eden,

→ Explain that per the ordinance the POB is charged with spending 51% of its time on Policy... etc.
The POB policy committee has reviewed the Use of Force policy, SOP 2-52. We asked to make comments on the policy in December while it was going back and forth between APD and DOJ and were denied an opportunity to review it at that time. We were present when the policy was presented at PPRB but were effectively told not to comment, that a lot of work had been done and APD was not looking for any changes at this point in time. While we agree that it was time to get the policy approved, ~~but~~ we do not agree with the process which kept us from making any comments on the content.

We are asking to be at the table for all *ongoing* conversations between APD and DOJ *before the next PPRB review* when the review of this ~~policy comes forward in six months.~~

The POB has strong concerns about language used in this policy. “Whenever feasible” is used six different times. “Feasible” is too unclear and ambiguous. The benchmark for Use of Force is “reasonableness.” “Feasible” weakens the intent of the settlement agreement. Therefore, we request that “whenever feasible” be removed from the Use of Force policy

We are concerned that there are concepts added to the policy which are not necessarily helpful to the officer. For example, “intermediate force” is not used in the Settlement Agreement and “minimum amount of force necessary” is another example. We recommend that the standard be “reasonable force” which has a legal definition and is well described in the policy in section 2-52-3-c.

We recommend that under Rules, Responsibilities, and Procedures, 2-52-5 be entirely removed as it should be part of training and adds unnecessary ~~verbiage~~ *verbiage* to the Use of Force policy.

Under 2-52-3-F “reason to believe” should be substituted for “probable cause” as the latter is a legal term.

We feel that Lethal Force and Motor Vehicles, 2-52-3. F (4) is written more clearly in the Settlement Agreement and would encourage using ~~their~~ *that* language *in APD policy.*

~~In section 2-52-5, C (4) electronic weapons should not be used without a verbal warning. This language is missing.~~

Thank you for including us in future dialogue about these recommended changes.

Signed.... Chair Mohr, POB

CC" Dr. Ginger

~~CC: Dr. Ginger~~

cc: Dr. Ginger

Natalie Howard

Dan ~~Lewis~~

Julian Moya

cc: DOJ

cc: APD Union

cc: Mayor's Office

“Attachment B”

POLICE OVERSIGHT BOARD
INTERNAL AFFAIRS
STATISTICAL DATA FOR THE MONTH OF MARCH 2016

APD 911 Communications Center
Dispatched calls for Service for MARCH 2016: 41,494

INTERNAL CASES FOR THE MONTH OF MARCH 2016

I's

Internal Cases Received: 33

Comprised of:

- 6-Internal Affairs Investigated case
- 2-Area Command Investigated cases
- 25- Preventable Accidents

Internal Cases Administratively Closed: 0

Internal Cases Mediated: 0

Total Internal Cases Completed the Month of MARCH: 25

Comprised of:

- 4-Internal Affairs cases
- 4-Area Command cases
- 17-Preventable Vehicle Accident

Discipline imposed for Internal Cases/ MARCH 2016:

8: Verbal Reprimand

13: Letter of Reprimand

1:8 hour Suspension

1:80 hour Suspension

1:160 hour Suspension

1:Termination

Standard Operating Procedures (recommended)

Admin Orders:

3-66-3C2a

Conduct:

1-04-1A 1-04-1E 1-04-1F 1-04-1J1 1-04-1J2
1-04-1G 1-04-3A 1-04-4A 1-04-4D 1-04-6H 1-04-6K

General Orders:

1-39-2B

City Rules and Regulations:

301.3 302

Communications SOP:

2-01-18A1 2-01-19E

Pending Cases for the Month of MARCH 2016: 21