

Police Oversight Commission

City of Albuquerque
Independent Review Office

Annual Report 2002

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Jay Rowland, IRO

Police Oversight Commissioners

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I. Responsibilities of the POC and IRO

The purpose of the police oversight system is to provide a means for prompt, impartial, and fair investigation of all citizen complaints brought by individuals against the Albuquerque Police Department (APD), and to provide for community participation in setting and reviewing police department policies, practices and procedures.

The Police Oversight Commission (POC) is composed of seven volunteers who broadly represent the diversity of the City. The POC has been charged to perform the following functions.

1. To promote a spirit of accountability and communication between the citizens and APD while improving community relations and enhancing public confidence.
2. To oversee the full investigation and/or mediation of all citizen complaints; audit and monitor all investigations and/or police shootings under investigation by APD's Internal Affairs (IA).
3. To gain the cooperation of APD and solicit public input by holding regularly scheduled meetings
4. To review all work of the Independent Review Office (IRO) with respect to quality, thoroughness, and impartiality of investigations.
5. Submit a quarterly report to the Mayor and City Council
6. Submit all findings to the Chief of Police.
7. To engage in a long-term planning process through which it identifies major problems and establishes a program of policy suggestions and studies each year.

The Independent Review Officer is an attorney and manages the Independent Review Office and its staff. The IRO is given autonomy and performs the following duties under the direction of the POC.

1. The IRO receives all complaints and claims directed against APD and any of its officers. The IRO will review the complaints and assign them to be investigated by IRO independent investigators or to Internal Affairs.
2. The IRO will oversee, monitor and review all investigations and make findings for each. These findings are forwarded to the POC.
3. The IRO makes recommendations and gives advice regarding APD policies and procedures to the POC, City Council, APD, and the Mayor.
4. An impartial system of mediation may be used for certain complaints.
5. Monitor all claims of excessive force and police shootings and be an ex-officio member of the Claims Review Board.
6. Ensure all investigations are thorough, objective, fair, impartial, and free from political influence.

7. Maintain and compile information sufficient to satisfy the POC's quarterly reporting requirements.
8. Play an active public role in the community and provide appropriate outreach to the community. Publicize the citizen complaint process and identify locations within the community that are suitable for citizens to file complaints in a non-police environment.

II. Albuquerque's Police Complaint Handling System

Any person may file a written complaint against APD or any of its officers. These written complaints can be filed from:

- a. The IRO's website at www.cabq.gov/iro.
- b. At the IRO office at Room 813, Plaza del Sol, 600 2nd St, NW.
- c. P.O. Box 1293, Albuquerque, NM 87103, and
- d. Internal Affairs.

Complaint forms are available for downloading on the web site, at City libraries, homeless shelters, police substations, and Internal Affairs. The complaints may be filed with the city staff and all complaints will be forwarded to the IRO.

Once the IRO receives a complaint, the complaint is entered into the IRO's case management database and assigned a unique Citizen Police Complaint (CPC) number. The IRO reviews the complaint and decides whether to attempt to mediate the complaint or assign the case to the IRO investigators or Internal Affairs. Currently, the IRO is only staffed enough to investigate about half the complaints and Internal Affairs investigates the other half of the complaints. Upon completion of the investigation, the IRO reviews the investigation for thoroughness, impartiality, and fairness. The IRO decides what APD Standard Operating Procedures (SOPs) the citizen alleged to be violated and makes Findings based on the evidence contained in the investigation. Findings are based on a preponderance of the evidence. The definitions of complaint dispositions are:

1. Sustained: Member is determined to have committed the alleged violation.
2. Not Sustained: It cannot be determined by a preponderance of the evidence if the member did or did not commit the alleged violation.
3. Unfounded: Member did not commit the alleged violation.
4. Exonerated: Member was justified in taking the course of action alleged and/or member was operating with the guidelines of the law or SOPs.
5. Inactivated: Complaint was determined to not merit further investigation.

Complaints can be inactivated for several reasons, including; if they do not allege a violation of SOPs, are submitted over 90 days from the incident, are not against APD members, the APD member cannot be identified, or the case was successfully mediated.

The IRO's findings are sent to the complainant and the Chief of Police. The Chief of Police has sole disciplinary authority over the officer. The Chief will notify the citizen of his final decision by certified mail. Any citizen who is dissatisfied with the findings may appeal that decision to the POC. Appeals are heard during the POC's monthly, televised meetings and are open to the public. The POC may, upon appeal, modify or change the recommendation of the IRO and may make further recommendations to the Chief. The Chief shall notify the POC and the citizen of his decision. If the citizen is still not satisfied with the action of the POC and the Chief of Police, the citizen may request a review by the Chief Administrative Officer (CAO) within 10 days of the Chief's action. The CAO may take any action necessary to complete the disposition of the complaint.

III. Work of the Police Oversight Commission

In 2002, the City Council approved the Mayor's appointments of six new members to the Police Oversight Commission. One of the newly approved members resigned for personal reasons shortly after his appointment. Dolly Sanchez de Rivera was then appointed to finish that commissioner's term, while the other four commissioners were appointed for two-year terms.

Dolly Sanchez de Rivera was born and raised in the community of Barelitas in Albuquerque. She retired from the Bank of America in 1991 and retired again from KNME-TV in 2000. She is known and admired as a community activist, providing leadership for various neighborhood initiatives in crime prevention and beautification.

I. L. Smokey Sanchez-Davis has a background in real estate and property management. He served as a State Representative, Chief Deputy for the Bernalillo County Assessor and as a regional administrator for the Department of Housing and Urban Development. He is an active community volunteer and has served as chairman of the Board of Trustees of the Albuquerque Museum, and member of the Board of Directors of the Albuquerque Federal Employees Credit Union and State Rehabilitation Advisory Council.

Tim Kline is a twenty-year veteran of the Albuquerque Police Department and served two terms on the Albuquerque City Council. He was chairman of the City Finance Committee and Vice-President of the City Council. He is an active supporter of the Valentine Charity Ball for New Day Shelter and is currently employed as the customer service manager for Zangara Dodge.

Steve Abraham was born and raised in Albuquerque. He is co-owner and president of Yellow-Checker Cab Company. He is vice president of Siesta Hills Group, serves as a director of the Paratransit Insurance Company, and sits on the board of the Gilburd Company.

Joe Gutierrez is the manager for physical security for Wackenhut Corporation. He has thirty years experience in law enforcement and is a retired major from BCDC. He is an active member of the American Corrections Association and the Hispano Chamber of Commerce.

The Police Oversight Commission was chaired by Joseph Dorn and Valerie Webb-Jaramillo was the vice chair. The POC heard five appeals from citizens during the year and took no further action, while agreeing with the findings and recommendations of the IRO. They also heard several police issues, including the new in-car video systems, the air support unit and its new helicopter system, crowd control and monitoring demonstrations, the canine unit, the party patrol, APD Reorganization, Internal Affairs Training, the Domestic Violence Unit, and the new critical response team. They reviewed the Early Warning System maintained by Internal Affairs and found it to be working well and can be maintained by APD personnel, even if the volunteer who created it leaves. The POC also reviewed findings on shootings by police officers.

In January 2002, the newly elected mayor decided not to renew the contract of Ann Steinmetz, the IRO, so the POC undertook the process to advertise for, interview, and recommend three candidates to the mayor. Ann Steinmetz left the job in April. Jay Rowland was appointed as the new IRO by the mayor and approved by the City Council in September. This gap between IROs slowed the normal appeal processes and actions by the POC.

The POC reviewed a detailed, lengthy consultant's report that made numerous recommendations for changes to the current police oversight system. The POC made nine recommendations for changes to the City Council. These are still pending. The recommendations were to give the POC authority to remand cases to APD or the IRO. They wanted the time frames for investigation and disciplinary action to be clarified and standardized. They requested bi-annual reports from Risk Management so they could assess trends and problems. They recommended the IRO have a two-year contract with options to extend and for continuity until a new IRO is hired. They wanted sufficient appropriations for training for the IRO, POC, and their staff. They requested the City Council to fully fund the APD early warning system and require APD to develop and adequate procedure for handling informal complaints. The POC also recommended against closing the POC meetings to the public.

The POC revised the complaint form to make it clearer that the citizens must be as specific as possible about the events and participants as possible. They also revised the presentation time limits for persons speaking at appeal hearings. They changed the final public record letter and approved its mailing to the citizen complainant so they understand the reasoning behind their decisions. After much debate and public input, they also limited the time for speakers during the public input portion of the meeting to three minutes with the option for the chair to expand it to five minutes.

They also formed a new Long Term Planning Committee consisting of three members and chaired by Steve Abraham. These meetings are also open to the public, but not televised as are all POC meetings. The first meeting was in November 2002 and will meet regularly on the fourth Tuesday of every month at 4 PM in the basement of the Plaza del Sol. The committee made recommendations to the full POC on how to handle Aviation Police cases and the health of the Early Warning System. They also voted against a recommendation by APD to stop the IRO from making Findings in all complaint cases.

The POC and IRO have enjoyed a mostly cooperative relationship with APD. But the success of the civilian oversight will depend on even greater levels of cooperation in the future. Both organizations will need timely and unfettered access to relevant documentary evidence from APD if the independent oversight function is to be meaningful.

Clearly, the vast majority of police officers in Albuquerque are hardworking professionals who do not engage in misconduct. We will strive to work together to reduce the level of misconduct and ultimately increase public confidence in the APD and result in better relations between the public and APD. These are worthy goals and we will all do our part to attempt to achieve them.

IV. Statistical Report for Complaint Workload

Due to the evolving, erratic history and support of the IRO since its inception by statute in 1998, the staffing and computer support for analysis of the complaints has been very limited. Ann Steinmetz, the first IRO, was not hired until February 2000. She had no office, staff, computers, filing cabinets, or any normal capabilities until August when she hired an administrative assistant. Two IRO investigators were finally hired in September 2001. When the IRO's contract was not extended, she left the position in April 2002 and another IRO was not hired until mid-September. Ann Steinmetz did a marvelous job under extremely trying conditions. Her computer program to produce the tremendously detailed, specifics of cases and complaints is the basis for the Parts I through IX of this statistical report and past reports. It is a superb compilation of the complaints and will be maintained for continuity and in depth analysis. The following statistical analysis is an attempt to give the citizens of Albuquerque a summary of how the process is working.

While the new IRO has been in place only three months, he has assured the citizens of Albuquerque that the independent IRO investigatory process is outstanding and produces the prompt, impartial, fair, objective investigations of citizen complaints and is free from any political influence. The investigators thoroughly and impartially gather the evidence. The IRO makes findings free from any political influence. Disagreements with the Captains and the Chief are usually resolved. Those that cannot be resolved (as well as all findings) are explained to the citizen, who then has the opportunity to appeal to the Police Oversight Commission. These appeals are open to the public and televised. The IRO's findings are published in a public record letter, which is available to the public in the IRO's office. Privacy material is deleted to protect the privacy of the citizens and officers. The process is an extremely open process and subject to public scrutiny. The administration, city councilors, and citizens of Albuquerque can be pleased with the system of civilian oversight of the police department that they have created. This is the first time since its inception that all the right pieces (POC, IRO, and IRO investigators) are finally in place to have a sustained process.

The Independent Review Office compiles data from citizen complaints to provide an overview of the nature and frequency of citizen complaints as well as specific data, which allows the public to identify patterns and trends. By tracking various aspects of the complaints, recommendations can be made to address particular areas of concern. The IRO and POC work closely to identify areas that may be appropriate for data collection.

This year marks the first time data was collected by the IRO on the types of complaints made against police officers and then sorted into complaints involving Police Powers, Procedures, and Customer Service. Data is also presented for the first time showing the timeliness of investigations and the disciplinary action taken for the above categories of complaints. Data collection and statistical reporting will continue to evolve and, hopefully, provide information, which will be used to address and improve areas of concern.

There were 200 citizen complaints filed in 2000, 186 in 2001, and 198 in 2002. These numbers have remained fairly steady over the last three years. In 2000, Internal Affairs investigated all the citizen complaints because the IRO did not have independent investigators. In 2001, independent investigators were not hired until September. They were assigned 24 citizen complaints to investigate, completed 15, and had 9 pending. In 2002, IRO investigators were assigned 107 cases, completed 92 investigations and had 15 pending. Internal Affairs was assigned 91, completed 72, and had 19 pending.

V. *Timeliness In The Processing Of Citizen Complaints*

APD Standard Operating Procedure §3-43-2I states, “Within 60 days of the filing of a written complaint, or of the completion of the Internal Affairs investigation, whichever is sooner, the Chief of Police or his designee shall take any action necessary, including disciplinary action, to complete the review of the complaint. The Chief of Police may request that the Chief Administrative Officer, or the Deputy Chief Administrative Officer for Public Safety grant an extension of up to 30 additional days.”

The IRO office has a goal of 100% of the complaints to be investigated within 90 days and 75% investigated within 60 days. Due to a change in the APD procedures in August 2002, Internal Affairs now completes their investigation and forwards it to the supervisor of the subject officer. That senior officer reviews the investigation, makes preliminary findings, and returns the file to IA. The file is then forwarded to the IRO for review and findings. Because of this added step to forward the file to the supervisors before it comes to the IRO, the investigations from IA may appear to take longer than the investigations actually took. For 2002, investigations were completed in the following number of days.

	<30	31-60	61-90	91-120	121-150	150+	Total
IRO	34	40	16	0	2	0	92
IA	16	26	20	4	4	2	72

These statistics are not precise and it is too early to use closed complaints to fully evaluate the timeliness of the overall process, but these need to continue to be evaluated in case they provide clues to improving the overall process. It is clear we did not meet the goal of completing all investigation within 90 days; however, the vast majority (93%) of the investigations were completed within 90 days.

Investigations pending and the number of days since receiving the complaint, as of 12/31/2002, are listed below.

	<30	31-60	61-90	91-120	120+	Total
IRO	8	6	1	0	0	15
IA	5	3	4	6	1	19

VI. Action Taken On Sustained Allegations

The complaints for 2002 were grouped into the following categories. Figures from 2001 were not compiled. In 2001, 53 complaints were sustained and 32 were sustained in 2002. (Eighteen cases were sustained in the last three months of 2002.) They are shown in the below categories.

Categories	Customer Service	Police Powers	Procedure	Inactivated	Pending
Totals 2002	54	31	34	45	34
Sustained 2002	17	4	11		
Sustained 2001	20	6	27		

While we do not have totals for these categories from 2001, the above numbers were sustained in each category in 2001.

Actions taken 2001	Customer Service	Police Powers	Procedure
No Action	9	2	10
Counseling	3	2	10
Verbal Reprimand	3	0	5
Written Reprimand	4	1	2
Suspension	1	1	0
Removal	0	0	0
Actions taken in 2002			
No Action	4	1	3
Counseling	0	1	1
Verbal Reprimand	3	0	1
Written Reprimand	2	0	0
Suspension	0	0	0
Removal	0	0	0
Pending	8	2	6

VII. Detailed Complaint Information, Part I-IX

The following detailed information is the same information and in the same format that was compiled in the annual reports for 2000 and 2001.

