

CIVILIAN POLICE OVERSIGHT BOARD

Thursday, May 18, 2017 – 5:00 PM
Vincent E. Griego Chambers, Basement Level
City/County Government Center – One Civic Plaza NW
Albuquerque, New Mexico

Members Present:

Dr. Carlotta Garcia, Vice Chair
Johnny J. Armijo
Susanne Brown
Eric Cruz
Rev. Dr. David Z. Ring III
Leonard Waites

Members Absent

Joanne Fine

Others Present

Edward Harness, CPOA
Michelle Contreras, CPOA
Diane McDermott, CPOA
Mark Baker, Esq.
Commander Jeremy McRae, APD

Amended Meeting Minutes

- I. Welcome and call to order** – Vice Chair Garcia called to order the regular meeting of the Police Oversight Board at 5:02 p.m.

*****Prior to the Pledge of Allegiance, Vice Chair Garcia amended the Agenda to reflect that Member Ring will be leading the board in the pledge of allegiance.*****

- II. Pledge of Allegiance** – Member Ring led the meeting in the Pledge of Allegiance.
- III. Mission Statement** – Vice Chair Garcia read the POB's Mission Statement.
- IV. Approval of the Agenda**
- a) Copies of the Agenda were distributed to each Member in their packets.
 - b) Vice Chair Garcia made the following amendments to the agenda:
 - i. Member Ring to lead the POB in the pledge allegiance.
 - ii. Since Member Ring needs to leave the meeting early, agenda item XIII, a and b will be moved to after item VI.
 - iii. Agenda item VII d and e to be amended to reflect that Commander McRae will be presenting during this topic.
 - iv. Mr. Moya will not be in attendance; therefore, agenda item XIII, b will be presented by CPOA Director Harness, who will be reading an email from Mr. Moya.
 - v. During agenda item XI, a., Member Armijo will be presenting the Outreach Subcommittee report instead of Member Ring.
 - c) Member Orick-Martinez has resigned from the board.

- d) A motion was made by Member Waites to approve the agenda as amended.
Member Armijo seconded the motion. The motion was carried by the following vote:

For: 6 – Armijo, Brown, Cruz, Garcia, Ring, Waites

- V. **Public Comments** – Mr. Ryan Summers gave a summary to the board regarding his case that was previously investigated by the Independent Review office in case number CPC 067-12. Mr. Summers stated that the process was like pulling teeth. He later went to prison because of the incident. He was found incompetent to stand trial and was placed in a psychiatric holding and was forced to take medication. Mr. Summers states that he is an educated man and feels that the decisions made by the IRO office have impacted his life. The reason for his appearance at this meeting is because the statute of limitations of two (2) years is fast approaching.

VI. **Review and Approval of Minutes**

a) **Minutes from March 16, 2017 and April 13, 2017**

1. Copies of the draft minutes from March 16, 2017 and April 13, 2017 POB meetings were distributed to each member in their packets.
2. A motion was made by Member Ring to approve the March 16, 2017 POB minutes. Member Cruz seconded the motion. The motion was carried by the following vote:
For: 6 – Armijo, Brown, Cruz, Garcia, Ring, Waites
3. A motion was made by Member Armijo to approve the April 13, 2017 POB minutes. Member Ring seconded the motion. The motion was carried by the following vote
For: 6 – Armijo, Brown, Cruz, Garcia, Ring, Waites

VII. **(Previously listed on agenda as Item XIII) - Meeting with Counsel re: Pending Litigation & Personnel Issues.**

- a) **Matters subject to the attorney-client privilege pertaining to threatened or pending litigation in which the public body is or may become a participant pursuant to NMSA 1978, Section 10-15-1(H)(7);**
- b) **Limited personnel matters pursuant to NMSA 1978, Section 10-15-1(H)(2)**

1. Vice Chair Garcia read aloud the following statement:

“Matters subject to the attorney-client privilege pertaining to threatened or pending litigation in which the public body is or may become a participant pursuant to NMSA 1978, Section 10-15-1(H)(7).”

2. A motion was made by Member Waites that we go into an executive session. Member Brown seconded the motion. The motion was not carried for a vote.
Roll call: Cruz, Garcia, Waites, Ring, Brown, Armijo
3. At 5:14 p.m., the POB went into an executive session.
4. At 5:30 p.m., the POB came out of an executive session.
5. Vice Chair Garcia made the following statement:

“We have gone into the executive session only to have a meeting with our counsel for pending litigation. It is a closed discussion for possible action regarding pending litigation matters subject to attorney-client privilege pertaining to threatened or pending litigation in which the public body is or may become a participant pursuant to NMSA 1978, Section 10-15-1(H)(7).”
6. A motion was made by Member Waites that we reconvene [the meeting] and that we only spoke about matters that were pertaining to litigation. Member Brown seconded the motion. The motion was not carried for a vote.
Roll call: Cruz, Garcia, Waites, Ring, Brown, Armijo

VIII. (Previously listed on the agenda as Item VII) – Discussion:

- a) Summary of the Monitor’s Report #5 [Harness].
 1. **Overall.** Director Harness discussed several items from the DOJ Monitor’s IMR #5.
 2. **Monitor’s Review of CPOA/POB work**
 - i. Discussed the anonymous online complaint form. Ms. Bustos, IT and Mark Leech will be working on a parallel online form that can be submitted anonymously.
 - ii. Discussed the Monitor’s concerns regarding the timeliness and completeness of CPOA’s investigations.
 - iii. The CPOA is generally in the area of primary, secondary and operational compliance.
 - iv. Discussed the Mediation Memorandum of Understanding (MOU). The DOJ has some concerns about the MOU and they have pledged to work with the CPOA and APD to put together an experimental program that would need Judge Brack to set aside a paragraph or two in the settlement agreement in order to fulfil the obligation under the Ordinance to mediate complaints.

- v. Director Harness addressed Judge Brack at the Status Conference and outlined the POB and CPOA's concerns regarding the Office of Policy Analysis (OPA) and the non-concurrences from the Chief. Those cases will be re-examined in the Monitor's 6th report (6th IMR).
- vi. The Monitoring team will be doing a site visit the week of June 12, 2017.
- vii. There will be a CPC summit to be held on June 12th in the evening.
- viii. Attorney Mark Baker clarified for Member Brown the status of the POB in reference to the settlement agreement. The POB is in a place where they can provide input as an independent agency while at the same time they are being reviewed for compliance by the Monitor.

3. Monitor's Review of APD Cooperation with CPOA/POB

- i. The Monitor's report indicates that they are pleased with the cooperation level between and CPOA and Internal Affairs as it relates to the everyday operations. However, Director Harness pointed out that there are some glitches in the relationship between the CPOA, the POB and the command staff at APD.

b) CIRT Cases Review Process in Concert with APD

1. Rolling 30 days does not work for the POB.

- i. Discussed revising the current system so that the POB can meet its obligation under the settlement agreement and the ordinance.
- ii. The Case Review Subcommittee cannot meet on a weekly basis in order to review the CIRT cases before they go before the Force Review Board (FRB).
- iii. A possible solution would be that the POB would review the CIRT cases after they have been through the FRB and then the POB could review both the CIRT case and the results from the FRB. This process would remove the timeline obligations as it relates to the FRB. If the POB deemed that there needed to be further investigation or an Internal Affairs (IA) investigation should commence, then that would give IA the time to do the investigation and they would not violate the collective bargaining agreement with the APOA.
- iv. Discussed that this topic may be entertained at the next POB meeting after a meeting with Command Staff and the creation of an MOU.

- c) **APD Policy Process will now include 30 day review by whole POB.** This item is in relation to Item VIII, b. Director Harness discussed that they have come to an agreement with the City and APD in which the POB would have a policy submitted to them after the first session of the SOPRC committee. The City and APD have pledged to put it in writing but we have not received anything yet.

- d) **Chief’s Letters Update – APD Commander Jeremy McRae**
 - 1. Commander McRae conferred with Major Jessica Tyler and there are no specific updates but that the Chief is responding to all issues of non-concurrence in discipline as well as findings from the CPOA with a letter including a detailed explanation.

- e) **Flow Chart Update – APD Commander Jeremy McRae**
 - 1. Discussed the two (2) flow charts titled “Outline of the Civilian Police Oversight Process in Albuquerque” and “Overview of APD Internal Affairs Process.”
 - 2. Commander McRae reviewed the flow chart authored by the POB/CPOA [Outline of the Civilian Police Oversight Process in Albuquerque] and noted a few minor errors (see red lettering in see attachment “A1”).
 - 3. Attachment “A2” is a simplified flowchart that shows the description of the different duties of IA. Commander McRae gave Chair Fine a copy of this.
 - 4. Commander McRae will email both flow charts to Director Harness for dissemination to the POB.

IX. (Previously listed on the agenda as Item VIII) Consent Agenda Cases: The CPOA’s findings in each case listed on the consent agenda are reviewed and approved by the POB. The findings become part of the officer’s file, if applicable. Copies of the full findings letters to the citizens can be located at <http://www.cabq.gov/cpoa/findings-letters/civilian-complaints-pob-findings>.

a) Administrative Closed Cases

190-16 009-17 091-17 095-17 103-17 104-17

A motion was made by Member Waites that the we accept the *Administratively Closed* cases as presented. Member Cruz seconded the motion. The motion was carried by the following vote:

For: 6 - Armijo, Brown, Cruz, Garcia, Ring, Waites

b) Cases Investigated

158-16 179-16 188-16 001-17

A motion was made by Member Waites that we accept all cases [*Cases Investigated*] as presented. Member Brown seconded the motion. The motion was carried by the following vote:

For: 6 – Armijo, Brown, Cruz, Garcia, Ring, Waites

c) CIRT Cases

C-050-16 C-052-16 C-007-17
 C-073-16 K-9 Investigation

A motion was made by Member Waites that the we accept all the cases [CIRT Cases] as presented. Member Ring seconded the motion. The motion was carried by the following vote:

For: 6 – Armijo, Brown, Cruz, Garcia, Ring, Waites

- X. (Previously listed on agenda as Item IX) – OIS I-118-16.** 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) Director Harness read his findings summary of I-118-16. The Findings letter to Chief Eden, Jr. dated May 18, 2017 is posted on the CPOA's website located here: <http://www.cabq.gov/cpoa/findings-letters/special-cases-sent-to-internal-a/officer-involved-shootings>
 - b) Member Brown raised several questions about this incident:
 - 1. What is the procedure as it relates to putting up tape vs. rendering aide? Director Harness recalled that they rendered aide right away.
 - 2. Discussed the performance of CPR on a suspect while he is handcuffed. Director Harness that would be something for the training director as far as what their research is and how they are trained.
 - 3. Member Brown requested a trauma consult in reference to this issue.
 - 4. Director Harness will contact APD training academy regarding this issue.
 - c) Discussed the timelines with the Officer Involved Shooting cases.
 - d) A motion was made by Member Ring to accept Mr. Harness' report. Member Brown seconded the motion. The motion was carried by the following vote:
For: 6 – Armijo, Brown, Cruz, Garcia, Ring, Waites

- XI. (Previously listed on agenda as Item X) - POB's Review of Garrity Materials.**
There were no Garrity materials for the POB to view.

At the beginning of the meeting, the agenda was amended to reflect that Member Armijo would do the report for Community Outreach Subcommittee; however, Dr. Ring had not yet left the meeting and decided to do the report.

- XII. (Previously listed on agenda as Item XI) - Reports from Subcommittees**
- a) **Community Outreach Subcommittee – Rev. Dr. David Z. Ring III** - For more information regarding POB Community Outreach Subcommittee meetings for agendas and minutes, please refer to the website located here: <http://www.cabq.gov/cpoa/subcommittees/outreach-committee> Member Ring gave a report on behalf of the Community Outreach Subcommittee:

1. The Community Outreach Subcommittee met on May 1, 2017.
2. Each Community Outreach Subcommittee member were provided a listing of various Community Centers and each agreed to each take five community centers in order to contact each center director to give them a heads up that the Outreach Subcommittee is anticipating holding public meetings sometime in the next year.
3. Recently, Member Orick-Martinez resigned from the POB and the Community Outreach Subcommittee. Member Ring would like to encourage other POB members to consider join their subcommittee.
4. The Community Outreach Subcommittee will meet next on Tuesday, May 30, 2017 at 5 p.m. at Plaza del Sol.
5. The goal of the Community Outreach Subcommittee is to get out of the basement and go see people.
6. Member Armijo reached out to Family and Community Services Director Doug Chaplin and Jess Martinez. Member Armijo commended both Mr. Chaplin and Mr. Martinez for being receptive to the Outreach Subcommittee's request. Every person he spoke to at the community centers on his list, everyone were extremely receptive, thankful and graceful.

b) Policy and Procedure Review Subcommittee – *Susanne Brown*

For more information regarding POB Policy and Procedure Subcommittee meetings for agendas and minutes, please refer to the website located here:

<http://www.cabq.gov/cpoa/subcommittees/policy-procedure-review-committee>

Member Brown gave the following report on behalf of the Policy and Procedure Subcommittee:

1. The Policy and Procedure Review Subcommittee has not met; therefore, there is no report.
2. Member Brown stated that when the Policy and Procedure Review Subcommittee meets, they will be discussing the notes from City Council about the changes in the Ordinance the POB requested.
3. The Data Analyst position is still waiting to be filled.
4. There is no date set for the next Policy and Procedure Review Subcommittee but Member Brown will let everyone know when it will be scheduled.

c) Case Review Subcommittee –*Leonard Waites*. For more information regarding POB Case Review Subcommittee meetings and minutes, please refer to the website located here: <http://www.cabq.gov/cpoa/subcommittees/case-review-committee-crc>. Subcommittee Member Waites gave the following report on behalf of the Case Review Subcommittee.

1. The Case Review Subcommittee met on May 16, 2017.
2. Mr. Jim Larson Member Waites commended Mr. Jim Larson for being an active citizen involved with the Case Review Subcommittee/POB and all the work that he does behind the scenes.
3. Mr. Arasim gave a summary about of some of the things that he was evaluating as far of the Subcommittee and the POB.
4. The next meeting of the Case Review Subcommittee will be held on June 5, 2017 at 3:15 p.m.
5. **Appeals** - None

Member Ring left the POB Meeting during Item XIII, d

XIII. (Previously listed on agenda as Item XII) - Reports from City Staff

- a) **APD** - APD Commander Jeremy McRae of Internal Affairs gave a report on Statistical Data for the Month of April 2017. Copies of the following documents were distributed (See “**Attachments B1, B2, B3 and B4**”):
 - **Attachment B1**-Police Oversight Board, APD Internal Affairs, Statistical Data for the Month of April 2017.
 - **Attachment B2- Graph:** Vehicle Crash Data for March 2017
 - **Attachment B3- Graph:** Internal Investigations, Year to Date (January through April), Received Cases Year to Date (2013-2017)
 - **Attachment B4- Graph:** Internal Investigations January through April (Opened, Closed, Admin Closed).
1. Commander McRae clarified the following for the POB:
 - i. Commander McRae read the data from attachment B1.
 - ii. As part of attachment B1 as it relates to vehicle crash data, Commander McRae discussed attachment B2, vehicle crash data for the month of March 2017 (Crashes that were closed during the month of March not actual crashes that occurred in the month of March). This chart breaks down crashes by type. He defined the types as follows:
 - a. **Non-preventable:** The accident review board concluded the officer could not have avoided that accident based on his or her actions.
 - b. **Preventable:** The accident review board concluded the officer was found at fault.
 - c. **Preventable-Struck non-moving object:** The accident review board concluded the officer was found at fault by striking an object.

- d. **Preventable-was struck by another vehicle:** The accident review board concluded the officer was partially at fault for being involved in an accident in which they were struck by another vehicle.
 - ii. See attachment B1 for more information on vehicle crash cases closed in the month of April. Internal Affairs did not receive any reviews during the month of April.
 - iii. Commander McRae will provide the POB the actual crash occurrence dates for the month.
 - iv. The Crash Review Board is not part of Internal Affairs and falls under APD's Traffic division.
 - v. The process is that all the crashes are reviewed by the Crash Review Board and those findings are sent to IA and then the findings and previous crash data in a 12 month period and sent to officers/employee division to decide on disciplinary action. If there is a fatality, those cases are referred to IA but not always.
 - iii. IA is doing a comparison study with other departments of similar size. At Member Brown's request, Commander McRae will check with the people doing the comparison study to look at including the preventable crash data in which the vehicles were towed.
- b) **City Council – Director Harness.** Director Harness read an email from Julian Moya from City Council.
- i. **Subcommittee meeting space.** Per Mr. Moya's email, staff and committee chairs can send him their meeting schedules; he can work on scheduling rooms in the council office.
 - ii. **POB Replacement Member update.**
 - a. Per Mr. Moya's email, council staff is finalizing the recommendations for a candidate to fill a vacancy on the board. In addition, upon hearing that Member Lisa Orick-Martinez resigning, the office will work on both vacancies and recommendations for appointment in front of City Council at their next meeting on Monday, June 5, 2017.
 - b. Member Waites wanted to know if the selection process is still the same as it was when they were appointed to the board. Director Harness indicated that the application process is currently closed and they are working with the pool of applicants from the last application period.
 - c. Director Harness is routinely been checking on the progress of the new member status and we do not know how many are left in the pool or how far they have gone into the pool.
- c) **Mayor's Office –** No one present to give report.

d) City Attorney – Jenica Jacobi, Assistant City Attorney.

- i. Ms. Jacobi discussed with the POB the Mediation MOU. She says that she will be working the CPOA regarding the MOU but wanted to clarify that there is a provision in the CASA that says that misconduct will not be mediated. The MOU as written is inconsistent with that portion of the CASA. They are not going to do an immediate amendment to the CASA but there is a provision to the CASA that requirements can be temporarily suspended with the Monitor's approval to see how it works.
- ii. In reference to the CIRT cases, the monitor and DOJ will likely want to meet on this topic during the site visit in June.
- iii. Ms. Jacobi discussed the policy process and will be making the graph easier to understand.

e) CPOA – Edward Harness, Executive Director CPOA Report

1. CPOA Complaints and JWD Report:

- i. For the month of April 2017, the CPOA office received 25 new complaints.
 - ii. For the month of April 2017, the CPOA office received 8 Job Well Done Reports.
2. **Force Review Board:** The Tactical Force Review Board met on May 11, 2017. There were 5 tactical activations during the month of April with no shots fired and no injuries. The only medical treatment was given to subjects that were exposed to chemical agents.
 3. After his training at the International Association Chiefs of Police legal officers training in Nashville, Director Harness stated that the POB (would start at the Policy Subcommittee) should to take up is the issue that all accidental discharges of weapons should be a subject for the Force Review Board to review.
 4. A discussion was had regarding the changes in SWAT team activation and tactics. APD SWAT is very strict on using arrest and/or barricaded matrix that was developed.

XIV. (Previously listed on agenda as item XIII) Meeting with Counsel re: Pending Litigation or Personnel issues. This agenda item was moved and addressed in agenda Item VII.

XV. (Previously listed on agenda as item XIV) - Other Business – There was no other business.

XVI. (Previously listed on agenda as item XV) - Adjournment - A motion was made by Member Waites to adjourn the meeting. Member Brown seconded the motion. The motion was carried by the following vote:

For: 5 – Armijo, Brown, Cruz, Garcia, Waites

Meeting adjourned at 6:44 p.m.

***Next regularly scheduled POB meeting will be on
Thursday, June 8, 2017 at 5 p.m. in the Vincent E. Griego Chambers.***

APPROVED:

Joanne Fine, Chair
Civilian Police Oversight Agency

Date

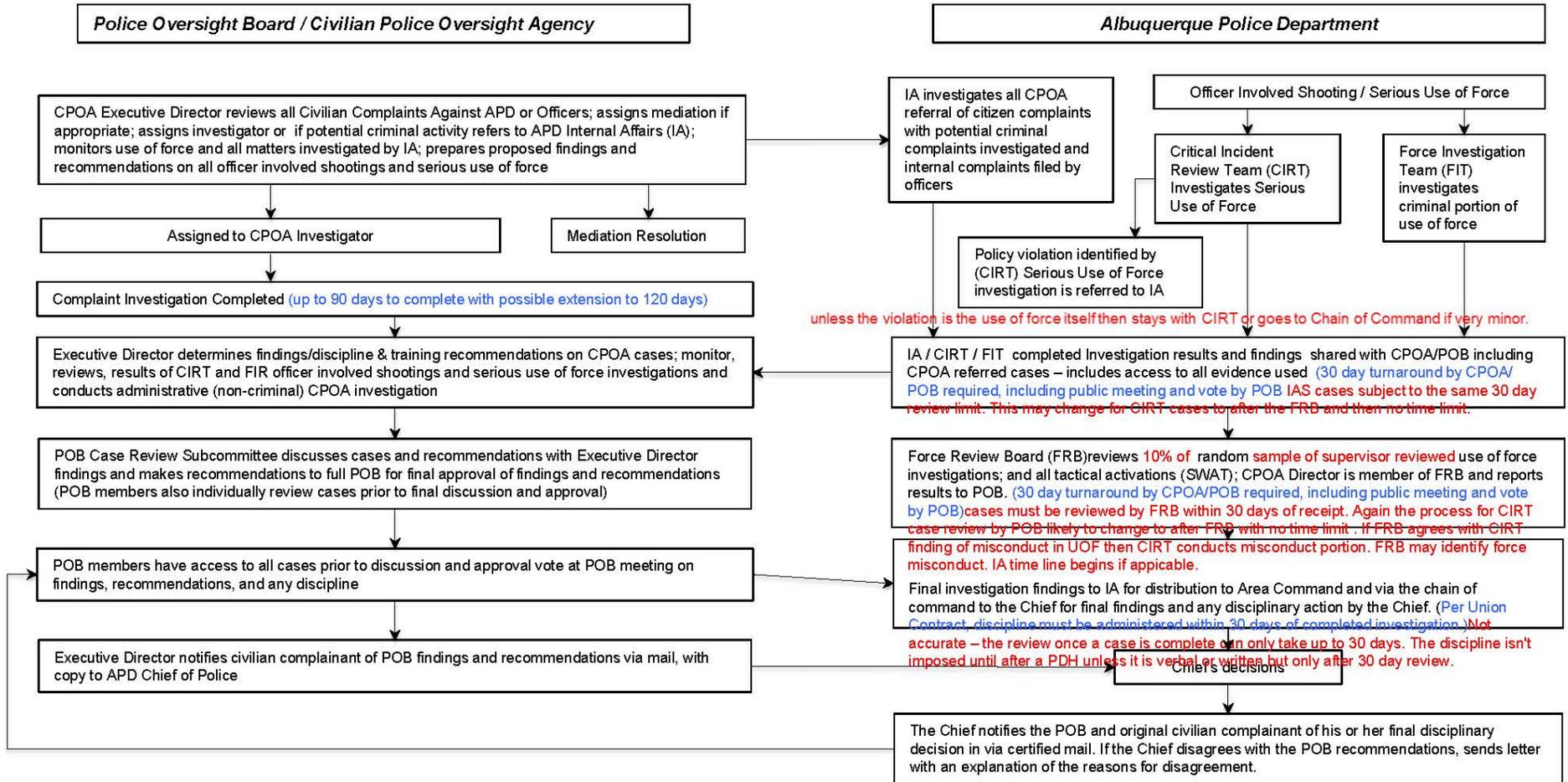
CC: Julian Moya, City Council Staff
Natalie Howard, City Clerk
Isaac Benton, City Council President

Minutes drafted and submitted by:
Michelle Contreras, Senior Administrative Assistant

Attachments

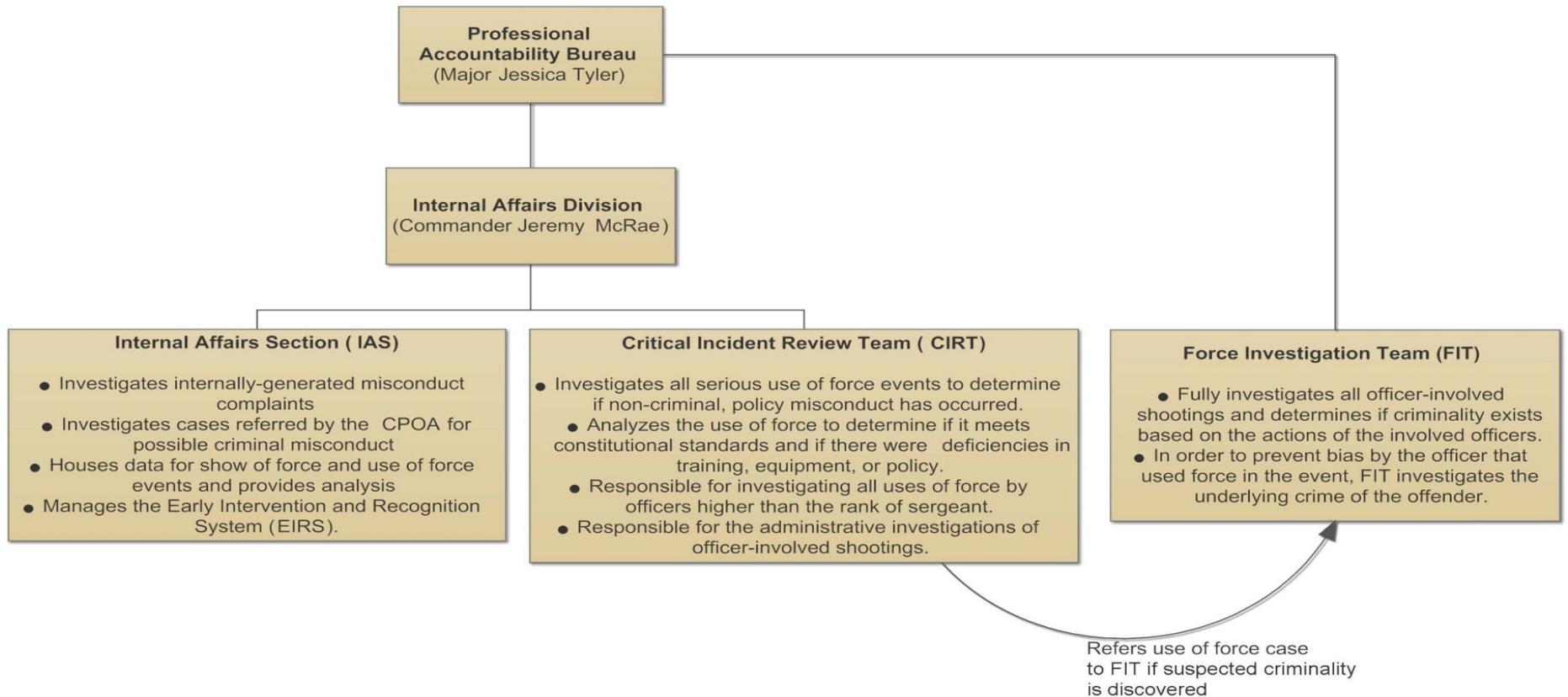
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OUTLINE OF THE CIVILIAN POLICE OVERSIGHT PROCESS IN ALBUQUERQUE



March 28, 2017

Attachment "A1"



POLICE OVERSIGHT BOARD
INTERNAL AFFAIRS
STATISTICAL DATA FOR THE MONTH OF APRIL 2017

APD 911 Communications Center

Dispatched calls for Service for April 2017: 42,457 (decrease from March (763))

INTERNAL CASES FOR THE MONTH OF APRIL 2017

I's

Internal Cases Received: 3

Comprised of:

- 2-Internal Affairs Investigated case

Internal Cases Administratively Closed: 0

Internal Cases Mediated: 0

Total Internal Cases Completed the Month of APRIL: 8

Comprised of:

- 6-Internal Affairs Investigations
- 2-Area Command Investigated cases

Discipline imposed for Internal Cases/ APRIL 2017:

4: Training
4: Verbal Reprimand
1: Letter of Reprimand
4: Suspension

Vehicle Crashes Received: 0

- 0-Pending Crash Review Board

Vehicle Crashes Closed: 16

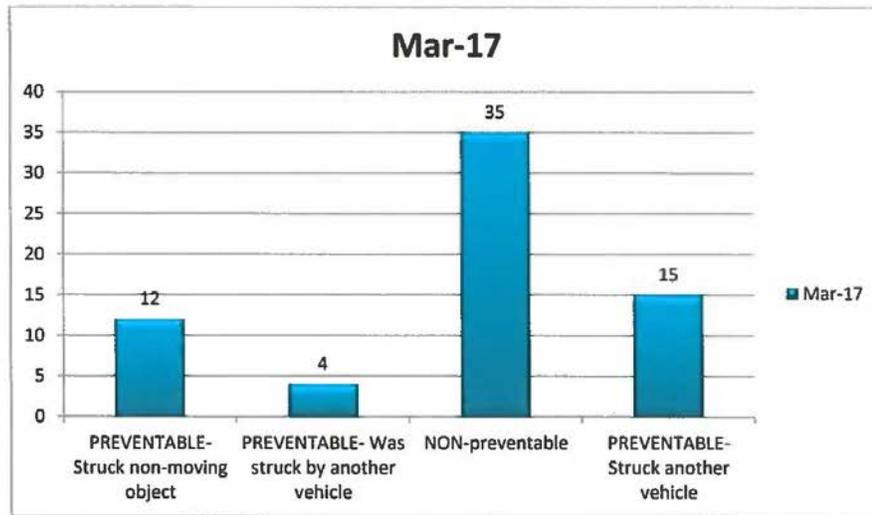
- 16-Preventable

EIS APRIL 2017: 22 Alerts distributed

Pending Cases for the Month of APRIL 2017: 3*

*Is related to the number of cases opened within APRIL

Attachment "B1"



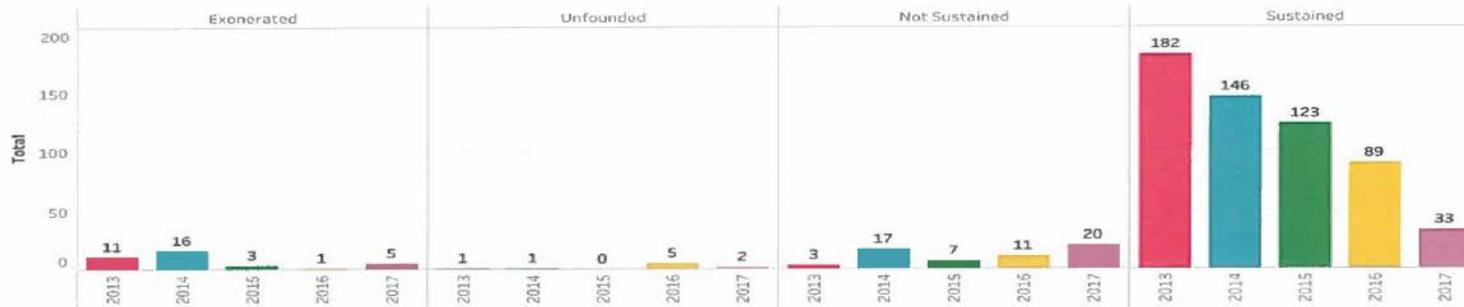
Attachment "B2"

INTERNAL INVESTIGATIONS
YEAR TO DATE
(JANUARY THROUGH APRIL)

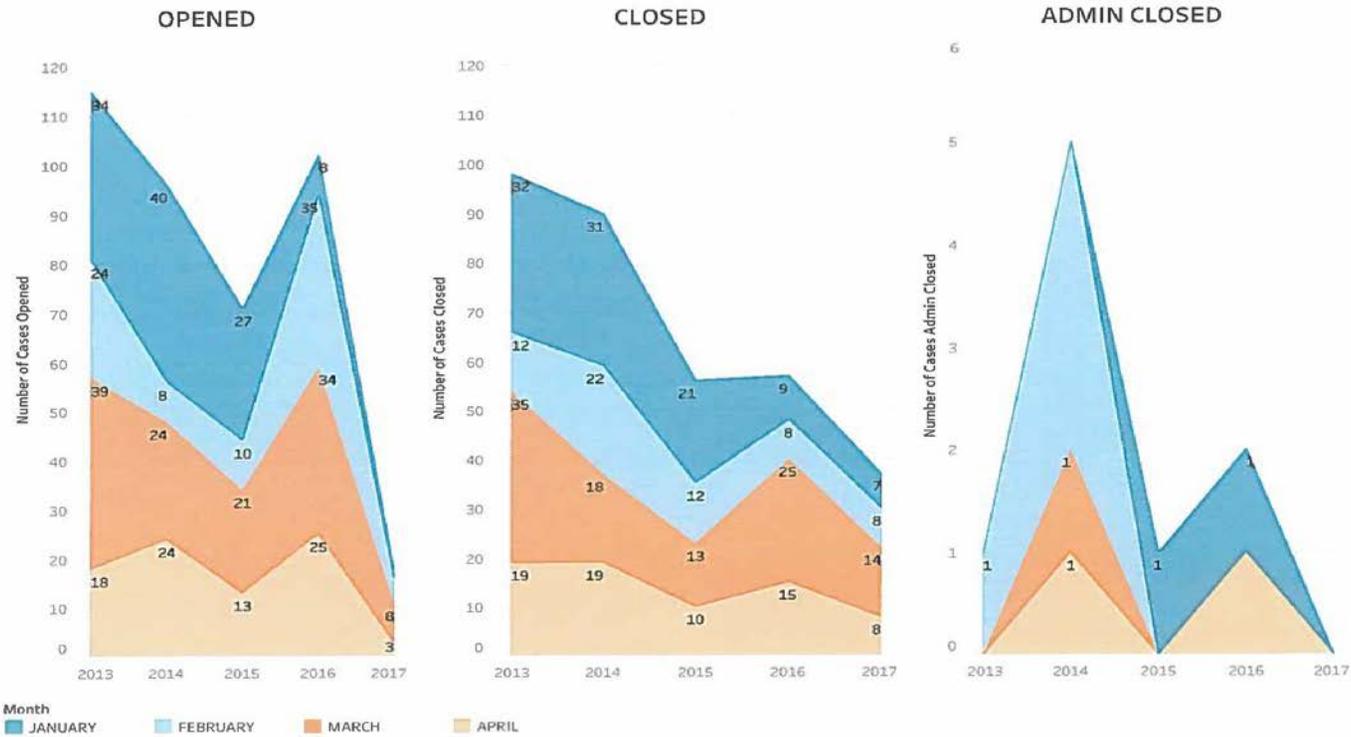
Received Cases Year to Date
2013-2017



FINDINGS



INTERNAL INVESTIGATIONS
JANUARY THROUGH APRIL



DRAFT