

Police Oversight Commission

City of Albuquerque
Independent Review Office

Annual Report 2006

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Chairman's Perspective

I am completing my fourth and final year on the Police Oversight Commission. I am proud to have served the citizens of Albuquerque in such an important volunteer position. I look forward to future service, but my service on the POC will always be looked back upon with especially fond memories. We have made a positive difference. Making important, positive contributions always comes through some personal and professional struggles. We have struggled and fought, but we formed a powerful team and changed our City for the better with the Albuquerque Police Department. We have not overcome all the challenges yet, but we have made a big difference in our small part of the world.

The wonderful civilian oversight system we now have has been praised by outside experts as one of the few police oversight systems in the United States that actually works. These experts understand that our police oversight system will continue to evolve and will continue to get better and better, but these experts believe our system of police oversight is truly approaching the model envisioned by our community leaders many years ago.

These changes have been both evolutionary and revolutionary. It has taken persistence coupled with patience by the Police Oversight Commission to make these improvements. The extremely strong leadership of previous POC Chairs, Steve Abraham, Joe Gutierrez, and Mike Cook, created the environment of support that enabled these positive systemic changes to occur. Their leadership moved us from being perceived as anti-police by some or puppets by others to our current position of trust in the community. It is without question that our citizens recognize and appreciate the tremendous improvement in the Albuquerque Police Department.

We are blessed with great leadership in APD and the Independent Review Office. The next challenge for the POC is to ensure the evolutionary changes made by these leaders are institutionalized into APD policies, practices, and processes. These must be formalized so the successors in these leadership positions can maintain the stability of the oversight process and allow it to continue to develop into an even more outstanding model of police accountability.

Rev James L. Jones, Chairman

Executive Summary

Significant Issues in 2006

1. On December 14, 2006, Mayor Chavez decided not to rehire the Independent Review Officer, Jay Rowland. The Mayor requested the Police Oversight Commission to begin the hiring process to select an IRO. Jay Rowland will continue to serve as IRO until replaced, as provided for in the Police Oversight Ordinance and his contract.
2. The Mayor and City Council approved the Rules and Regulations for the Police Oversight Commission. We worked with the APOA and advocacy groups to implement the first set of rules and regulations for the POC in its seven year existence.
3. The POC made minor amendments to the Rules and Regulations in September. The main amendment was to not provide the approved public record letter to the citizen to the media or other members of the public for five calendar days after the POC approved the findings. This is to provide the complainant an opportunity to receive the answer to the complaint before it is published in the media.
4. The Mayor and City Council funded an additional independent investigator. We now have three independent investigators in our office and look forward to investigating almost all of the serious complaints.
5. We only had 324 complaints this year. While that is still a large number, it was the first time in several years that citizen complaints were lower than the previous year. We had 198 complaints in 2002, 220 complaints in 2003, 307 complaints in 2004 and 351 complaints in 2005. We may have leveled off.
6. The POC continues to monitor APD's completion of use of force forms, as required by their Standard Operating Procedures. **This process is not improving and must get better.**
7. Police shooting cases are still taking too long to complete, but there has been a significant improvement. The POC continues to work with APD and the District Attorney to ensure this process is speeded up. It is moving faster, but needs continual emphasis for a long time. APD is now beginning their administrative investigation immediately upon completion of their criminal investigation. They are no longer waiting for the District Attorney to complete her evaluation of the case before beginning their administrative investigation. The POC has asked the District Attorney to not take every police shooting case to the grand jury to further speed the process. Our oldest shooting case is just a year old. Still too long to finalize, but a huge improvement. We are waiting for the District Attorney to take the case to the grand jury before finalizing the administrative investigation.
8. The IRO was sued by a complainant. This is the first time in history that the IRO had been sued in Federal Court. The IRO exercised his contractual option to hire outside counsel to defend him. The City Attorney agreed and hired the Bregman Law Firm to represent the IRO. This case was dismissed with prejudice on

summary judgment. The complainant sued again for the same reasons and the second case was also dismissed with prejudice.

9. Chief Schultz formalized the mediation program earlier and has now expanded the program to add more trained APD mediators. The program will be formalized in the near future. The trained APD mediators have already amicably resolved many complaints to the satisfaction of the complainants. Officers have been willing to apologize when they made a mistake. That improves public relations for APD and satisfies the citizens. The mediation program needs to be formalized in Standard Operating Procedures. The IRO wrote the proposed SOP which has been approved by IA and the APD Chief mediator. The proposed SOP has been given to the police union, APOA, for review and comment.
10. The City Council hired consultants to review the system of civilian oversight of APD. This is the third outside, expert review. The first was in 1998 and resulted in the City Council changing to the current system of police oversight. The second review was in 2002 and recommended many changes.
11. The consultant's report was received at the end of May. It has seven areas of commendations for the IRO, POC, and APD, including the new mediation program, the Rules and Regulations for the POC that was passed by City Council, the protection of the officers' "Garrity" rights, and the Chief including the IRO staff on APD's Policy Review Board.
12. Our responses to the consultant's report and the consultant's report are on our website. We welcome your comments.
13. Beth Mohr one of the original Independent Review investigators was hired to a position of increased responsibility and a substantial promotion. Her gain is our loss, but we have hired two new investigators, Paul Skotchdopole and Diane McDermott.

Timeliness

The number of complaints received in this quarter was 76 for a total of 324. This was 27 fewer than in 2005 or almost a 7% reduction.

One of the two IRO investigators was promoted within the City and it took five months to hire two more investigators. Internal Affairs took the vast majority of citizen complaints for investigation during that time. Because of these unusual events, Internal Affairs had an atypical burden that adversely impacted their timely investigation of these complaints.

Internal Affairs has lost two investigators, so the IRO has taken the vast majority of complaints since the new IRO investigators were hired on November 13, 2006. The ability to work together with Internal Affairs is critical. We have worked closely over the years to respond to these various turbulences of staffing and higher priority investigations, such as the Evidence Room investigation in 2005.

In 2006, we received 324 complaints. The IRO staff has 24 pending. The IRO has one case pending over 90 days. Internal Affairs has 17 pending investigations and two over 90 days.

Mediation

46 complaints were successfully mediated this year and no complaints are pending mediation efforts. This program was praised by the consultant's report and is reaping many benefits. Complaints are only considered successfully mediated if the complainant is satisfied with the response by APD. Chief Schultz has expanded the number of APD officers trained as mediators from 5 to 10. These officers immediately contact the complainant and then try to find out the facts and attempt to come to a resolution. No use of force cases are mediated and cases where an officer may have a history of complaints are not mediated either.

Appeals

Four appeals were heard by the Police Oversight Commission this quarter. The POC agreed with the IRO on all the appeals. There is no backlog of appeals. Four are pending in January at the POC meeting.

Policy Reviews

The Long Term Planning Committee reviews all complaints where the IRO and the Chief disagree before the cases are heard by the full POC. One non-concurrence was heard by the LTPC and POC. They found the officer used excessive force. The Chief later changed his mind and agreed with the POC and disciplined the officer.

The mediation program has been very successful and the Chief is expanding the program. Five officers were originally trained and five additional officers have been trained and are currently handling citizen complaints referred to them by the IRO. A new Standard Operating Procedure is being developed for this program.

The POC requested that findings by a jury of liability due to officer misconduct be entered into the officers' records. Chief Schultz reconsidered this issue in light of recent US Supreme Court decisions and agreed that these jury findings of liability on the part of officers for their inappropriate actions should be included in the records.

The POC has asked the Chief to brief all officers on the no tolerance policy of racial slurs or profiling. The Chief did an excellent briefing on these issues.

The POC has requested additional security during the meetings due to some concerns with the conduct of a few citizens. Security was provided for a couple of meetings and then eliminated as unnecessary.

Consistent with the recommendations of the consultant's report, the POC has recommended the Police Oversight Ordinance be amended to provide for two three year terms for commissioners and the new IROs to have an initial term of four years. A City Councilor has agreed to sponsor those amendments and they will be introduced soon.

The POC recommended the Mayor and City Council set aside their differences over who the ninth Police Oversight Commissioner should be from District 4 and give the POC a full complement of nine commissioners for the first time in history. All Districts deserve representation.

The POC approved the criminal data collection reporting by APD and agreed the current system which is used by the FBI and other cities should be maintained until the FBI changes the entire reporting system.

APD agreed to require officers to record conversations when they are obtaining voluntary consent to search from citizens. This has been included in a new SOP.

APD agreed to put some of their General Standard Operating Procedures on the website. They can also be linked from our website, www.cabq.gov/iro.

The POC requested the City Attorney to provide the IRO with all pending litigation against APD and its officers as well as to provide all future litigation to the IRO.

The IRO requested a review of the following issue to determine if the City Attorney's handling of police litigation is consistent with Mayor Chavez' no settlement policy. Since Chief Schultz decided to place the findings by the jury in civil litigation cases in the officers' records, the City Attorney has negotiated with the plaintiff's attorneys after the jury findings against an officer. The City Attorney's Office has agreed to pay the jury damages for punitive and compensatory damages, attorney fees, and not to appeal the findings in exchange for a dismissal of the case with prejudice. This does not seem consistent with holding officers accountable and not consistent with the Mayor's no settlement policy. We are awaiting a response to the issue.

I. Albuquerque's Citizen Police Complaint System

Any person may file a written complaint against APD or any of its officers. All complaints must be signed as required by the union contract. These written complaints can be sent to:

- 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. Mail to IRO, P.O. Box 1293, Albuquerque, NM 87103, or
- d. Internal Affairs.

Complaint forms are available for downloading on the IRO website, the IRO office, 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. Findings are based on a preponderance of the evidence. The IRO provides complainants a summary of the investigation and an explanation of the findings for or against the officer.

The Chief of Police has sole disciplinary authority over the officer. If the citizen who filed the complaint is dissatisfied with the findings of either the Chief or the IRO, that person may appeal that decision to the POC. The appeal must be made within ten business days from the date the citizen received the public record letter from the IRO. Appeals are heard during the POC's monthly, televised meetings and are open to the public. If the citizen is still not satisfied with the action of the POC or the Chief of Police, the citizen may request a review by the Chief Administrative Officer (CAO). The CAO may take any action necessary to complete the disposition of the complaint, including imposing discipline.

II. Work of the Police Oversight Commission

The Police Oversight Commission is chaired by Rev. James L. Jones and Michael Cook is the vice chair. The POC heard seven appeals from citizens this quarter. The POC agreed with the IRO on all the appeals. The POC heard one non-concurrence between the IRO and the Chief. They determined the officer used excessive force.

The Long Term Planning Committee consists of four commissioners and is chaired by Michael Cook. These meetings are also open to the public, but not televised as are all POC meetings. They go into detailed review of issues referred to them by the POC. These meetings are usually held at the Plaza del Sol in the basement hearing room at 3 PM on the fourth Tuesday of every month.

III. Statistical Report for Complaint Workload

There were 76 complaints filed this quarter for a total of 324. This is a 7% decrease over the same period as last year.

There were 196 citizen complaints filed 1999, 200 in 2000, 186 in 2001, 198 in 2002, 220 in 2003, 307 in 2004 and 351 in 2005. These numbers have increased steadily the last four years. This was the first decrease in complaints since 2001.

Successfully mediated complaints are inactivated. Only the minor issues, such as traffic complaints, no reports, or rudeness are mediated. 45 complaints were successfully mediated this year.

This provides satisfaction to the complainants. If any complainant is not satisfied, then the complaint will be fully investigated. So far we have had only four complainants that required full investigation after being referred to mediation. Successfully mediated complaints are not entered into the officers' records, as provided for in the Police Oversight Ordinance.

IV. Timeliness Of Investigating 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% on the investigations to be completed within 90 days and 75% investigated within 60 days.

In 2006, 324 complaints were received. 283 complaints were completed and 41 are pending investigation. Below is the break out of pending complaints.

	<30	31-60	61-90	91-120	121+	Total
IRO	14	8	1	1	0	24
IA	1	6	8	2	0	17

V. Sustained Allegations

In 2001, 53 complaints were Sustained. 39 were sustained in 2002, while eighteen of those cases were Sustained in the last three months of 2002 after the current IRO started. 49 complaints were Sustained from 2003 and 62 citizen complaints were sustained in 2004. Three police shooting investigations were Sustained by the POC, but one was reversed on appeal by the CAO. In 2005, 68 citizen complaints and 8 police shootings were Sustained for procedural violations as of this report.

In 2006, we have Sustained 57 citizen complaints and four police shootings so far with 41 more complaints to be investigated. We have grouped the 2006 Sustained citizen complaints into the following categories.

Actions Taken in 2006

Categories	Customer Service	Police Powers	Procedure
No Action	0	2*	0
Counseling	1	1	0
Verbal Reprimand	6	4	16
Letter of Reprimand	3	0	6
Suspension	1	6	1
Termination	1	2	0
Pending	1	3**	3
Sustained 2006	13	18	26

*One officer improperly strip searched a complainant, but retired. The finding was entered into the officer’s record, but no discipline was imposed. In the second case, the POC found the officer used unreasonable force. The Chief disagreed and did not discipline the officer. The IRO concurred with the Chief.

**Two complaints are non-concurrences between the IRO and Chief. The POC will hear these cases in January and February.

Sustained Rate and APD Discipline Rate

Sustained Cases	APD Discipline rate on Sustained Cases
2000 31%	Not Available
2001 40%	60%
2002 27%	58%
2003 35%	87%
2004 32%	98%
2005 39%	98%
2006 42%	97%

VI. 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 2000-2005.

