

## **MEETING MINUTES**

### **VALLEY AREA COMMAND COMMUNITY POLICING COUNCIL**

**THURSDAY, APRIL 27, 2017**

**APD TRAINING FACILITY  
5412 SECOND ST. NW  
ALBUQUERQUE, NM**

#### **I. CALL TO ORDER: Chair, Edwina Kiro**

The meeting was called to order at 6:00 PM.

#### **II. COUNCILOR ROLL CALL: Chair, Edwina Kiro**

**Present:**

Edwina Kiro –Chair  
Paul Watson  
Rowan Wymark  
Kathleen O'Malley  
Sergeant Nicholas Sanders, APD

**Absent:** Jamie Porter Lara

**Also Present:**

Celina Espinoza, APD  
Nicole Chavez-Lucero, APD

**Facilitator:**

Jessie Lawrence, substituting for David Gold

Community members present: See attached sign in sheet. A group of APD officers assigned to the Albuquerque Sunport were also in attendance.

#### **III. APPROVAL OF AGENDA AND MINUTES**

Edwina Kiro requested a change to the agenda to allow Ed Harness to present first and moved to approve the agenda as amended and the March 23 meeting minutes as written. Paul Watson seconded. The motion was approved by voice vote.

#### **IV. “Review of Use-of-Force Incidents by the Civilian Police Oversight Board and How the Process Works” presentation by Ed Harness, Executive Director, Civilian Police Oversight Board**

- Ed Harness presented information on the CPOA review and investigation process and distributed a flow chart that shows how CPOB gets complaints and what happens to those complaints. Complaints can be submitted online, by fax, by email, or via 311. The office has four investigators, community engagement specialist, a data analyst coming online soon, and senior administrative assistant.
- When a typical complaint comes in, if it is suitable for mediation, the office will try to use mediation first. They are still working on the mediation protocol. More serious violations are not suitable for mediation and will all be investigated. Investigations must be done within 90-120 days to meet the obligations of the collective bargaining agreement. Once an investigation is done, the executive director reviews it, and if there is a finding of a sustained violation, the office reviews the disciplinary history and makes a recommendation to the board.
- Q: Is there any parallel investigation going on?
  - Not for most cases.
- Q: CPOB existed before the settlement agreement?
  - There has been oversight since the 1980s. Simultaneously with the settlement agreement, the city council reconfigured oversight and created the CPOA, which facilitates the police oversight board's day-to-day role in oversight. CPOB consists of 9 volunteers.
- The flow chart handout tracks a typical civilian complaint on the left. On the right is what internal affairs would do. We can take a use of force complaint and investigate it as long as it doesn't rise to the level of being criminal. If anything rises to criminality, that investigation shifts to internal affairs and then back to CPOA for review. The controlling factor for force is an objectively reasonable standard. CPOA does get use of force complaints and will investigate them. Five findings that can happen: exonerated, unfounded, sustained, sustained not based upon original complaint, administratively closed. If parties are satisfied after mediation, the case will be administratively closed.
- Internal Affairs typically does investigations for serious use of force cases. The Critical Incident Review Team (CIRT team) is looking at whether there's a policy violation, procedure problem, training need, an administrative investigation parallel to our investigation. The Field Investigation Team (FIT) examines whether there are any criminal aspects to the investigation. As of about 3 weeks ago, the backlog of CIRT cases was estimated at about 40, and because by CASA and ordinance all serious use of force cases must be reviewed by CPOB, the investigation is completed and ready for the Force Review Board. Cases have to be

heard by the Force Review Board in 30 days once they're ready. The case materials are released to all members of the Force Review Board and to CPOB through Safelink, so CPOB has access to case material at their time. The CPOB subcommittee on case review will be meeting on a weekly basis.

- Q: During this process, is CPOA only citizen board that intervenes with all investigations? Is there other citizen input?
  - CPOB and CPOA are the citizen input.
  - Q: Is that why CPOA is asking for full subpoena power?
    - Yes. That is due to the ordinance being in line with settlement agreement.
- Serious use of force cases go to the Force Review Board. While the CPOA makes a recommendation, the Chief of Police has the final say regarding discipline and findings. That is true for all cases.
- Q: What percentage of suggestions are followed by chief?
  - It is down from about 70% to about 50%. There is also disagreement about the findings sometimes. All of our findings are on our website, [cabq.gov/cpoa](http://cabq.gov/cpoa), and all of chief's non-concurrence letters are posted there as well.
- When the CPOB meets, it is an open meeting, minutes are posted, and findings are posted. We post non-concurrence letters and policy recommendations. We just reached an agreement with APD this week that the board will get policy changes after they leave the SOP Review Committee for 30 days so they can be contemplated at its open meeting.
- Q: Example of policy?
  - Paragraph 288 of CASA, regarding changes to settlement agreement policies. We had a fundamental disagreement about what that meant. We have members on OPA, PPRB, and at the SOPRC, and board has access to internal online system for policy, and APD believed that met that burden. We disagreed because there was no ability for board to act on policy as an entity.
- Q: Are there any forwarded suggestions re guidelines to guide CPOA on suspension processes of officer? Right now, all up to chief, and I don't like his suspension evaluations.
  - There is a chart. Ultimately, the settlement agreement and ordinance give the chief the final say.
- Q: What was the outcome regarding the board's ability to act on policy as an entity?

- Once a policy leaves SOPRC, it will be sent to CPOB and on CPOB's agenda for their next open meeting. That policy won't be considered again for 30 days, until board has chance to meet.
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- A distributed handout listed the officer-involved shootings that still need review, minus the two most recent shootings. One of changes to the ordinance in June gave CPOB the authority to move forward with its review before the DA completed its review. The board is committed to getting backlog done and keeping up with new cases as they come forward. If there is any possibility of criminal activity, our duty is to turn it over to internal affairs. Just like in serious use of force cases, when ready for review, board will decide to take it up, and cases uploaded to Safelink so board can review. I prepare my findings and the board will either concur or not concur.
- CPOA has nothing to do with anything that would involve the criminal court. We deal with the oversight board, agency, chief, and command staff. When monitoring team comes in for site visits, they will do stratified sample of cases, and we send them those investigation materials for their review. The next monitor's report will be published on May 2.
- Q: What the chief says is final? Even though the board may not agree with the final say, no one that can override that judgment?
  - There is a bifurcated appeal process. If you don't like what the CPOA did, send an appeal letter to CPOB and the board will review. If you don't like the chief's decision, an appeal goes to the Chief Administrative Office. I have yet to see CAO overrule chief.
    - Celina Espinoza: Disciplinary action doesn't just go to chief, it goes through the chain of command.
- Q: Once an officer is found through processes to have policy violation, how is that visible to public?
 

Officers will not be identified under collective bargaining agreement. We are now including my recommendation in findings letters, but no direct identification of an officer.

  - Q: If I'm stopped by an officer, there is no way of contacting 911 and asking about that officer?
    - Celina: Through IPRA, you can get letters of discipline and commendation from an officer's file.
- Q: If someone were in a situation feeling unsafe with certain officer, do you have a right to ask the officer's boss to come?
  - Yes, you can do that.
- Q: Do you have any sense that what you're doing is somewhat meaningless because it can be overturned by the chief?

- There will be tracking of both in the file. Some of it is that the board wants to know the chief's rationale, and that might impact their decision-making. We provide a valuable service doing an investigation and finding out what has happened.
- Q: What is CIRT?
  - The Critical Incident Review Team. They investigate serious use of force cases on administrative side.
- Q: You stated in excessive force there is a tool. What do you mean by tool? Is a police car a tool?
  - I suppose it could be. It would be fact specific based on a case. The 10<sup>th</sup> circuit just decided a case in which an officer stood in front of an approaching vehicle and fired, and appellate court said officer had qualified immunity, so lawful even though out of policy.
- Q: Do you investigate civilians as well?
  - Everyone who works with APD. We get lots of communication complaints. If you work for APD, if a civilian complains about you, it will come to our agency.
- Q: When's the next hearing before the judge regarding the settlement agreement?
  - May 10, may switch to May 11.
- Q: Of complaints, how many are found to be unfounded?
  - We sustain about 30% of the time. About 70% of the time we find in favor of the officers. Our annual report will be coming out soon and will have annual statistics.
- Q: All use of force incidents that result in death, are they reviewed by CPOB, or do they go directly to FRB?
  - That would follow along same lines as officer-involved shooting. CIRT and FIT would investigate, I would go to the scene, an investigation would take place, the administrative investigation would be reviewed by CPOA, and the criminal investigation would go to DA.
- Q: How involved is DA in these cases?
  - Much more involved than previous DA.

## V. “Police and Community Together Team (PACT)” presentation by Sergeant Nicholas Sanders

- Sergeant Nicholas Sanders presented information on the PACT Team in the Valley Area Command. The concept behind the PACT Team is a community oriented driven unit. There are meetings with all NAs, identifying stakeholders, developing community contacts, discerning major concerns in communities, and trying to develop means to address them. Detectives will be assigned to NAs and business associations. One huge aspect is community policing. We will utilize a means of seamless communication. E.g., individual we arrested in one NA affects other NAs. We want to disseminate information actively and in a timely manner. The Valley PACT Team is the first to be up and running. The team is eventually hoping to get 8 detectives. It is also doing a lot of community outreach, going out to elementary schools. What we’re doing is dynamic, and we will be responding to the needs. Badges and Bagels will be at Los Griegos CC, Saturday 8-10 AM.
- Q: Does PACT have a website?
  - Not yet, but each area command has a website. PACT may get its own form within the command website for people who want to interact.
- Q: Sometimes when there are problems, neighborhoods request extra patrols. Will this change the channels we use?
  - The area command already gets requests for individual patrols for people leaving town, seeing unusual things. The response may or may not be directly from my unit, but you will have a means to contact me or my detectives.
- Q: I have been working with PACT in my neighborhood and think you’re doing an incredible job. The response has been great. They are a presence and are doing their best.
  - We work with Safe City Strike Force and the Real Time Crime Center and want to use predictive analysis to try to get ahead of some crime curves.
- Q: Crime prevention specialist for Valley Area Command. Is he part of team?
  - Scott has taken on responsibility under PSA2 program. He has left a huge hole, and the area command is lucky enough to have a TDY come over to assist. That position is also open on the city job website.

- Q: If Scott is no longer go-to person, should we call you instead?
  - You can call my number. Scott's number is being answered by a TDY individual. They are a good resource, and information will get to me.
  
- Q: We're from the Barelans NA and volunteering for neighborhood watch. How will you sort through reports and decide what to attack first?
  - We won't be a case-bearing unit. However, if there's a spike in crime, I will see that and be involved. Each NA will have a detective assigned. I want you to have direct communication and a friendly face that you know. If you develop a concern in the neighborhood, bring it to that detective, and they will have 10 days to figure out something to address it.
  
- Q: This will be more than a cop coming to NA meeting, right? It will be us talking to you, and you being proactive.
  - Yes. Some of this has been applied to our organized crime unit. That's the concept. We want to do something about what's going on. It may be passed to another unit, e.g., passed information to Narcotics Unit. There are a lot of people at the table that want to make ABQ better.
  
- Q: When detectives are assigned, will you let NAs know?
  - Most likely I will go with them to their first NA meetings, introduce them, and let people know who is responsible for coming to meetings. Then I'd let them run on their own.

## **VI. Public Comment**

Edwina Kiro asked the officers in attendance from airport security to explain their work, and Sergeant Ernesto Rojas addressed the meeting participants.

- Airport police used to be a separate entity, basically its own department funded through an enterprise fund. It was adopted by APD in September. Officers are now in the process of meeting DOJ mandates. There are about 40 officers, 2 lieutenants, and 5 sergeants. We're specifically assigned to airport, regulated by TSA, with specific guidelines we have to follow.
  
- Q: There have been recent incidents escalated by officers on airplanes. What is your policy?
  - We follow basic guidelines re use of force. It depends on whether it's a criminal issue or not.
  
  - Q: Policy of airline, or if it's escalated it's criminal?

- It might be compared to someone in a Walmart. If they don't want someone in area and person refuses to leave, they can call us, and we try to get the person out of the area. If it becomes a criminal trespass issue, the police could get involved.
- Q: If there's an incident on an airplane, do you enter the airplane?
  - We have different protocols. There are some jurisdictional issues. If it's on the ground, it's our responsibility. If it's in flight, we respond but also notify the FBI because it's an FBI responsibility. If you interfere with airline personnel while a plane is in flight, that's a big problem.
  - Q: And if something happens and plane has to land in ABQ, it becomes your issue?
    - Yes.
- Q: Are you involved in drug searches? Do you have a dog?
  - The airport has 4 dogs assigned, coordinated through TSA. They are bomb dogs, no affiliation with looking for drugs.

## **VII. Adjourn**

The meeting adjourned at 7:18 PM. (ek)